

Federal Register

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

WASHINGTON, DC

[Two Sessions]

- WHEN: July 9, 1996 at 9:00 am, and July 23, 1996 at 9:00 am.
- WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)
- RESERVATIONS: 202-523-4538



Contents

Federal Register

Vol. 61, No. 123

Tuesday, June 25, 1996

Agriculture Department

See Animal and Plant Health Inspection Service
 See Commodity Credit Corporation
 See Farm Service Agency
 See Natural Resources Conservation Service
 See Rural Business-Cooperative Service
 See Rural Housing Service
 See Rural Utilities Service

Animal and Plant Health Inspection Service

RULES

Exportation and importation of animals and animal products:
 Pork and pork products from Mexico transiting United States, 32646–32647
 Plant-related quarantine, domestic:
 Japanese beetle, 32636–32641
 Mediterranean fruit fly
 Correction, 32900

Antitrust Division

NOTICES

Competitive impact statements and proposed consent judgments:
 Baroid Corp. et al., 32858
 National cooperative research notifications:
 Semiconductor Research Corp., 32858–32859

Army Department

See Engineers Corps

NOTICES

Environmental statements; availability, etc.:
 Base realignment and closure—
 Letterkenny Army Depot, PA, et al.; correction, 32777
 Military traffic management:
 Dromedary service; bulk commodity shipments, 32777–32778

Children and Families Administration

NOTICES

Agency information collection activities:
 Proposed collection; comment request, 32827
 Submission for OMB review; comment request, 32827–32829
 Grants and cooperative agreements; availability, etc.:
 Abandoned infants assistance and temporary child care for children with disabilities and crisis nurseries programs; correction, 32900

Civil Rights Commission

NOTICES

Meetings; State advisory committees:
 Rhode Island, 32770

Coast Guard

RULES

Federal regulatory reform:
 Inspected and uninspected commercial vessels industry standards
 Correction, 32900

NOTICES

Committees; establishment, renewal, termination, etc.:
 Cook Inlet Regional Citizens' Advisory Council, 32883

Commerce Department

See Economic Analysis Bureau
 See International Trade Administration
 See National Oceanic and Atmospheric Administration

Commodity Credit Corporation

RULES

Loan and purchase programs:
 Emergency livestock assistance regulations; redesignation, 32643–32644
 Foreign markets for agricultural commodities; development agreements; correction, 32644

Defense Department

See Army Department
 See Defense Logistics Agency
 See Engineers Corps

NOTICES

Federal Acquisition Regulation (FAR):
 Agency information collection activities—
 Submission for OMB review; comment request, 32775–32777

Defense Logistics Agency

NOTICES

Privacy Act:
 Computer matching programs, 32778–32779
 Systems of records, 32779–32784

Drug Enforcement Administration

NOTICES

Applications, hearings, determinations, etc.:
 Johnson Matthey, Inc.; correction, 32859

Economic Analysis Bureau

NOTICES

Agency information collection activities:
 Proposed collection; comment request, 32770–32771

Education Department

RULES

Postsecondary education:
 Law school clinical experience program, etc.; CFR parts removed; Federal regulatory reform, 32656

Energy Department

See Energy Efficiency and Renewable Energy Office
 See Federal Energy Regulatory Commission

NOTICES

Floodplain and wetlands protection; environmental review determinations; availability, etc.:
 Paducah Gaseous Diffusion Plant, KY; site investigation activities, 32785
 Grants and cooperative agreements; availability, etc.:
 Co-processing of coal with plastics, rubber, or other solid wastes to produce alternative liquid fuels, 32785–32786
 Petroleum Marketing Practices Act Amendments of 1994; revised summary, 32786–32790

Energy Efficiency and Renewable Energy Office**RULES**

Energy conservation:

- Federal energy management and planning programs—
- Life cycle cost analyses; methodology and procedures, 32647–32651

NOTICES

Consumer product test procedures: waiver petitions:

- Bard Manufacturing Co., 32790–32792

Engineers Corps**NOTICES**

Base realignment and closure:

- Surplus Federal property—
- Camp Bonneville, WA, 32784–32785
- Savanna Army Depot, IL, 32784

Meetings:

- Inland Waterways Users Board, 32785

Environmental Protection Agency**RULES**

Clean Air Act:

- State operating permits programs—
- Texas, 32693–32699

Hazardous waste program authorizations:

- Nebraska, 32699–32702

Toxic substances:

- Health and safety data reporting rule—
- Siloxanes; CFR correction, 32702–32703

PROPOSED RULES

Air pollution; standards of performance for new stationary sources:

- Volatile organic compound (VOC) emissions—
- Architectural coatings, 32729–32746

Hazardous waste:

- Identification and listing—
- Exclusions, 32746–32765

Superfund program:

- National oil and hazardous substances contingency plan—
- National priorities list update, 32765–32766

NOTICES

Meetings:

- Common sense initiative—
- Metal finishing, computers and electronics, iron and steel, and petroleum refining sectors, 32795–32796
- Science Advisory Board, 32796–32798

Organization, functions, and authority delegations:

- Regional Offices; hazardous waste delisting authority, 32798–32799

Reports; availability, etc.:

- Carcinogen risk assessment guidelines
- Reevaluation process, 32799–32801

Executive Office of the President

See Presidential Documents

See Trade Representative, Office of United States

Family Support Administration

See Refugee Resettlement Office

Farm Service Agency**RULES**

Freedom of Information Act; implementation, 32645–32646

North American Free Trade Agreement (NAFTA):

- End-use certificate program, 32641–32643

Federal Aviation Administration**RULES**

Class E airspace; correction, 32651

NOTICES

Environmental statements; availability, etc.:

- Blue Grass Airport, KY; parallel runway, 32883–32884
- Kodiak Launch Complex, AK, 32884–32886

Meetings:

- Commercial Space Transportation Advisory Committee, 32886

Passenger facility charges; applications, etc.:

- Arcata/Eureka Airport et al., CA, 32886–32887

Weather observation service standards; policy statement,

- 32887–32891

Federal Communications Commission**RULES**

Common carrier services:

- Open video systems; implementation, 32706–32707

Radio services, special:

- Interactive video and data service licensees—
- Mobile service provided on ancillary basis, 32710–32711

Private land mobile services—

- 800 MHz frequency band SMR systems; future development facilitation and competitive bidding; correction, 32709–32710

Radio stations; table of assignments:

- New Mexico, 32706

Television broadcasting:

- Cable television systems—
- Equipment costs on franchise, system, regional, or company level; aggregation, 32707–32709

PROPOSED RULES

Telecommunications Act of 1996; implementation:

- Common carrier services—
- Local competition provisions, 32766–32767

NOTICES

Meetings; Sunshine Act, 32801–32802

Payment accepted from non-Federal sources; semiannual report, 32802–32813

Federal Deposit Insurance Corporation**NOTICES**

Reports of condition; filing time limits; policy statement rescission, 32813–32814

Federal Emergency Management Agency**RULES**

Flood insurance; communities eligible for sale:

- Kentucky et al., 32704–32705

NOTICES

Disaster and emergency areas:

- Illinois, 32814
- Kentucky, 32815
- Minnesota, 32815
- Montana, 32815
- North Dakota, 32815
- Oregon, 32815–32816
- Texas, 32816
- West Virginia, 32816, 32816

Federal Energy Regulatory Commission**NOTICES**

Electric rate and corporate regulation filings:

- Louisville Gas & Electric Co. et al., 32794–32795

Environmental statements; availability, etc.:

- Washington Water Power, 32795

Applications, hearings, determinations, etc.:

AYP Energy Inc., 32792–32793
 Questar Pipeline Co., 32793
 Southern Natural Gas Co., 32793
 Tennessee Gas Pipeline Co., 32793–32794
 Williston Basin Interstate Pipeline Co., 32794

Federal Reserve System**NOTICES**

Banks and bank holding companies:
 Formations, acquisitions, and mergers, 32816–32817
 Permissible nonbanking activities, 32817
 Meetings; Sunshine Act, 32817

Federal Trade Commission**NOTICES**

Premerger notification waiting periods; early terminations,
 32818–32820
 Prohibited trade practices:
 New Balance Athletic Shoe, Inc., 32820–32824
 Precision Moulding Co., Inc., 32824–32826

Financial Management Service

See Fiscal Service

Fiscal Service**NOTICES**

Agency information collection activities:
 Proposed collection; comment request, 32898–32899
 Surety companies acceptable on Federal bonds:
 U.S. Capital Insurance Co., 32899

Food and Drug Administration**RULES**

Animal drugs, feeds, and related products:
 New drug applications—
 Ivermectin and lincomycin, 32651–32653

NOTICES

Meetings:
 Advisory committees, panels, etc., 32829–32831

General Services Administration**NOTICES**

Federal Acquisition Regulation (FAR):
 Agency information collection activities—
 Submission for OMB review; comment request, 32775–
 32777

Government Ethics Office**RULES**

Public financial disclosure, conflicts of interest, and
 certificates of divestiture for executive branch officials,
 32633–32636

Health and Human Services Department

See Children and Families Administration
 See Food and Drug Administration
 See Health Resources and Services Administration
 See National Institutes of Health
 See Refugee Resettlement Office

NOTICES

Scientific misconduct findings; administrative actions:
 Altman, Robert J., M.D., 32826–32827

Health Resources and Services Administration**NOTICES**

Grants and cooperative agreements; availability, etc.:
 Non-acute health care facilities; renovation or
 construction projects; correction, 32831

Housing and Urban Development Department**NOTICES**

Agency information collection activities:
 Proposed collection; comment request, 32854–32855
 Grants and cooperative agreements; availability, etc.:
 Public and Indian housing—
 Drug elimination technical assistance program, 32902–
 32908

Interior Department

See Land Management Bureau
 See National Park Service

Internal Revenue Service**RULES**

Income taxes:
 Bad debts modifications and dealer assignments of
 notional principal contracts, 32653–32654

PROPOSED RULES

Income taxes:
 Bad debts modifications and dealer assignments of
 notional principal contracts; cross reference, 32728–
 32729

International Trade Administration**NOTICES**

Antidumping and countervailing duties:
 Administrative review requests and intent to revoke in
 part, 32771–32772
 Export trade certificates of review, 32772–32773
 Meetings:
 President's Export Council, 32773–32774

Justice Department

See Antitrust Division
 See Drug Enforcement Administration

NOTICES

Pollution control; consent judgments:
 Freeman et al., 32857–32858

Labor Department

See Mine Safety and Health Administration

RULES

Organization, functions, and authority delegations:
 Administrative Review Board; establishment and review
 procedures
 Correction, 32910

Land Management Bureau**NOTICES**

Meetings:
 New Mexico land use plans; grazing management and
 rangeland health standards and guidelines;
 correction, 32900
 Survey plat filings:
 Idaho, 32855
 Withdrawal and reservation of lands:
 Idaho, 32855–32856

Maritime Administration**RULES**

Subsidized vessels and operators:
 Bulk cargo vessels; operating differential subsidy,
 surveys, and maintenance and repair subsidy, 32705–
 32706

Mine Safety and Health Administration**NOTICES**

Agency information collection activities:

Proposed collection; comment request, 32859–32860

National Aeronautics and Space Administration**NOTICES**

Federal Acquisition Regulation (FAR):

Agency information collection activities—

Submission for OMB review; comment request, 32775–32777

National Highway Traffic Safety Administration**NOTICES**

Motor vehicle safety standards:

Nonconforming vehicles—

Importation eligibility; determinations, 32891–32895

Motor vehicle safety standards; exemption petitions, etc.:

Michelin North America, Inc., 32895–32897

National Institutes of Health**NOTICES**

Meetings:

National Heart, Lung, and Blood Institute, 32831–32832

National Institute of General Medical Sciences, 32832

National Institute of Mental Health, 32832–32833

National Institute on Deafness and Other Communication Disorders, 32832

Research Grants Division special emphasis panels, 32833

National Oceanic and Atmospheric Administration**RULES**

Fishery conservation and management:

Summer flounder, 32711–32712

PROPOSED RULES

Fishery conservation and management:

Limited access management of Federal fisheries in and off of Alaska, 32767–32769

NOTICES

Fishery conservation and management:

Atlantic striped bass fisheries; 1994 survey, 32774

Ocean and coastal resource management:

National Estuarine Research Reserve System—
Waimanu Valley; withdrawn, 32774

Permits:

Marine mammals, 32774–32775

National Park Service**NOTICES**

National Register of Historic Places:

Pending nominations, 32856

Native American human remains and associated funerary objects:

Modoc National Forest, CA; volcanic stone pipe, 32856–32857

Nevada Test Site, Nevada Operations Office, Energy Department, NV; inventory from Pahute Mesa area, 32857

Natural Resources Conservation Service**NOTICES**

Environmental statements; availability, etc.:

Chestnut Creek Watershed, VA, et al., 32770

Nuclear Regulatory Commission**NOTICES**

Environmental statements; availability, etc.:

Cleveland Electric Illuminating Co. et al., 32860

Meetings; Sunshine Act, 32860–32861

Office of United States Trade Representative

See Trade Representative, Office of United States

Postal Rate Commission**RULES**

Domestic mail classification schedule:

Mail classification reform and experimental first-class and priority mail small parcel automation rate category, 32656–32693

Presidential Documents**ADMINISTRATIVE ORDERS**

China; reconfirmation of findings with respect to Trade Agreement (Presidential Determination No. 96-33 of June 21, 1996), 32631

Palestine Liberation Organization; suspending restrictions on U.S. relations (Presidential Determination No. 96-32 of June 14, 1996), 32629

Public Health Service

See Food and Drug Administration

See Health Resources and Services Administration

See National Institutes of Health

Refugee Resettlement Office**NOTICES**

Grants and cooperative agreements; availability, etc.:

Refugee resettlement program—

Preferred communities, unanticipated arrivals, orientation, technical assistance, and mental health services, 32833–32854

Rural Business-Cooperative Service**RULES**

Freedom of Information Act; implementation, 32645–32646

Rural Housing Service**RULES**

Freedom of Information Act; implementation, 32645–32646

Rural Utilities Service**RULES**

Freedom of Information Act; implementation, 32645–32646

Saint Lawrence Seaway Development Corporation**RULES**

Organization, functions, and authority delegations:

Great Lakes pilotage regulations; transfer from Title 46 to Title 33 of CFR, 32655

Securities and Exchange Commission**NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 32861–32862

Self-regulatory organizations; proposed rule changes:

Chicago Board Options Exchange, Inc., 32868–32870

Chicago Stock Exchange, Inc., 32870–32873

Options Clearing Corp., 32873–32875

Pacific Stock Exchange, Inc., 32875–32876

Philadelphia Stock Exchange, Inc., 32877–32882

Applications, hearings, determinations, etc.:

Abatix Environmental Corp., 32862

CenterPoint Properties Corp., 32862

Chase Manhattan Bank, N.A., et al., 32862–32864

Commonwealth Bank of Australia, 32864–32866

Nuveen California Municipal Income Fund, Inc., 32866–32867

Nuveen New York Municipal Income Fund, Inc., 32867
Struthers Industries, Inc., 32867-32868

Small Business Administration**NOTICES**

Disaster loan areas:
Alaska, 32882-32883

Surface Transportation Board**NOTICES**

Meetings; Sunshine Act, 32897-32898
Rail carriers:
Cost recovery procedures—
Adjustment factor, 32898

Thrift Supervision Office**PROPOSED RULES**

Corporate governance; Federal regulatory review, 32713-
32728

Trade Representative, Office of United States**NOTICES**

Turkey:
Box office revenues; discriminatory tax imposition;
Section 302 investigation; correction, 32883

Transportation Department

See Coast Guard
See Federal Aviation Administration
See Maritime Administration
See National Highway Traffic Safety Administration

See Saint Lawrence Seaway Development Corporation
See Surface Transportation Board

Treasury Department

See Fiscal Service
See Internal Revenue Service
See Thrift Supervision Office

Separate Parts In This Issue**Part II**

Department of Housing and Urban Development, 32902-
32908

Part III

Department of Labor, 32910

Reader Aids

Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board

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

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR	32707
Administrative Orders:	90.....32709
Presidential Determinations	95.....32710
96-32 of June 14,	Proposed Rules:
1996.....32629	Ch. I.....32766
96-33 of June 21,	50 CFR
1996.....32631	625.....32711
5 CFR	Proposed Rules:
2634.....32633	676.....32767
7 CFR	
301.....32900	
782.....32641	
1439.....32643	
1475.....32643	
1485.....32644	
2018.....32645	
9 CFR	
94.....32646	
10 CFR	
436.....32647	
12 CFR	
Proposed Rules:	
543.....32713	
544.....32713	
545.....32713	
552.....32713	
556.....32713	
563.....32713	
575.....32713	
14 CFR	
71.....32651	
21 CFR	
558.....32651	
26 CFR	
1.....32653	
Proposed Rules:	
1.....32728	
33 CFR	
Ch. IV.....32655	
34 CFR	
639.....32656	
651.....32656	
652.....32656	
667.....32656	
39 CFR	
3001.....32656	
40 CFR	
70.....32693	
271.....32700	
716.....32702	
Proposed Rules:	
59.....32729	
261 (2 documents).....32746,	
32753	
300.....32765	
41 CFR	
50-203.....32910	
44 CFR	
64.....32704	
46 CFR	
Ch. III.....32655	
35.....32900	
252.....32705	
56.....32900	
92.....32900	
272.....32706	
47 CFR	
73.....32706	
76 (2 documents).....32706,	

Presidential Documents

Title 3—

Presidential Determination No. 96-32 of June 14, 1996

The President

Suspending Restrictions on U.S. Relations With the Palestine Liberation Organization

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Middle East Peace Facilitation Act of 1995, title VI, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, Public Law 104-107, ("the Act"), I hereby:

(1) Certify that it is in the national interest to suspend the application of the following provisions of law until August 12, 1996:

(A) Section 307 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2227), as it applies with respect to the Palestine Liberation Organization or entities associated with it;

(B) Section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note), as it applies with respect to the Palestine Liberation Organization or entities associated with it;

(C) Section 1003 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 5202); and

(D) Section 37, Bretton Woods Agreement Act (22 U.S.C. 286w), as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund.

(2) certify that the Palestine Liberation Organization, the Palestinian Authority, and successor entities are abiding by the commitments described in section 604(b)(4) of the Act.

(3) certify that funds provided pursuant to the exercise of this authority and the authorities under section 583(a) of Public Law 103-236 and section 3(a) of Public Law 102-125 have been used for the purposes for which they were intended.

You are authorized and directed to transmit this determination to the Congress and to publish it in the Federal Register.



THE WHITE HOUSE,
Washington, June 14, 1996.

Presidential Documents

Presidential Determination No. 96-33 of June 21, 1996

Reconfirmation of Findings With Respect to the Trade Agreement With the People's Republic of China

Memorandum for the United States Trade Representative

Since February 1, 1992, the United States of America and the People's Republic of China have had in effect a bilateral Agreement on Trade Relations, in relation to which, pursuant to my authority under subsection 405(b)(1) of the Trade Act of 1974 (19 U.S.C. 2435(b)(1)), I reconfirm that a satisfactory balance of concessions in trade and services has been maintained during the life of the Agreement and that actual or foreseeable reductions in U.S. tariffs and nontariff barriers to trade resulting from multilateral negotiations are, and continuously have been, satisfactorily reciprocated by the People's Republic of China.

You are authorized and directed to publish this memorandum in the Federal Register.



THE WHITE HOUSE,
Washington, June 21, 1996.

Rules and Regulations

Federal Register

Vol. 61, No. 123

Tuesday, June 25, 1996

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.

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2634

RIN 3209-AA06

Public Financial Disclosure, Conflicts of Interest, and Certificates of Divestiture for Executive Branch Officials

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is adopting as final, with certain amendments, interim rules issued in 1990 implementing a provision of the Ethics Reform Act of 1989, as amended, which provides for tax deferral in appropriate cases involving the sale of property to comply with conflict of interest requirements. The regulation sets forth OGE's procedure for issuing Certificates of Divestiture authorizing such sales, and defines the permitted property into which the proceeds from such sales must be reinvested. The amendments being made in this rulemaking document reflect certain technical amendments to the underlying statutory provision and some other changes based on OGE's experience under, as well as the comments received on, the interim regulation.

EFFECTIVE DATE: July 25, 1996.

FOR FURTHER INFORMATION CONTACT: Norman B. Smith, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917; telephone: 202-208-8000; FAX: 202-208-8037.

SUPPLEMENTARY INFORMATION:

A. Review of Statutory Change, Comment Letters and Rule Changes

The Office of Government Ethics published an interim regulation on April 18, 1990 at 55 FR 14407-14409 establishing procedures with respect to

the issuance of Certificates of Divestiture, which permit the nonrecognition of gain upon the disposition of property to comply with conflicts of interest requirements. That regulation is codified at subpart J of 5 CFR part 2634 of OGE's executive branch financial disclosure regulations. Section 1043 of the Internal Revenue Code of 1986, 26 U.S.C. 1043, was enacted as part of the Ethics Reform Act of 1989 (Public Law 101-194). Pursuant to section 1043, the subpart J regulation provides that OGE can issue a Certificate of Divestiture with respect to specific property, pursuant to the procedures specified, based upon a determination that such divestiture by an executive branch official (or spouse or minor/dependent child thereof) is reasonably necessary to comply with 18 U.S.C. 208, or any other Federal conflict of interest statute, regulation, rule or Executive order, or is requested by a congressional committee as a condition of confirmation, in the case of an "eligible person" as defined in the rule. The regulation also defines "permitted property" into which the proceeds from divestitures must be reinvested.

The Federal purpose reflected in section 1043 of the Internal Revenue Code and these rules is to minimize the burden of Government service resulting from gain on the sale of assets for which divestiture is reasonably necessary because of the conflict of interest laws, in order to attract and retain desirable personnel in the executive branch and to ensure the confidence of the public in the integrity of Government officials and the Government's decisional processes within a framework of procedural fairness achieved through consistent application of the mandatory procedure.

The Office of Government Ethics is now adopting the interim Certificate of Divestiture regulation as final, with a few revisions as discussed herein. First, one change reflects the inclusion of certain trustees as eligible persons as set forth in new paragraph (d) of § 2634.1002. The May 1990 Technical Corrections to the Ethics Reform Act of 1989 (Pub. L. 101-280) added a new subsection (b)(5) to section 1043 of the Internal Revenue Code of 1986, which expanded that section's definition of "eligible person" in subsection (b)(1) of section 1043 to include any trustee of a trust with respect to which a beneficial

interest in property or income is either held by, or attributable through a spouse or minor or dependent child by Federal ethics principles to, a Government official.

The legislative history of this provision evidences that the House Committee on Ways and Means did not intend through this amendment that the tax benefits of the section's nonrecognition mechanism would be generally available to beneficiaries of a trust other than those referred to in subsection (b)(1) (A) and (B) of section 1043 (that is the Government official and any spouse and minor and dependent children). The concern was that there may be additional parties who are beneficiaries of a trust who would obtain an unintended benefit.

It is understood that the committee's intent was that the Office of Government Ethics' authority to issue Certificates of Divestiture be restricted as follows. A certificate will not be issued unless the parties take those actions which, in the opinion of the OGE Director, are appropriate to exclude parties in addition to those referred to in subsection (b)(1) (A) and (B) of section 1043 from participation in the nonrecognition mechanism. Such measures may include, as permitted by applicable State trust and estate law, division of the trust into separate portfolios, special distributions, dissolution of the trust, or any other method deemed by the Director, in his sole discretion, to be feasible under the facts and circumstances to exclude additional parties from benefiting from the nonrecognition mechanism.

In view of the further analysis which must be undertaken by the Office of Government Ethics in the case of a Certificate of Divestiture request with respect to a trustee, it is now to be expressly required, in new paragraph (d) of § 2634.1002, that the case materials furnished to the Office of Government Ethics include a copy of the trust instrument, full details as to its current portfolio, and a memorandum analyzing all beneficial interests in principal and income. To the extent that there may be additional parties with beneficial interests, the Office of Government Ethics may consult with representatives of the Government official, trustee, and other concerned parties, as appropriate, in order to resolve the issues presented.

As a general premise, it must be emphasized that the section 1043 mechanism applies to capital assets (as defined by section 1221 of the Internal Revenue Code, 26 U.S.C. 1221) held by an eligible individual (as defined by section 1043(b)). Not all transactions or occurrences which result in the realization of gain by an eligible individual fall within the statutory scheme. Some transactions and occurrences simply do not fit the statutory requirements, others may present instances where certification would give an unfair or unintended benefit.

In this connection, the issues involved in requests for Certificates of Divestiture involving interests in pension, profit-sharing, and stock bonus plans are subject to considerable subtlety and complexity. With respect to such employee benefit plans, such an unfair and unintended benefit would occur upon certification of property held or received during one step of a sequence in avoidance of transferring an otherwise qualifying rollover distribution to an eligible retirement plan within 60 days. In other words, certificates may not be used to achieve a tax advantaged removal of employee benefit plan funds from the rules which normally pertain to such plans in cases where no capital gains tax would be imposed if those rules were followed.

Accordingly, in the absence of a demonstration that an interest in an employee benefit plan is not eligible for rollover treatment, a certificate will not be issued with respect to such an interest. Such a demonstration must satisfy the Office of Government Ethics that the plan administrator cannot make a qualifying distribution in the case of the eligible person to which the provisions of section 402(f) of the Internal Revenue Code, 26 U.S.C. 402(f), would apply and that the particular property interest proposed for certification falls within the statutory scheme of section 1043 of such Code.

The rules pertaining to these concerns are contained in new paragraph (e) of § 2634.1002 to guard against unfair and unintended benefits. The paragraph also specifies that a certificate will not be issued with respect to the exercise of stock options that will result in compensation income. Further, the paragraph states that a certificate will not be issued after the normally applicable three-month period for complying with an ethics agreement with respect to divestiture (or any extension of such period to which the Office of Government Ethics has concurred in writing), and that in order for a certificate to be granted, the parties

must also agree to divest all similar or related interests in property. The statement of materials to be submitted with a certificate request has been clarified to ensure that adequate information is received with respect to additional interests in the case of executive branch employees who do not normally file financial disclosure reports (see § 2634.1002(b)(1)(ii)(B)). Finally, a new provision has been added to specify that a certificate will not be issued as to property acquired under improper circumstances (see § 2634.1002(e)(6)).

The Office of Government Ethics received comments from three agencies on its April 1990 interim rules. Paragraph (b)(1)(v) of § 2634.1002 is being revised pursuant to the suggestion of one agency that the documentation required to substantiate the request of a congressional committee that specific property be divested conform to the types of materials more readily available in such circumstances. That provision has been expanded to include as appropriate documentation a letter to the committee containing a promise from the nominee to divest specified property in accordance with the committee's request or, alternatively, a transcript of congressional testimony containing such a commitment by the nominee pursuant to the committee's request. The agency also urged that paragraph (c)(2) of § 2634.1002 be expanded to include within the definition of eligible person the spouse and children of any officer or employee referred to in paragraph (c)(1) of that provision whose ownership of property is attributable to such officer or employee by a congressional committee. However, such an expansion of the scope of this provision would exceed the statutory coverage of Internal Revenue Code section 1043(b)(1)(B) and is, therefore, impermissible. On the other hand, it would seem that in most situations where this concern would arise divestiture would appear reasonably necessary to comply with Executive Order 12674 (as modified by E.O. 12731) on Principles of Ethical Conduct for Government Officers and Employees and regulations pursuant to such order, including 5 CFR part 2635 and any supplemental agency regulations. Accordingly, the appropriate statutory basis for the issuance of a Certificate of Divestiture would exist in the vast majority of situations which can be anticipated.

One agency observed that the concept of "investment fund" as defined for purposes of Internal Revenue Code section 1043 contrasts with that found in section 102(f)(8) of the Ethics in

Government Act, 5 U.S.C. appendix, section 102(f)(8). The concern was further expressed that a third concept of investment fund may exist under 18 U.S.C. 208 with respect to the consideration of waivers under subsection (b) of that provision. However, such types of distinctions are normally encountered in legislative materials. The definition which appears in § 2634.1003 of the Certificate of Divestiture regulation is in accordance with the statutory scheme of section 1043 of the Internal Revenue Code. In any forthcoming regulations, the Office of Government Ethics will continue to achieve such harmony and uniformity in ethics program rules as is permitted by applicable statutes and their legislative histories.

One agency criticized the regulations for not specifying the time by which a divestiture must occur after a Certificate of Divestiture has been issued, or the time by which a rollover must be completed. The agency stated further that an eligible person is not given any guidance as to how to associate the certificate with tax return material, and that he should not be required to use a certificate that has been issued to him.

First, while the availability of Certificates of Divestiture will be important to persons who receive them, the primary focus of the ethics program should be on the ethics agreement mechanism of subpart H of 5 CFR part 2634 (or a similarly structured agreement for any eligible nonreporting individual seeking a certificate). There should not be a request for a Certificate of Divestiture in cases in which there is not a binding ethics agreement to divest property pursuant to the procedures specified by subpart H (or under a similarly structured arrangement), normally within three months unless an extension is granted. Such an agreement should include a specification of the time by which divestiture is to occur. The time specified may be in terms of a formula such as "thirty days after the issuance of a Certificate of Divestiture by the Office of Government Ethics, but not later than _____". New paragraph (e)(4) of § 2634.1002 will now provide that, in the case of an agreement to implement a divestiture required by statute, regulation, rule, or executive order, the normal three-month period will be deemed to start no later than 10 days after such requirement becomes applicable. However, it must be realized that section 1043 is essentially a tax matter. Except for those specifics described as the scope of these regulations in paragraph (b) of § 2634.1001, which is being revised to take note of the 60-day period for

qualified rollovers and the types of permitted property into which such rollovers are to be made (United States obligations and diversified investment funds as defined in § 2634.1003) under the statute, 26 U.S.C. 1043 (a) and (b)(3), other aspects of the availability and use of section 1043 and the certificates issued pursuant to its mechanism are the responsibility of the Internal Revenue Service and beyond the authorities delegated to the Office of Government Ethics.

Finally, OGE is also clarifying a few passages in the rule, including adding an express statement (at § 2634.1002(b)(1)(i)) that a certificate cannot be issued for property which has already been divested, and is revising the authority citation for the entire part 2634 regulation to ensure inclusion once more of reference to 26 U.S.C. 1043, which was inadvertently omitted in the 1995 edition of the CFR.

B. Matters of Regulatory Procedure
Executive Order 12866

In promulgating this final rule issuance, the Office of Government Ethics adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This final rule has also been reviewed by the Office of Management and Budget under that Executive order.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this final regulation will not have a significant economic impact on a substantial number of small entities because it only affects certain financial interests of executive branch employees and their immediate families.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulatory issuance does not contain any additional information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 2634

Administrative practice and procedure, Certificates of divestiture, Conflict of interests, Financial disclosure, Government employees, Penalties, Privacy, Reporting and recordkeeping requirements, Trusts and trustees.

Approved: April 18, 1996.
Stephen D. Potts,
Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is adopting the interim regulation codified at subpart J of 5 CFR part 2634, published at 55 FR 14407- 14409 (April 18, 1990), as a final regulation with the following amendments:

PART 2634—[AMENDED]

1. The authority citation for part 2634 is revised to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

Subpart J—Certificates of Divestiture

2. Paragraph (b) of § 2634.1002 is amended by revising the second sentence and adding a new third sentence to read as follows:

§ 2634.1001 Nonrecognition for sales to comply with conflict of interest requirements; general considerations.

* * * * *

(b) *Scope.* * * * The rules of this subpart relate to the issuance of Certificates of Divestiture and the permitted property into which a reinvestment must be made during the 60-day period beginning on the date of such a sale in order for nonrecognition to be permitted. Such reinvestments are called rollovers, and are limited to obligations of the United States and diversified investment funds as defined in § 2634.1003. * * * *

* * * * *

3. Section 2634.1002 is amended by revising paragraphs (b)(1)(i), (b)(1)(ii), (b)(1)(iv)(B), (b)(1)(v), and (c), and adding new paragraphs (d) and (e) to read as follows:

§ 2634.1002 Issuance of Certificates of Divestiture.

* * * * *

(b) *Procedural requirements—(1) Required submissions.* * * *

(i) A copy of a written request from the eligible person who is to divest the property (a Certificate of Divestiture cannot be issued for property which has already been divested) to the designated agency ethics official to pursue certification in the case of the property to be divested, which includes:

(A) A commitment to complete the divestiture on or before a specified date which is no later than the end of the three-month period referred to by § 2634.802(b) (or a similarly structured

agreement in any case to which paragraph (b)(1)(ii)(B) of this section applies), or any extension thereof granted, or concurred with in writing, by the Office of Government Ethics; and

(B) Full and complete information concerning the facts and circumstances relating to the acquisition of such property and its contemplated divestiture;

(ii) In the case of an individual referred to in paragraph (c)(1) of this section who:

(A) Is required by the rules of this part or this title, to file a financial disclosure report, a copy of the latest report which has been filed; or

(B) Is not required to file a report referred to in paragraph (b)(1)(ii)(A) of this section, a memorandum from such individual which discloses the information with respect to the specification of interests in property, income, liabilities, agreements and arrangements, and outside positions which are required to be disclosed on such a report;

* * * * *

(iv) * * *

(B) Analysis and opinion from such designated agency ethics official concerning the application of the rules of this part in the case of the proposed certification, including specification of the date on which the three-month period referred to by § 2634.802(b) (or a similarly structured agreement in any case to which paragraph (b)(1)(ii)(B) of this section applies), or any extension thereof granted, or concurred with in writing, by the Office of Government Ethics, will lapse; and

(v) In lieu of the materials described in paragraph (b)(1)(iv) of this section, in the case of the contemplated divestiture of specific property pursuant to the request of a congressional committee as a condition of confirmation, such materials shall include the written acknowledgement of the Chairman of such committee of such request, a letter to the committee containing a promise from the nominee to divest specified property in accordance with such request, or a transcript of congressional testimony containing such a commitment by the nominee pursuant to such request.

* * * * *

(c) *Eligible person.* For purposes of section 1043 and this subpart, the term "eligible person" includes:

(1) Any officer or employee of the executive branch of the Federal Government, except a person who is a special Government employee as defined in 18 U.S.C. 202;

(2) The spouse and any minor or dependent child of an individual

referred to in paragraph (c)(1) of this section whose ownership of property required to be divested is attributable to such person by 18 U.S.C. 208, or any other Federal conflict of interest statute, regulation, rule, or executive order; and

(3) Any trustee holding property in trust required to be divested in which:

(i) An individual referred to in paragraph (c)(1) of this section has a beneficial interest in principal or income; or

(ii) A spouse or any minor or dependent child of an individual referred to in paragraph (c)(2) of this section has a beneficial interest in principal or income which is attributable to a person referred to in paragraph (c)(1) of this section by 18 U.S.C. 208, or any other Federal conflict of interest statute, regulation, rule, or executive order.

(d) *Special rules in the case of a trustee who is an eligible person.* (1) Notwithstanding any other rule of this subpart, in the case of a trustee who is an eligible person pursuant to paragraph (c)(3) of this section, a Certificate of Divestiture will not be issued unless the parties take those actions which, in the opinion of the Director of the Office of Government Ethics, are appropriate to exclude parties in addition to those referred to in paragraph (c) (1) and (2) of this section from participation in the nonrecognition mechanism. Such measures may include, as permitted by applicable State trust and estate law, division of the trust into separate portfolios, special distributions, dissolution of the trust, or any other method deemed by the Director, in his sole discretion, to be feasible under the facts and circumstances to exclude additional parties from benefiting from the nonrecognition mechanism.

(2) In view of the further analysis which must be undertaken by the Office of Government Ethics in the case of a Certificate of Divestiture request with respect to a trustee, the required submissions in such a case shall include in addition to the materials described in paragraph (b)(1) of this section, a copy of the trust instrument, full details as to its current portfolio, and a memorandum analyzing all beneficial interests in principal and income. To the extent that there may be additional parties with beneficial interests, the staff of the Office of Government Ethics may consult with representatives of the Government official, trustee, and other concerned parties, as appropriate, in order to resolve the issues presented in light of the principles described in paragraph (d)(1) of this section.

(e) *Special rules in the case of employees; unfair and unintended*

benefits—(1) In general.

Notwithstanding any other rule of this subpart, a Certificate of Divestiture will not be issued in any case in which, in the opinion of the Director of the Office of Government Ethics, in his sole discretion, an unfair or unintended benefit would be conferred on an eligible person. Paragraphs (e)(2) through (g)(6) of this section give examples of the application of the general rule of this paragraph (e)(1).

(2) *Employee benefit plans.* With respect to interests in pension, profit-sharing, stock bonus and other employee benefit plans, such an unfair or unintended benefit would occur upon certification of property held or received during one step of a sequence in avoidance of transferring an otherwise qualifying rollover distribution to an eligible retirement plan within 60 days. In other words, Certificates of Divestiture may not be used to achieve a tax advantaged removal of employee benefit plan funds from the rules which normally pertain to such plans in cases where no capital gains tax would be imposed if those rules were followed. Accordingly, in the absence of a demonstration that an interest in an employee benefit plan is not eligible for rollover treatment, a certificate will not be issued with respect to such an interest. Such a demonstration must satisfy the Office of Government Ethics that the plan administrator cannot make a qualifying distribution in the case of the eligible person to which the provisions of section 402(f) of the Internal Revenue Code of 1986 would apply and that the particular property interest proposed for certification falls within the statutory scheme.

(3) *Certain property received as compensation for services.* Such an unfair and unintended benefit would occur upon certification of property received as compensation for services, the gain from which would otherwise be treated as earned income. For example, with respect to the contemplated exercise of a stock option granted by an employer, such an unfair and unintended benefit would occur upon certification if such exercise or the sale of the resultant stock would otherwise result in earned income to the employee.

(4) *Non timely divestitures.* With respect to any contemplated divestiture, such an unfair or unintended benefit would occur upon certification after the three-month period referred to by § 2634.802(b) (or a similarly structured agreement in any case to which paragraph (b)(1)(ii)(B) of this section applies) has lapsed, unless there is an

extension of time in a case of unusual hardship as determined pursuant to such section by the Office of Government Ethics or the designated agency ethics official (with the written concurrence of the Office of Government Ethics). In the case of such an agreement to implement a divestiture required by statute, regulation, rule, or executive order, such three-month period shall be deemed, for purposes of this subpart, to have started no later than 10 days after such requirement had become applicable.

(5) *Similar or related interests.* With respect to any contemplated divestiture, such an unfair or unintended benefit would occur unless all similar or related interests in property were also subject to a divestiture commitment.

(6) *Property acquired under improper circumstances.* With respect to any contemplated divestiture, such an unfair advantage or unintended benefit would occur if the property was acquired at a time when the holding of such property was prohibited by any law or regulation or under circumstances which otherwise would create the appearance of a conflict with the conscientious performance of governmental responsibilities.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 95-087-1]

Japanese Beetle; Domestic Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the Japanese beetle quarantine and regulations to add Minnesota and Wisconsin to the list of quarantined States and to provide greater specificity about what actions must be taken to prevent the spread of Japanese beetle by aircraft from regulated airports. The actions specified by these amendments are necessary to prevent the spread of Japanese beetle into noninfested areas of the United States. We are also amending the regulations to allow carriers at regulated airports the option of performing some activities under a compliance agreement with the Animal and Plant Health Inspection Service,

rather than in the presence of an inspector.

DATES: Interim rule effective June 20, 1996. Consideration will be given only to comments received on or before August 26, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95-087-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 95-087-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Mario A. Rodriguez, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8247.

SUPPLEMENTARY INFORMATION:

Background

The Japanese beetle feeds on fruits, vegetables, and ornamental plants and is capable of causing damage to over 300 potential hosts. The Japanese beetle quarantine and regulations, contained in 7 CFR 301.48 through 301.48-7 (referred to below as the regulations), quarantine the States of Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia and restrict the interstate movement of aircraft from regulated airports in these States in order to prevent the spread of the Japanese beetle.

The Japanese beetle is active during daylight hours only. Under § 301.48-2 of the regulations, an inspector of the Animal and Plant Health Inspection Service (APHIS) may designate any airport within a quarantined State as a regulated airport if he or she determines that adult populations of Japanese beetle exist during daylight hours at the airport to the degree that aircraft using the airport constitute a threat to spread the Japanese beetle to the seven States listed in § 301.48(b) (Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington). An inspector may terminate an airport's designation as

regulated when he or she determines that adult populations of Japanese beetle no longer exist at the airport to the degree that aircraft using the airport pose a threat to spread this pest.

Also, under § 301.48-4 of the regulations, a regulated article may move interstate from a regulated airport to the protected States only if: (1) The regulated article has been treated in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated into the regulations by reference at 7 CFR 300.1; or (2) the inspector, upon visual inspection, determines that the regulated article does not present a threat to spread the Japanese beetle because adult beetle populations are not present with regard to the particular regulated article; or (3) the regulated article arrives and leaves the regulated airport during the same nondaylight period.

APHIS and State plant health officials constantly monitor the Japanese beetle population in the United States. Recent trapping surveys indicate that the States of Minnesota and Wisconsin are now infested with Japanese beetle. Therefore, we are amending the regulations in § 301.48(a) to add Minnesota and Wisconsin to the list of States quarantined for Japanese beetle. We are also amending the regulations to provide greater specificity about what actions must be taken to ensure aircraft do not spread Japanese beetle from regulated airports. The actions specified by these amendments are necessary to prevent the spread of Japanese beetle to noninfested areas of the United States. We are also amending the regulations to allow carriers the option of performing some activities under a compliance agreement with APHIS, rather than in the presence of an inspector.

We are also amending the definition of "regulated airport" in § 301.48-1 of the regulations to include portions of airports, as well as entire airports. The current definition pertains only to airports in their entirety. This change will allow APHIS inspectors to quarantine only those portions of an airport that are at significant risk of being infested with Japanese beetles. Generally, these areas are at the periphery of airports, where commercial carriers of goods are frequently located. Passenger airlines generally use the portion of an airport closest to the terminal, where the risk of Japanese beetle infestation is low. This change would remove a burden on carriers that use airport areas at low risk of Japanese beetle infestation because these parts of airports could be excluded from regulation.

We are amending the regulations so that an aircraft may move interstate from a regulated airport to a protected State only if: (1) An inspector, upon visual inspection of the airport and/or aircraft, determines that the aircraft does not present a threat to spread the Japanese beetle because adult beetle populations are not present; or (2) the aircraft is opened and loaded only while it is enclosed in a hangar that APHIS has determined to be free of and safeguarded against Japanese beetle; or (3) the aircraft is loaded during the hours of 8:00 p.m. to 7:00 a.m. (generally nondaylight) only or lands and departs during those hours and, in either situation, is kept completely closed while on the ground during the hours of 7:00 a.m. to 8:00 p.m.; or (4) if opened and loaded during daylight hours, the aircraft is inspected, treated, and safeguarded.

If the fourth alternative is chosen, the inspection, treatment, and safeguarding must be done either under the supervision of an inspector or under compliance agreement with APHIS. The inspection, treatment, and safeguarding shall include some or all of the following eight requirements and any other conditions determined by APHIS to be necessary to prevent the spread of Japanese beetle:

1. All openings of the aircraft must be closed or safeguarded during the hours of 7:00 a.m. to 8:00 p.m. by exclusionary devices or by other means approved by APHIS.

2. All cargo containers that have not been safeguarded in a protected area must be inspected immediately prior to and during the loading process. All personnel must check their clothing immediately prior to entering the aircraft. All Japanese beetles found must be removed and destroyed.

3. All areas around doors and hatches or other openings in the aircraft must be inspected prior to removing the exclusionary devices. All Japanese beetles found must be removed and destroyed. All doors and hatches must be closed immediately after the exclusionary devices are moved away from the aircraft.

4. Aircraft must be treated in accordance with the Treatment Manual no more than 1 hour before loading. The approved pesticide should be held at a 45-degree angle toward the floor of the aircraft to ensure full coverage at the specified rate. Particular attention should be paid to the ball mat area and the holes around the main entrance. The aircraft must then be aerated under safeguard conditions for 15 minutes.

5. Aircraft treatment records must be maintained for 2 years by the applicator

completing or supervising the treatment. These records must be provided upon request for review by an inspector. Treatment records shall include the pesticide used, the date of application, the location where the pesticide was applied (airport and aircraft), the amount of pesticide applied, and the name of the applicator.

6. When "tail swapping" procedures are implemented (replacement of a designated aircraft with an alternate one when mechanical or other problems occur in the designated aircraft before departure), the alternate aircraft must be inspected and all Japanese beetles must be removed. The aircraft must be safeguarded by closing all openings and hatches or by equipping the aircraft with exclusionary devices until the aircraft is ready for use. During loading, all treatment and safeguard requirements applicable to regularly scheduled aircraft must be implemented.

7. Aircraft may be retreated in the noninfested State if Japanese beetles are found.

8. Notification of unscheduled commercial flights and of all military flights must be given at least 1 hour before departure to the appropriate person in the destination airport of any of the States listed in § 301.48(b). Notification of arriving military flights should also be given to base commanders to facilitate the entrance of Federal and/or State inspectors onto the base, if necessary.

Inspectors will determine which of these eight requirements are appropriate for each individual carrier on a case-by-case basis. The requirements could vary not only among carriers at different airports but also among carriers at the same airport based on varying degrees of pest risk. As described previously, the location of a carrier at an airport plays a large part in determining the risk of Japanese beetle infestation.

Any person who enters into a compliance agreement, and employees or agents of that person, must allow inspectors access to all records regarding treatment of aircraft and to all areas where loading, unloading, and treatment of aircraft occurs. Approval for a compliance agreement may be canceled at any time if the Administrator determines that the requirements of the agreement are not being met.

We are also amending the regulations by making some changes that pertain to internal agency management. The regulations indicate that the Deputy Administrator, Plant Protection and Quarantine, APHIS, is the official responsible for various decisions under

the regulations. We are revising the regulations to indicate that the primary responsibility for various decisions under these regulations belongs to the APHIS Administrator. We are replacing all references to "Deputy Administrator" with references to "Administrator" and are replacing all references to "Plant Protection and Quarantine" with references to "Animal and Plant Health Inspection Service." Similar changes have been made to other APHIS regulations.

Nonsubstantive Changes

We are making one nonsubstantive change to correct an error in a previous rulemaking that pertained to the Japanese beetle regulations. On January 12, 1987, we published in the Federal Register (52 FR 1179-1180, Docket No. 86-351) a final rule that, among other things, amended 7 CFR 300, "Incorporation by Reference," to remove the Japanese Beetle Program Manual from the list of materials incorporated into the regulations by reference. However, this change was not reflected in the Japanese beetle regulations. We are therefore removing the reference to the "Japanese Beetle Program Manual" in the definition of "Treatment manual" at § 301.48-1 of the regulations to reflect the change that became effective upon publication of the final rule of January 12, 1987.

We are making several editorial changes to improve the regulations.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to implement improved procedures for preventing the spread of Japanese beetle to noninfested areas of the United States prior to the beginning of the 1996 season of Japanese beetle activity (mid-June in many parts of the country).

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this rule effective upon publication in the Federal Register. We will consider comments that are received within 60 days of publication of this rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The Japanese beetle regulations are being amended to add Minnesota and Wisconsin to the list of States regulated for Japanese beetle and to state in more detail the requirements for the interstate movement of aircraft from regulated airports. Thus, the rule clarifies Japanese beetle domestic quarantine regulations, but actual practices at the regulated airports will not be significantly altered.

While the status of certain airports under regulation has changed from year to year, the total number of regulated airports has averaged about eight for several years and is not expected to change in the foreseeable future. Nearly all regulated flights are loaded in accordance with inspection, treatment, and safeguarding procedures under APHIS supervision. The costs incurred by the affected air carriers for complying with the inspection, treatment, and safeguarding requirements of the regulations are not expected to change.

The only significant change in actual program operations is that inspection, treatment, and safeguarding requirements for aircraft may be done under a compliance agreement with APHIS, without the direct supervision of an inspector. The possibility of compliance agreements may create time-saving opportunities for the affected air carriers due to increased flexibility in timing and flight schedules. These time-saving opportunities may translate into lower costs for the affected air carriers.

According to the Small Business Administration, an air carrier with 1,500 employees or less is considered small. The exact number or percentage of small air carriers is not known. Even though most of the affected flights from regulated airports are those of large air carriers, other, smaller companies may benefit indirectly from the more timely and perhaps more frequent departures that may result from the compliance agreements.

Regulated airports and affected air carriers consider it important to minimize the risk of transporting the Japanese beetle. Some of them volunteer turf treatments in areas surrounding the airports. In addition, APHIS encourages the planting of nonhost plants near the regulated airports. According to airport authorities and air carriers, such activities entail costs that are worthwhile when compared to the potential costs of disrupted business

that would result if the Japanese beetle were transported.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This 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.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for the conclusion that the amendments to the Japanese beetle regulations will not present a risk of introducing or disseminating plant pests and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In

addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.** The environmental assessment and finding of no significant impact are also posted on the Worldwide Web. The URL is <http://www.aphis.usda.gov/bbep/ead/ppqdocs.html>.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). This interim rule amends the existing information collections approved by OMB under control number 0579–0088, and OMB has granted emergency approval under this control number. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB control number. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 95–087–1. Please send a copy of your comments to: (1) Docket No. 95–087–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

Abstract

We are publishing an interim rule (95–087–1) to add two new States (Minnesota and Wisconsin) to the list of States quarantined because of the Japanese beetle and to provide greater specificity concerning what actions need to be taken to ensure that aircraft do not spread Japanese beetles from regulated airports.

Aircraft that depart from regulated airports in quarantined States are subject to regulations designed to prevent the spread of the Japanese beetle to other States.

Our interim rule also provides carriers engaged in the transportation of goods from regulated airports with the option of performing some activities (such as treating and safeguarding the aircraft) under a compliance agreement with us,

rather than in the presence of an inspector.

This regulatory action is designed to prevent the spread of the Japanese beetle within the United States. Its implementation will require us to engage in certain information collection activities that will necessitate the use of several forms, including aircraft treatment records, notifications of arrival, and compliance agreements.

We are seeking OMB approval to use these forms.

Aircraft treatment records: An aircraft that is preparing to depart from a regulated airport must be treated with an approved pesticide no more than 1 hour before it is loaded. The individual completing or supervising this treatment must maintain these treatment records for 2 years. The records must be made available to an inspector upon request. The records must include the pesticide used, the date of application, the location where the pesticide was applied (airport and aircraft), the amount of pesticide applied, and the name of the individual who performed the treatment.

Notification of arrival: Appropriate personnel at the destination airport must be notified of an incoming, unscheduled commercial flight (and all military flights) at least 1 hour before the aircraft departs from a regulated airport. This notification is always accomplished via a telephone call. Inspectors in the destination area need this information to schedule their work, thus minimizing delays in accomplishing inspections and necessary treatments of regulated articles upon their arrival.

Compliance agreement and cancellation: Certain precautions must be taken before an aircraft departs from a regulated airport. The aircraft may depart if an inspector determines that adult Japanese beetles are not present at the airport; or the aircraft may depart if it has been opened and loaded only in a hangar that we have determined is free of Japanese beetles; or it may depart if it has been loaded only during nondaylight hours (since Japanese beetles are active during daylight hours only); or the aircraft may depart if it is opened and loaded during the day but is subsequently inspected, treated, and safeguarded.

Our interim rule provides the carrier with the option of having the inspection, treatment, and safeguarding performed under the direct supervision of an inspector or under a compliance agreement with APHIS. The compliance agreement would specify what procedures and precautions the carrier must undertake to prevent the aircraft

from spreading the Japanese beetle to noninfested areas of the United States.

Approval of a compliance agreement can be withdrawn if we determine that the requirements in the agreement are not being met.

If a compliance agreement has been canceled or denied, the applicant may appeal in writing within 10 days after receiving written notification.

The information collection activities described above are a crucial component of our program to prevent the spread of the Japanese beetle.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection activity. We need this outside input to help us:

Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

Enhance the quality, utility, and clarity of the information to be collected; and

Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 2 hours and 51 minutes per response.

Respondents: Importers, airport personnel, carriers.

Estimated number of respondents: 29.

Estimated number of responses per respondent: 1.41.

Estimated total annual burden on respondent: 117 hours.

Copies of this information collection can be obtained from the Department of Agriculture, Clearance Officer, OIRM, Ag. Box 7630, Washington, DC 20250.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

§ 301.48 [Amended]

2. In § 301.48, paragraph (a) is amended by adding the word “Minnesota,” after the word “Michigan,” and by adding the word “Wisconsin,” after the words “West Virginia.”

3. Section 301.48–1 is amended as follows:

a. By removing the definitions for *Deputy Administrator* and *Plant Protection and Quarantine Programs*.

b. By adding definitions in alphabetical order for *Administrator*, *Animal and Plant Health Inspection Service (APHIS)*, and *Compliance agreement* to read as set forth below.

c. By revising the definitions of *Inspector*, *Regulated airport*, and *Treatment manual* to read as set forth below.

§ 301.48–1 Definitions.

* * * * *

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Compliance agreement. A written agreement between the Animal and Plant Health Inspection Service and a person engaged in the business of moving regulated articles interstate, in which the person agrees to comply with the provisions of this subpart.

Inspector. Any employee of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Administrator to enforce the provisions of the quarantine and regulations in this subpart.

* * * * *

Regulated airport. Any airport or portions of an airport in a quarantined State declared regulated in accordance with provisions in § 301.48–2 of this subpart.

* * * * *

Treatment Manual. The Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

* * * * *

§ 301.48–2 [Amended]

4. Section 301.48–2 is amended by adding the words “or she” after the word “he” where it appears in paragraphs (a) and (b).

§ 301.48–3 [Amended]

5. Section 301.48–3 is amended by removing the word “Deputy”.

6. Section 301.48–4 is revised to read as follows:

§ 301.48–4 Conditions governing the interstate movement of regulated articles from quarantined States.

A regulated article may be moved interstate from a regulated airport to any State¹ designated in § 301.48(b) only if:

(a) An inspector, upon visual inspection of the airport and/or the aircraft, determines that the regulated article does not present a threat to spread the Japanese beetle because adult beetle populations are not present; or

(b) The aircraft is opened and loaded only while it is enclosed inside a hangar that an inspector has determined to be free of and safeguarded against Japanese beetle; or

(c) The aircraft is loaded during the hours of 8:00 p.m. to 7:00 a.m. only or lands and departs during those hours and, in either situation, is kept completely closed while on the ground during the hours of 7:00 a.m. to 8:00 p.m.; or

(d) If opened and loaded between the hours of 7:00 a.m. to 8:00 p.m., the aircraft is inspected, treated, and safeguarded. Inspection, treatment, and safeguarding must be done either under a compliance agreement in accordance with § 301.48–8 or under the direct supervision of an inspector. On a case-by-case basis, inspectors will determine which of the following conditions, and any supplemental conditions deemed necessary by the Administrator to prevent the spread of Japanese beetle, are required:

(1) All openings of the aircraft must be closed or safeguarded during the hours of 7:00 a.m. to 8:00 p.m. by exclusionary devices or by other means approved by the Administrator.

(2) All cargo containers that have not been safeguarded in a protected area must be inspected immediately prior to and during the loading process. All personnel must check their clothing immediately prior to entering the aircraft. All Japanese beetles found must be removed and destroyed.

(3) All areas around doors and hatches or other openings in the aircraft must be inspected prior to removing the exclusionary devices. All Japanese beetles found must be removed and destroyed. All doors and hatches must be closed immediately after the exclusionary devices are moved away from the aircraft.

¹ Requirements under all other applicable Federal domestic plant quarantines must be met.

(4) Aircraft must be treated in accordance with the Treatment Manual no more than 1 hour before loading. The approved pesticide should be held at a 45-degree angle toward the floor of the aircraft to ensure full coverage at the specified rate. Particular attention should be paid to the ball mat area and the holes around the main entrance. The aircraft must then be aerated under safeguard conditions for 15 minutes.

(5) Aircraft treatment records must be maintained by the applicator completing or supervising the treatment for a period of 2 years. These records must be provided upon request for review by an inspector. Treatment records shall include the pesticide used, the date of application, the location where the pesticide was applied (airport and aircraft), the amount of pesticide applied, and the name of the applicator.

(6) When "tail swapping" procedures are implemented (replacement of a designated aircraft with an alternate one when mechanical or other problems occur in the designated aircraft before departure), the alternate aircraft must be inspected and all Japanese beetles must be removed. The aircraft must be safeguarded by closing all openings and hatches or by equipping the aircraft with exclusionary devices until the aircraft is ready for use. During loading, all treatment and safeguard requirements applicable to regularly scheduled aircraft must be implemented.

(7) Aircraft may be retreated in the noninfested State if live Japanese beetles are found.

(8) Notification of unscheduled commercial flights and of all military flights must be given at least 1 hour before departure to the appropriate person in the destination airport of any of the States listed in § 301.48(b). Notification of arriving military flights should also be given to base commanders to facilitate the entrance of Federal and/or State inspectors onto the base if necessary.

§ 301.48-5 [Amended]

7. Section 301.48-5 is amended by removing the word "Deputy".

§ 301.48-6 [Amended]

8. Section 301.48-6 is amended by removing the word "Deputy".

9. A new § 301.48-8 is added to read as set forth below.

§ 301.48-8 Compliance agreements and cancellation.

(a) Any person engaged in the business of moving regulated articles may enter into a compliance agreement to facilitate the movement of such

articles under this subpart. Any person who enters into a compliance agreement, and employees or agents of that person, must allow an inspector access to all records regarding treatment of aircraft and to all areas where loading, unloading, and treatment of aircraft occurs.

(b) A compliance agreement may be canceled by an inspector, orally or in writing, whenever he or she determines that the person who has entered into the compliance agreement has failed to comply with the agreement or this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing within 20 days of oral notification. Any person whose compliance agreement has been canceled may appeal the decision, in writing, to the Administrator within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. A hearing will be held to resolve any conflict as to any material fact. The Administrator shall adopt rules of practice for the hearing. An appeal shall be granted or denied, in writing, as promptly as circumstances allow, and the reasons for the decision shall be stated. The compliance agreement will remain canceled pending the decision on the appeal.

Done in Washington, DC, this 20th day of June 1996.

Donald W. Luchsinger,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-16160 Filed 6-24-96; 8:45 am]

BILLING CODE 3410-34-P

Farm Service Agency

7 CFR Part 782

RIN 0560-AE37

End-Use Certificate Program

AGENCY: Farm Service Agency, Agriculture.

ACTION: Final Rule.

SUMMARY: A proposed rule was published on November 14, 1995, (60 FR 57198) with respect to the End-Use Certificate Program. This final rule adopts, with minor changes, the provisions of the proposed rule. Accordingly, this rule amends reporting requirements, reporting deadlines, and the required notification process in a manner that increases program effectiveness and efficiency for government and affected industries by

requiring all grain handlers to provide immediate notification to the buyer when wheat being purchased or handled is of Canadian origin. The provisions of this regulation also simplify the reporting burden placed on importers, subsequent buyers, end users, and exporters by extending reporting deadlines from 10 workdays to 15 workdays, and by permitting the computer generation and facsimile transmission of required reporting documentation.

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT: Helen Linden, Agricultural Service Agency, P.O. Box 2415, Ag Box 0553, Washington, DC 20013-2415; Telephone (202) 690-4321.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Environmental Evaluation

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

Executive Order 12372

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

Paperwork Reduction Act

This rule amends the reporting requirements by extending reporting deadlines and incorporating alternative reporting methods. Since the effective date of the End-Use Certificate Program, the Farm Service Agency (FSA) has determined that entities required to file form FSA-750, End-Use Certificate for Wheat, and form FSA-751, Wheat Consumption and Resale Report, have encountered some difficulty in meeting

the requirement that these forms be filed with the Kansas City Commodity Office (KCCO) within 10 workdays following the date of entry, or the date of resale, as applicable. This rule increases the amount of time to satisfy the reporting requirements from 10 workdays following the date of entry or resale to 15 workdays following the date of entry or resale. This action provides increased flexibility for entities that are required to file such reports without decreasing government efficiency in administering the program. Additionally, FSA has received numerous requests to permit facsimile transmission and computer generation of forms FSA-750 and FSA-751. In an attempt to accommodate technology that is currently available, FSA will accept such report submissions under the End-Use Certificate Program. While all of the entities that are required to file forms FSA-750 and FSA-751 may potentially be affected by these changes in reporting requirements, no entities will be adversely affected.

The changes in this rule do not affect recordkeeping requirements.

The reporting requirements for FSA-750 and FSA-751 were previously approved by the Office of Management and Budget (OMB) and assigned OMB control number 0560-0151.

Regulatory Flexibility Act

The changes in this final rule are intended to reduce the reporting burden for all affected businesses, including small businesses. Because these changes will not have an adverse impact on a substantial number of small businesses, a Regulatory Flexibility Assessment is not required.

Background

This final rule amends the regulations at 7 CFR part 782 with respect to the U.S. End-Use Certificate Program. Since February 27, 1995, the effective date for the implementation of the End-Use Certificate Program, several items have been identified that could improve the effectiveness and the efficiency of the End-Use Certificate Program.

The final rule published on January 26, 1995, at 60 FR 5087, did not include a specific time requirement for importers and subsequent buyers to inform subsequent buyers or end users that wheat being purchased is of Canadian origin and is therefore subject to these regulations. In some instances, importers are delivering Canadian wheat to subsequent buyers and end users through grain handlers. FSA has found that this method of transporting Canadian wheat results in some grain handlers acquiring title to a portion of

the wheat, thus becoming either a subsequent buyer or an end user. The general interpretation of existing regulations by affected parties is that the importer or subsequent buyer has 10 workdays to provide a copy of form FSA-750, End-Use Certificate for Wheat, to the subsequent buyer or exporter, which mirrors the requirement for submitting forms to KCCO. This delay in notification has resulted in situations where importers and subsequent buyers have either commingled Canadian wheat with U.S. origin wheat or resold Canadian wheat before they were informed that the wheat was of Canadian origin. Therefore, this rule amends the regulations at 7 CFR part 782 to require importers and subsequent buyers to provide immediate notification to purchasers and grain handlers when wheat being sold is of Canadian origin.

Secondly, in an effort to simplify and expedite the receipt of reports, this rule extends the time requirements for filing forms FSA-750, End-Use Certificate for Wheat, and FSA-751, Wheat Consumption and Resale Report, with KCCO from 10 workdays to 15 workdays following the date of entry or resale, and incorporates provisions which will permit the facsimile transmission and computer generation of required forms.

Summary of Comments

Two timely responses were received to the proposed rule published in the Federal Register on November 14, 1995, (60 FR 57198). While the two respondents generally supported the provisions contained in the proposed rule, both provided additional comments and recommendations.

The first respondent did not support the proposed extension of the filing deadline from 10 workdays to 15 workdays following the date of entry or resale, while the second respondent recommended that the filing deadlines be extended to 30 workdays following the date of entry or resale. Many importers of Canadian-produced wheat have experienced difficulty in meeting the 10 workday filing deadline. Because the extension of filing deadlines from 10 workdays to 15 workdays following the date of entry or resale will ease the reporting burden without negatively impacting the effectiveness of the End-Use Certificate Program, the filing deadlines have been extended from 10 workdays to 15 workdays following the date of entry or resale, as proposed.

The second respondent commented on five additional issues. Of these issues, two were not responsive to the proposed rule, and therefore, were not considered in the development of this

final rule. The second respondent recommended that FSA consider establishing and publishing a specific policy concerning shrink. No specific policy has been established to address the issue of shrink; each situation is considered on a case-by-case basis to determine if the percentage of commodity loss is reasonable based on the length of storage and the number of times the wheat has been handled.

The second respondent also commented that forms FSA-750 and FSA-751 should be modified to reflect quantities in bushels rather than net metric tons. When wheat is imported from Canada, the United States Customs Service (Customs) agents at the border crossing collect information concerning the quantity imported on a metric ton basis. Customs then forwards this information to FSA for use in determining compliance with the End-Use Certificate Program regulations. To be consistent with the procedures used by Customs, this rule maintains the requirement that quantities reported on forms FSA-750 and FSA-751 be on a metric ton basis.

Finally, the second respondent requested that FSA consider amending the regulations to permit importers to report Canadian wheat imports on the basis of whole shipments or by contract quantities, rather than by individual truck or rail car. In developing these regulations, FSA worked closely with Customs to ensure that reporting requirements established by FSA would be consistent with the reporting requirement used by Customs. Because a portion of the information collected by Customs is forwarded to FSA for use in determining whether importers are complying with these regulations, the information collected by FSA must be consistent with the information collected by Customs. For this reason, the final rule maintains the requirement that quantities of wheat imported from Canada must be reported on a "per entry" basis as defined in this regulation.

List of Subjects in 7 CFR Part 782

Administrative practice and procedure, Reporting and recordkeeping requirements, Wheat.

For the reasons set out in the preamble, 7 CFR part 782 is amended as follows:

PART 782—END-USE CERTIFICATE PROGRAM

1. The authority citation for part 782 continues to read as follows:

Authority: 19 U.S.C. 3391(f).

2. In part 782 all references to "ASCS-750" are revised to read "FSA-750."

3. In part 782 all references to "ASCS-751" are revised to read "FSA-751."

4. Section 782.2 is amended by adding the following definition in alphabetical order:

§ 782.2 Definitions.

* * * * *

Grain handler means an entity other than the importer, exporter, subsequent buyer, or end user that handles wheat on behalf of an importer, exporter, subsequent buyer, or end user.

* * * * *

5. Section 782.4 is revised to read as follows:

§ 782.4 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 0560-0151.

6. Section 782.12 is amended by:

A. Removing the number "10" in the first sentence of paragraph (a) and adding the number "15" in its place,

B. Removing paragraph (a)(8),

C. Redesignating paragraphs (a)(9) and (a)(10) as paragraph (a)(8) and (a)(9), respectively,

D. Redesignating paragraphs (b), (c), and (d) as paragraph (d), (e), (f), respectively,

E. Adding new paragraphs (b) and (c) and revising newly redesignated paragraph (e) to read as follows:

§ 782.12 Filing FSA-750, End-Use Certificate for Wheat.

* * * * *

(b) Importers may provide computer generated form FSA-750, provided such computer generated forms:

(1) Are approved in advance by KCCO,

(2) Contain a KCCO-assigned serial number, and

(3) Contain all of the information required in paragraphs (a)(1) through (a)(9).

(c) KCCO will accept form FSA-750 submitted through the following methods:

(1) Mail service, including express mail,

(2) Facsimile machine, and

(3) Other electronic transmissions, provided such transmissions are approved in advance by KCCO. The importer remains responsible for ensuring that electronically transmitted forms are received in accordance with paragraph (a).

* * * * *

(e) Distribution of form FSA-750 will be as follows:

(1) If form FSA-750 is submitted to KCCO in accordance with paragraph (c)(1);

(i) The original shall be forwarded to Kansas City Commodity Office, Warehouse License and Contract Division, P.O. Box 419205, Kansas City, MO 64141-6205, by the importer,

(ii) One copy shall be retained by the importer.

(2) If form FSA-750 is submitted to KCCO in accordance with paragraphs (c)(2) or (c)(3), the original form FSA-750 that is signed and dated by the importer in accordance with paragraph (d) shall be maintained by the importer,

(3) The importer shall provide a photocopy to the end user or, if the wheat is purchased for purposes of resale, the subsequent buyer(s).

* * * * *

7. Section 782.13 is amended by:

A. Redesignating paragraphs (b) and (c) as paragraph (c) and (d), respectively, and by removing the number "10" in the new paragraph (d) and adding the number "15" in its place,

B. Adding paragraph (b) to read as follows:

§ 782.13 Importer responsibilities.

* * * * *

(b) Immediately notify each subsequent buyer, grain handler, or end user that the wheat being purchased or handled originated in Canada and may only be commingled with U.S.-produced wheat by the end user or when loaded onto a conveyance for direct delivery to the end user or a foreign country.

* * * * *

8. Section 782.15 is amended by:

A. Removing the number "10" in paragraph (a)(1) and adding the number "15" in its place, and

B. Adding paragraphs (e), (f), and (g) to read as follows:

§ 782.15 Filing FSA-751, Wheat Consumption and Resale Report.

* * * * *

(e) Filers may provide computer generated form FSA-751, provided such computer generated forms:

(1) Are approved in advance by KCCO, and

(2) Contain the information required in paragraphs (b)(1) through (b)(9) of this section.

(f) KCCO will accept form FSA-751 submitted through the following methods:

(1) Mail service, including express mail,

(2) Facsimile machine, and

(3) Other electronic transmissions, provided such transmissions are

approved in advance by KCCO. The importer, end user, exporter, or subsequent buyer remains responsible for ensuring that electronically transmitted forms are received in accordance with this section.

(g) Distribution of form FSA-751 will be as follows:

(1) If form FSA-751 is submitted to KCCO in accordance with paragraph (f)(1) of this section:

(i) The original shall be forwarded to Kansas City Commodity Office, Warehouse License and Contract Division, P.O. Box 419205, Kansas City, MO 64141-6205, by the importer, end user, exporter, or subsequent buyer.

(ii) One copy shall be retained by the importer, end user, exporter, or subsequent buyer.

(2) If form FSA-751 is submitted to KCCO in accordance with paragraphs (f)(2) or (f)(3) of this section, the original form FSA-751 shall be maintained by the importer, end user, exporter, or subsequent buyer.

* * * * *

9. Section 782.17 is amended by:

A. Redesignating paragraph (b) as paragraph (c), and

B. Adding a new paragraph (b) to read as follows:

§ 782.17 Wheat purchased for resale.

* * * * *

(b) The importer or subsequent buyer shall immediately notify each subsequent buyer, grain handler, exporter, or end user that the wheat being purchased or handled originated in Canada and may only be commingled with U.S.-produced wheat by the end user or when loaded onto a conveyance for direct delivery to the end user or a foreign country.

* * * * *

Signed at Washington, DC, on June 14, 1996.

Grant Buntrock,

Administrator, Farm Service Agency.

[FR Doc. 96-15850 Filed 6-24-96; 8:45 am]

BILLING CODE 3410-05-P

Commodity Credit Corporation

7 CFR Part 1439 and 1475

Redesignation of Emergency Livestock Assistance Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule redesignates the Emergency Livestock Assistance Regulations from part 1475 to part 1439 as part of an overall agency effort to reorganize chapter XIV of this title.

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT: Leona Dittus, Director, Emergency and Noninsured Assistance Program Division, FSA, USDA, AG Box 0526, P.O. Box 2415, Washington, D.C. 20013-2415, Telephone (202) 720-3168.

SUPPLEMENTARY INFORMATION:

Background

This rule redesignates the Emergency Livestock Assistance Regulations from Part 1475 to Part 1439 as part of an overall agency effort to combine and unify CCC regulations into easily identifiable parts. No changes in the text are being made.

List of Subjects in 7 CFR Parts 1439 and 1475

Eligibility requirements, emergency assistance, and reporting and recordkeeping requirements.

Accordingly, under the authority 7 U.S.C. 1427 and 1471 (i)-(j) and 15 U.S.C. 714(b) and 714(c), 7 CFR part 1475 is redesignated as 7 CFR part 1439 and all internal references to part 1475 are revised to reflect new part 1439 designations.

Signed at Washington, D.C. on June 17, 1996.

Bruce R. Weber,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 96-16034 Filed 6-24-96; 8:45am]

BILLING CODE 3410-05-P

7 CFR Part 1485

RIN 0551-AA24

Agreements for the Development of Foreign Markets for Agricultural Commodities; Correction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published Wednesday, February 1, 1995 (60 FR 6352). The regulations implement the Market Promotion Program authorized by the section 203 of the Agricultural Trade Act of 1978.

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon L. McClure or Denise Fetters at (202) 720-5521.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 1995, the CCC published final rules at 60 FR 6352

governing the MPP. These new rules were applicable beginning with a participant's 1995 marketing year. Following publication, CCC participated with interested parties in five information sessions designed to familiarize participants with the new regulations and offer participants an additional opportunity to identify problem areas. Several errors were noted in these discussions while others were identified by participants during the course of the 1995 program year. The errors are as follows: In the preamble to the final rule, CCC explained that it considered an expense to be "incurred" as of the date a

participant or third party transfers funds to pay for an expenditure. However, the use of this term remains somewhat confusing and, therefore, CCC is replacing all occurrences of the word "incurred" with terms or phrases that better reflect the intent of the regulations. Section 1485.14(a) is amended to refer to "maintaining" export markets in addition to developing and expanding export markets. The final rule erroneously omitted a reference to a transfer being made by a third party. The preamble to the final rule states that such transfer could be made either by the participant or a third party. Section 1485.16(a)(2) is amended to include reference to a "third party" transferring funds to pay for the expenditure. The prohibition on reimbursing costs for "travel in the United States unless in transit to or from a foreign country in which travel is not restricted" found in § 1485.16(d)(27) would be deleted from the final rule because CCC does, in fact, allow expenditures on travel associated with trade shows, seminars, and educational training conducted in the United States as specified in § 1485.16(c)(25). CCC inadvertently used incorrect terminology in § 1485.20(a)(1). The phrase "generally accepted principles and standards of accounting" is replaced with "generally accepted accounting principles".

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 7 CFR Part 1485

Agricultural commodities, Exports.

Accordingly, 7 CFR Part 1485 is corrected by making the following correcting amendments:

PART 1485—AGREEMENTS FOR THE DEVELOPMENT OF FOREIGN MARKETS FOR AGRICULTURAL COMMODITIES

1. The authority citation for part 1485 continues to read as follows:

Authority: 7 U.S.C. 5623, 5662-5664 and sec. 1302, Pub. L. 103-66, 107 Stat. 330.

§ 1485.11 [Corrected]

2. In section 1485.11, paragraph (i), the word "incurred" is revised to read "expenditure made by a participant".

3. In section 1485.11, paragraph (gg), the phrase "cost incurred" is revised to read "expenditure made".

§ 1485.13 [Corrected]

4. In section 1485.13, paragraph (c)(1)(i), the phrase "Such costs will be incurred as part" is revised to read "Expenditures will be made in furtherance".

4A. In section 1485.13, paragraph (c)(3)(i), the word "incurred" is revised to read "expenditures made".

§ 1485.14 [Corrected]

5. In section 1485.14, paragraph (a), in the first sentence, the word "maintaining" is added after the word "developing".

§ 1485.16 [Corrected]

6. In section 1485.16, paragraph (a)(2), the phrase "or third party" is added after the word "participant".

7. In section 1485.16, paragraph (d)(27) is removed and reserved.

8. In section 1485.16, paragraph (d)(29), the word "incurred" is revised to read "made".

§ 1485.20 [Corrected]

9. In section 1485.20, paragraph (a)(1), the phrase "generally accepted principles and standards of accounting" is revised to read "generally accepted accounting principles".

10. In section 1485.20, paragraph (a)(3)(iii), the word "incurred" is revised to read "made".

§ 1485.23 [Corrected]

11. In section 1485.23, paragraph (a)(2), in the second sentence, the phrase "incurred in" is revised to read "for".

Signed at Washington, DC, on June 14, 1996.

August Schummacher, Jr.,
Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 96-15969 Filed 6-24-96; 8:45 am]

BILLING CODE 3410-05-M

Rural Housing Service**Rural Business-Cooperative Service****Rural Utilities Service****Farm Service Agency****7 CFR Part 2018****Statement of the Availability of Information to the Public**

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The issuing agencies amend the statement of availability of information to the public. Agency names, addresses, and some of the job position titles in the field structure have been changed to reflect the reorganization of the United States Department of Agriculture (USDA).

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT: Dorothy Hinden, Freedom of Information Officer, Support Services Division, Rural Development, Room 0162, South Agriculture Building, 14th and Independence Avenue, S.W., Washington, DC 20250-1533, Telephone (202) 720-9638.

SUPPLEMENTARY INFORMATION:**Classification**

This action has been reviewed under USDA procedures which implement Executive Order 12886. The action is exempt from the requirements of that Executive Order because it involves only internal agency management. While it is USDA policy to publish for comment rules relating to public property, loans, grants, benefits, or contracts notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules, this action involves only internal agency management. Therefore, publication for comment is unnecessary.

Background

Former subpart F of part 2018 of Title 7 of the Code of Federal Regulations dealt with the availability of information to the public from Farmers Home Administration (FmHA). FmHA is no longer in existence. Hence, this document removes references to FmHA and replaces them with information to reflect changes made by the Department of Agriculture Reorganization Act of 1994. Due to the reorganization of USDA, FmHA Farmer Programs are now being administered as Farm Credit Programs by the Farm Service Agency (FSA). FmHA Rural Housing and

Community Facilities programs are administered by the Rural Housing Service (RHS), Water and Waste programs are administered by the Rural Utilities Service (RUS), and Business and Industry programs are administered by the Rural Business-Cooperative Service (RBS). The affected agencies are jointly issuing this final rule. The following agencies all come under Rural Development: RHS, RUS, and RBS.

List of Subjects in 7 CFR Part 2018

Administrative practice and procedure, Freedom of information.

Accordingly, part 2018, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 2018—GENERAL

1. The authority citation for part 2018 continues to read as follows:

Authority: 5 U.S.C. 552.

2. Subpart F of part 2018 is revised to read as follows:

Subpart F—Availability of Information

Sec.

2018.251 General statement.

2018.252 Public inspection and copying.

2018.253 Indexes.

2018.254 Requests for records.

2018.255 Appeals.

2018.256–2018.300 [Reserved]

Subpart F—Availability of Information**§ 2018.251 General statement.**

In keeping with the spirit of the Freedom of Information Act (FOIA), the policy of Rural Development and its component agencies, Rural Housing Service (RHS), Rural Utilities Service (RUS), and Rural Business-Cooperative Service (RBS), governing access to information is one of nearly total availability, limited only by the countervailing policies recognized by the FOIA.

§ 2018.252 Public inspection and copying.

Facilities for inspection and copying are provided by the Freedom of Information Officer (FOIO) in the National Office, by the State Director in each State Office, by the Rural Development Manager (formerly, District Director) in each District Office, and by the Community Development Manager (formerly, County Supervisor) in each County Office. A person requesting information may inspect such materials and, upon payment of applicable fees, obtain copies. Material may be reviewed during regular business hours. If any of the Rural Development materials requested are not located at the office to which the request was made, the request will be

referred to the office where such materials are available.

§ 2018.253 Indexes.

Since Rural Development does not maintain any materials to which 5 U.S.C. 552(a)(2) applies, it maintains no indexes.

§ 2018.254 Requests for records.

Requests for records are to be submitted in accordance with 7 CFR 1.3 and may be made to the appropriate Community Development Manager, Rural Development Manager, State Administrative Management Program Director (formerly, State Administrative Officer), State Director, Freedom of Information/Privacy Act Specialist, or Freedom of Information Officer. The last two positions are located in the Rural Development Support Services Division, Washington, DC 20250. The phrase "FOIA REQUEST" should appear on the outside of the envelope in capital letters. The FOIA requests under the Farm Credit Programs (formally FmHA Farmer Programs) should be forwarded to the Farm Service Agency (FSA), Freedom of Information Officer, Room 3624, South Agriculture Building, 14th & Independence Avenue, S.W., Washington, DC 20250-0506. Requests should be as specific as possible in describing the records being requested. The FOIO, Freedom of Information/Privacy Act Specialist, each State Administrative Management Program Director, each State Director, each Rural Development Manager, and each Community Development Manager are delegated authority to act respectively at the national, state, district, or county level on behalf of Rural Development to:

(a) Deny requests for records determined to be exempt under one or more provisions of 5 U.S.C. 552(b);

(b) Make discretionary releases (unless prohibited by other authority) of such records when it is determined that the public interests in disclosure outweigh the public and/or private ones in withholding; and

(c) Reduce or waive fees to be charged where determined to be appropriate.

§ 2018.255 Appeals.

If all or any part of an initial request is denied, it may be appealed in accordance with 7 CFR 1.7 to that particular Agency possessing the documents. Please select the appropriate Agency to forward your FOIA appeal from the following addresses: Administrator, Rural Housing Service, Room 5014, AG Box 0701, 14th & Independence Avenue, S.W.—South Building, Washington, DC 20250-0701; Administrator, Rural Business-Cooperative

Service, Room 5045, AG Box 3201, 14th & Independence Avenue, S.W.—South Building, Washington, DC 20250-3201 and Administrator, Rural Utilities Service, Room 4501, AG Box 1510, 14th & Independence Avenue, SW.—South Building, Washington, DC 20250-1510. The phrase "FOIA APPEAL" should appear on the front of the envelope in capital letters.

§§ 18.256—2018.300 [Reserved]

Dated: June 10, 1996.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 96-15961 Filed 6-24-96; 8:45 am]

BILLING CODE 3410-07-P

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 95-093-2]

Pork and Pork Products From Mexico Transiting the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule allows fresh, chilled, and frozen pork and pork products from the Mexican State of Yucatan to transit the United States, under certain conditions, for export to another country. Previously, we allowed such pork and pork products only from the Mexican States of Sonora and Chihuahua to transit the United States for export. Otherwise, fresh, chilled, or frozen pork and pork products are prohibited movement into the United States from Mexico because of hog cholera in Mexico. Yucatan, like Sonora and Chihuahua, appears to be a low-risk area for hog cholera, and we believe that fresh, chilled, and frozen pork and pork products from Yucatan could transit the United States with minimal risk of introducing hog cholera. This action will facilitate trade.

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231, (301) 734-5097.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of certain animals and animal products

into the United States to prevent the introduction of certain animal diseases. Section 94.9 of the regulations prohibits the importation of pork and pork products into the United States from countries where hog cholera exists, unless the pork or pork products have been treated in one of several ways, all of which involve heating or curing and drying.

Because hog cholera exists in Mexico, pork and pork products from Mexico must meet the requirements of § 94.9 to be imported into the United States. However, under § 94.15, pork and pork products that are from certain Mexican States and that are not eligible for entry into the United States in accordance with the regulations may transit the United States for immediate export if certain conditions are met. Prior to the effective date of this final rule, only pork and pork products from Sonora and Chihuahua, Mexico, were eligible to transit the United States in accordance with § 94.15.

On February 23, 1996, we published in the Federal Register (61 FR 6955-6956, Docket No. 95-093-1) a proposal to amend the regulations by allowing pork and pork products from the Mexican State of Yucatan to transit the United States for export under the same conditions as pork and pork products from Sonora and Chihuahua.

These conditions were set forth as follows:

1. Any person wishing to transport pork or pork products from Yucatan through the United States for export must first obtain a permit for importation from the Animal and Plant Health Inspection Service (APHIS).

2. The pork or pork products must be sealed in Yucatan in a leakproof container, with a serially numbered seal approved by APHIS. The container must remain sealed at all times while transiting the United States.

3. The person moving the pork or pork products through the United States must inform the APHIS officer at the U.S. port of arrival, in writing, of the following information before the pork or pork products arrive in the United States: The times and dates that the pork or pork products are expected at the port of arrival in the United States, the time schedule and route of the shipments through the United States, and the permit number and serial numbers of the seals on the containers.

4. The pork or pork products must transit the United States under Customs bond.

5. The pork or pork products must be exported from the United States within the time period specified on the permit.

Any pork or pork products exceeding the time limit specified on the permit or transiting in violation of any of the requirements of the permit or the regulations may be destroyed or otherwise disposed of at the discretion of the Administrator, APHIS, pursuant to section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111).

We solicited comments concerning our proposal for 60 days ending April 23, 1996. We received one comment by that date. The comment was from a domestic pork industry group. The commenter commended the efforts of Mexican pork producers and the Mexican Government in their hog cholera eradication efforts, stated support for the principles of regionalization outlined in the proposed rule, reemphasized the importance of surveillance and control measures to minimize the risk of transmitting hog cholera to the U.S. swine population, and discussed a related trade issue. The commenter did not recommend any clarification or changes to the proposed rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the Federal Register. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions no longer found to be warranted. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the Federal Register.

Executive Order 12866 and Regulatory Flexibility Act

This 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 rule allows fresh, chilled, and frozen pork and pork products from the Mexican State of Yucatan to transit the United States, under certain conditions, for export to another country. It has been determined that Yucatan is a low-risk area for hog cholera and has the veterinary infrastructure necessary to monitor for the presence of the disease.

There appears to be little risk of hog cholera exposure from shipments of pork and pork products from Yucatan

transiting the United States. Assuming that proper risk management techniques continue to be applied in Mexico and that accident and exposure risk are minimized by proper handling during transport, the risk of exposure to hog cholera from pork in transit from Mexico through the United States is minimal.

Shipments of pork and pork products from Yucatan transiting the United States will most likely be ocean shipments to Miami with final destinations in the Caribbean and South America. Because no overland transit of pork and pork products through the United States is expected as a result of this rulemaking, no increase in U.S. trucking or other U.S.-based economic activity is expected.

Both the United States and Mexico are net pork importers. U.S. pork imports represent approximately 2 to 3 percent of production, and Mexican imports represent 7 to 8 percent of production. With favorable income growth expected in Mexico due to trade liberalization, meat imports, including pork products, are expected to grow and limit Mexican pork exports. However, facilitating export opportunities for the Mexican pork industry may provide incentives for continued efforts to eradicate hog cholera from infected Mexican States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This 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 rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

§ 94.15 [Amended]

2. In § 94.15, paragraph (b), the introductory text and paragraph (b)(2) are amended by removing the words "Chihuahua or Sonora" and adding the words "Chihuahua, Sonora, or Yucatan" in their place.

Done in Washington, DC, this 19th day of June 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-16159 Filed 6-24-96; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 436

[Docket No. EE-RM-95-501]

Federal Energy Management and Planning Programs; Methodology and Procedures for Life Cycle Cost Analyses

AGENCY: Office of Energy Efficiency and Renewable Energy, DOE.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is publishing a final rule to implement its Federal Energy Management Program to include application of the life cycle costing methodology when evaluating and comparing the cost effectiveness of water conservation measures in Federal buildings. The amendments are directed principally toward updating the life cycle cost methodology and procedures in subpart A in light of changes in law requiring the use of life cycle costing methodology when installing water conservation measures.

EFFECTIVE DATE: This regulation is effective July 25, 1996.

FOR FURTHER INFORMATION CONTACT: Theodore C. Collins, Federal Energy Management Program, Office of Energy Efficiency and Renewable Energy, Mail Station EE-92, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8017.

SUPPLEMENTARY INFORMATION:

I. Introduction

On August 25, 1995, DOE published a Notice of Proposed Rulemaking to amend some of the provisions in 10 CFR part 436 which are applicable to programs for the management of energy consumption by Federal agencies (60 FR 44286). The amendments are directed principally toward updating the life cycle cost methodology and procedures in subpart A in light of changes in law requiring the use of life cycle costing methodology when installing water conservation measures.

Section 152 of the Energy Policy Act of 1992 (Pub.L. 102-486) amended the legislatively mandated policies with regard to federal energy management originally set forth in section 542 of the National Energy Conservation Policy Act (Act or NECPA). 42 U.S.C. 8252. This amendment to section 542 expands the purpose of the Federal Energy Management Program to include the conservation and the efficient use of water, in addition to non-renewable energy, by the Federal government.

Section 543 of the Act (42 U.S.C. 8253(a)) "Energy Management Goals" was also amended by section 152 of the Energy Policy Act by adding an energy management requirement for Federal agencies that "Not later than January 1, 2005, each agency shall, to the maximum extent practicable, install in Federal buildings owned by the United States all energy and water conservation measures with payback periods of less than 10 years, as determined by using the methods and procedures developed pursuant to section 544." To implement this statutory provision, it is necessary to amend the life cycle cost regulations as set forth in part 436 of the Code of Federal Regulations, pursuant to section 544 of the Act, so that the life cycle cost methodology and procedures can be applied to the installation of water conservation measures which are implemented by Federal agencies to meet the requirements of the Act.

In response to the Notice of Proposed Rulemaking, DOE received no written comments and there were no commenters at a public hearing held on October 12, 1995 in Washington, DC. In view of the above, no changes have been

made to the rule proposed on August 25, 1995.

II. Background of the Life Cycle Cost Methodology

On January 23, 1980, DOE published a final Life Cycle Cost rule (LCC) (45 FR 5620) which established the methodology and procedures for calculating and comparing the life cycle cost of proposed investments to upgrade the economic efficiency of Federal buildings through energy conservation or substitution of renewable energy sources. The LCC rule was published pursuant to section 381(a)(2) of the Energy Policy and Conservation Act, as amended, 42 U.S.C 6361(a)(2), section 10 of Executive Order 11912, and Title V, part 3, of the National Energy Conservation Policy Act (NECPA).

On November 30, 1990, DOE published final amendments to 10 CFR part 436 (55 FR 48217) to update the guidelines applicable to Federal agency in-house energy management programs. That rulemaking was directed principally toward updating the life cycle cost methodology and procedures in subpart A of 10 CFR part 436 in light of provisions in the Federal Energy Management Improvement Act of 1988 granting DOE more discretion in setting discount and energy cost escalation rates (Pub. L. 100-615).

The principle uses of the LCC rule are determining the cost effectiveness of proposed investments and assigning priorities among proposed cost-effective investments. The methodology and procedures of the LCC rule are amplified in a manual published for DOE by the National Institute of Standards and Technology (NIST) HB135, revised as necessary to reflect amendments. It is referred to as the "Life Cycle Costing Manual for the Federal Energy Management Program." The methodology required by the LCC rule involves a systematic analysis of all significant costs associated with proposed investments, the principal purpose of which is to increase energy efficiency on a life-cycle cost effectiveness basis. This analysis relates investment costs to future costs associated with a proposed investment. The LCC rule provides for standardized assumptions for establishing and comparing relevant cost. See 10 CFR 436.14.

The Energy Policy Act of 1992 (Pub. L. 102-486) amended NECPA by adding water and the use of renewable energy sources to the purpose of NECPA (42 U.S.C. 8252) and requiring the use of the life cycle cost methodology when installing in Federal buildings energy and water conservation measures with

payback periods of less than 10 years (42 U.S.C. 8253(b)). The amendments published today relating to water conservation measures are pursuant to this authority.

III. General Discussion of Amendments

These amendments for the most part insert the term "water" in the various provisions of the rule to reflect the fact that the conservation and efficient use of water are now included within the purpose and scope of the Federal Energy Management Program. The methodology and procedures for applying life cycle cost analyses to water conservation measures have been determined to be generally consistent with the treatment of energy. In those instances where the nature of water conservation measures require different treatment, a separate provision is added. Overall, only minor changes to the rule have been made to comply with the mandates imposed by the Energy Policy Act of 1992.

The basic requirements of the life cycle cost methodology and procedures are not changed by the amendments. Their coverage is expanded so that they apply to water conservation measures which are the primary subject of the amendments. To accommodate the differences found when examining factors which may be unique only to water or energy, the Department of Energy is adding new and revised definitions in § 436.11 to allow for the computation of factors unique to water conservation measures for the purpose of performing the life cycle costing calculations. It is the intent of the amendatory language to make clear that the application of the life cycle cost methodology and procedures to water conservation measures are treated parallel, where practicable, to energy conservation measures when determining life cycle cost effectiveness. For example, the new definition of "building water system" parallels that of "building energy system." The difference is the type of system which is the subject of the analysis. In many instances, the Department of Energy has amended the rule with addition of the terms "and water" or "or water," as determined appropriate, to meet the requirement of the Act to apply life cycle cost methodology and procedures to water conservation measures.

There are a few minor changes which serve to clarify and facilitate agency implementation. Section 436.13 presumes that investment in a retrofit to an existing Federal building is not life cycle cost-effective if it is occupied under a lease which includes the cost of utilities in the rent and does not provide a pass-through of energy or water

savings to the government. Language was added to be explicit that this presumption applies only to Federal investment and should not necessarily be used to determine the cost effectiveness of building owners' investments in their Federally-leased buildings. Such investments are, in fact, cost-effective and are encouraged. The assumption in section 436.14 that "water prices will not escalate" is based upon the fact that there are no escalation rates established for water at the national level. However, agencies are permitted to use escalation rates when they are available from suppliers. Section 436.23 was modified to allow agencies to include future price changes when they estimate simple payback time in order to be consistent with national consensus standards developed by the American Society of Testing and Materials.

IV. Review Under Executive Order 12866

This rule was reviewed under the provisions of this Executive Order governing Regulatory Planning and Review. DOE has determined that this rule does not constitute a "significant regulatory action" and is therefore not subject to the provisions of section 6 of the Executive Order requiring review by the Office of Management and Budget (OMB).

V. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96-354 (5 U.S.C. 601-612). DOE has determined that this rule will not have a significant economic impact on a substantial number of small entities, therefore, no regulatory flexibility analysis has been performed.

VI. Review Under the Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) requires that Federal agencies obtain approval from the OMB before collecting information from 10 or more persons. There are no information collection requirements in these amendments.

VII. Review Under the National Environmental Policy Act

DOE has determined that promulgation of this rule falls within the interpreting/amending rulemaking class, Category A5 of appendix A to subpart D, "Categorical Exclusions Applicable to General Agency Actions," of the DOE National Environmental Policy Act (NEPA) regulations. 10 CFR part 1021. It is therefore categorically

excluded from preparation of either an Environmental Assessment or an Environmental Impact Statement under NEPA (42 U.S.C. 4321, *et. seq.*)

VIII. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the National government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. The rule revises certain policy and procedural requirements applicable only to Federal energy management programs. Therefore, the Department of Energy has determined that the rule will not have a substantial direct effect on the institutional interests or traditional functions of States.

IX. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3 (a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one

or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the final regulations meet the relevant standards of Executive Order 12988.

List of Subjects in 10 CFR Part 436

Energy Conservation, Federal buildings and facilities.

Issued in Washington, DC, on June 4, 1996.
Christine A. Ervin,
Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set out in the preamble, 10 CFR part 436 is amended as follows:

PART 436—FEDERAL ENERGY MANAGEMENT AND PLANNING PROGRAMS

1. The authority citation for part 436 continues to read as follows:

Authority: 42 U.S.C. 6361; 42 U.S.C. 8251–8263; and 42 U.S.C. 8287–8287c.

2. Section 436.1 is revised as follows:

§ 436.1 Scope.

This part sets forth the rules for Federal energy management and planning programs to reduce Federal energy consumption and to promote life cycle cost effective investments in building energy systems, building water systems and energy and water conservation measures for Federal buildings.

3. Section 436.2 is amended by revising paragraph (b) to read as follows:

§ 436.2 General objectives.

* * * * *

(b) To promote the methodology and procedures for conducting life cycle cost analyses of proposed investments in building energy systems, building water systems and energy and water conservation measures;

* * * * *

4. Section 436.10 is revised to read as follows:

§ 436.10 Purpose.

This subpart establishes a methodology and procedures for estimating and comparing the life cycle costs of Federal buildings, for determining the life cycle cost effectiveness of energy conservation measures and water conservation measures, and for rank ordering life cycle cost effective measures in order to design a new Federal building or to retrofit an existing Federal building. It also establishes the method by which efficiency shall be considered when entering into or renewing leases of Federal building space.

5. Section 436.11 is amended by:

(a) Revising the definitions of *component price*, *Federal building*, *life cycle cost*, *replacement cost*, *retrofit*, and *salvage value*, and (b) adding definitions for *building water system*, *non-water operation and maintenance costs*, and *water conservation measures* in alphabetical order to read as follows:

§ 436.11 Definitions.

* * * * *

Building water system means a water conservation measure or any portion of the structure of a building or any mechanical, electrical, or other functional system supporting the building, the nature or selection of which for a new building influences significantly the cost of water consumed.

Component price means any variable sub-element of the total charge for a fuel or energy or water, including but not limited to such charges as "demand charges," "off-peak charges" and "seasonal charges."

* * * * *

Federal building means an energy or water conservation measure or any building, structure, or facility, or part thereof, including the associated energy and water consuming support systems, which is constructed, renovated, leased, or purchased in whole or in part for use by the Federal government. This term also means a collection of such buildings, structures, or facilities and the energy and water consuming support systems for such collection.

* * * * *

Life cycle cost means the total cost of owning, operating and maintaining a building over its useful life (including its fuel and water, energy, labor, and replacement components), determined on the basis of a systematic evaluation and comparison of alternative building systems, except that in the case of leased buildings, the life cycle cost shall be calculated over the effective remaining term of the lease.

* * * * *

Non-water operation and maintenance costs mean material and labor cost for routine upkeep, repair and operation exclusive of water cost.

* * * * *

Replacement costs mean future cost to replace a building energy system or building water system, an energy or water conservation measure, or any component thereof.

Retrofit means installation of a building energy system or building water system alternative in an existing Federal building.

Salvage value means the value of any building energy system or building water system removed or replaced during the study period, or recovered through resale or remaining at the end of the study period.

* * * * *

Water conservation measures mean measures that are applied to an existing Federal building that improve the efficiency of water use, reduce the amount of water for sewage disposal and are life cycle cost effective and that involve water conservation, improvements in operation and maintenance efficiencies, or retrofit activities.

6. Section 436.13 is amended by revising paragraph (a), the introductory text of paragraph (b) and paragraph (b)(2) to read as follows:

§ 436.13 Presuming cost-effectiveness results.

(a) If the investment and other costs for an energy or water conservation measure considered for retrofit to an existing Federal building or a building energy system or building water system considered for incorporation into a new building design are insignificant, a Federal agency may presume that such a system is life cycle cost-effective without further analysis.

(b) A Federal agency may presume that an investment in an energy or water conservation measure retrofit to an existing Federal building is not life cycle cost-effective for Federal investment if the Federal building is—

* * * * *

(2) Occupied under a lease which includes the cost of utilities in the rent and does not provide a pass-through of energy or water savings to the government; or

* * * * *

8. Section 436.14, is amended by revising paragraphs (b)(1), (c), introductory text to paragraph (d)(2), (e) and (g) as follows:

§ 436.14 Methodological assumptions.

* * * * *

(b) * * *

(1) If the Federal agency is using component prices under § 436.14(c), that agency may use corresponding component escalation rates provided by the energy or water supplier.

* * * * *

(c) Each Federal agency shall assume that the price of energy or water in the base year is the actual price charged for energy or water delivered to the Federal building and may use actual component prices as provided by the energy or water supplier.

(d) * * *

(2) For determining the life cycle costs or net savings of mutually exclusive alternatives for a given building energy system or building water system (e.g., alternative designs for a particular system or size of a new or retrofit building energy system or building water system), a uniform study period for all alternatives shall be assumed which is equal to—

* * * * *

(e) Each Federal agency shall assume that the expected life of any building energy system or building water system is the period of service without major renewal or overhaul, as estimated by a qualified engineer or architect, as appropriate, or any other reliable source except that the period of service of a building energy or water system shall not be deemed to exceed the expected life of the owned building, or the effective remaining term of the leased building (taking into account renewal options likely to be exercised).

* * * * *

(g) Each Federal agency may assume that energy or water costs and non-fuel or non-water operation and maintenance costs begin to accrue at the beginning of the base year or when actually projected to occur.

* * * * *

8. Section 436.16 is amended by revising the section heading, redesignating paragraphs (b) and (c) as paragraphs (c) and (d), and by adding a new paragraph (b) as follows:

§ 436.16 Establishing non-fuel and non-water cost categories.

* * * * *

(b) The relevant non-water cost categories are—

- (1) Investment costs;
- (2) Non-water operation and maintenance cost;
- (3) Replacement cost; and
- (4) Salvage value.

* * * * *

9. Section 436.17 is amended by revising the section heading and by adding paragraphs (c) and (d) to read as follows:

§ 436.17 Establishing energy or water cost data.

* * * * *

(c) Each Federal agency shall establish water costs in the base year by multiplying the total units of water used in the base year by the price per unit of water in the base year as determined in accordance with § 436.14(c).

(d) When water costs begin to accrue in the base year, the present value of water costs over the study period is the

product of water costs in the base year as established under § 436.17(a), or as calculated by computer software provided or approved by DOE and used with the official discount rate and assumptions under § 436.14. When water costs begin to accrue at a later time, subtract the present value of water costs over the delay, calculated using the uniform present worth factor for the period of delay, from the present value of water costs over the study period or, if using computer software, indicate a delayed beneficial occupancy date.

10. Section 436.18 is amended by revising the introductory text to paragraph (c), paragraph (d), the first sentence of paragraph (e) and paragraph (f) to read as follows:

§ 436.18 Measuring cost-effectiveness.

* * * * *

(c) Replacement of a building energy or water system with an energy or water conservation measure by retrofit to an existing Federal building or by substitution in the design for a new Federal building shall be deemed cost-effective if—

* * * * *

(d) As a rough measure, each Federal agency may determine estimated simple payback time under § 436.23, which indicates whether a retrofit is likely to be cost effective under one of the four calculation methods referenced in § 436.18(c). An energy or water conservation measure alternative is likely to be cost-effective if estimated payback time is significantly less than the useful life of that system, and of the Federal building in which it is to be installed.

(e) Mutually exclusive alternatives for a given building energy or water system, considered in determining such matters as the optimal size of a solar energy system, the optimal thickness of insulation, or the best choice of double-glazing or triple-glazing for windows, shall be compared and evaluated on the basis of life cycle costs or net savings over equivalent study periods. * * *

(f) When available appropriations will not permit all cost-effective energy or water conservation measures to be undertaken, they shall be ranked in descending order of their savings-to-investment ratios, or their adjusted internal rate of return, to establish priority. If available appropriations cannot be fully exhausted for a fiscal year by taking all budgeted energy or water conservation measures according to their rank, the set of energy or water conservation measures that will maximize net savings for available appropriations should be selected.

* * * * *

11. Section 436.19 is amended by revising paragraph (d) to read as follows:

§ 436.19 Life cycle costs.

* * * * *

(d) Energy and/or water costs.

12. Section 436.21 is revised to read as follows:

§ 436.21 Savings-to-investment ratio.

The savings-to-investment ratio is the ratio of the present value savings to the present value costs of an energy or water conservation measure. The numerator of the ratio is the present value of net savings in energy or water and non-fuel or non-water operation and maintenance costs attributable to the proposed energy or water conservation measure. The denominator of the ratio is the present value of the net increase in investment and replacement costs less salvage value attributable to the proposed energy or water conservation measure.

13. Section 436.22 is revised to read as follows:

§ 436.22 Adjusted internal rate of return.

The adjusted internal rate of return is the overall rate of return on an energy or water conservation measure. It is calculated by subtracting 1 from the nth root of the ratio of the terminal value of savings to the present value of costs, where n is the number of years in the study period. The numerator of the ratio is calculated by using the discount rate to compound forward to the end of the study period the yearly net savings in energy or water and non-fuel or non-water operation and maintenance costs attributable to the proposed energy or water conservation measure. The denominator of the ratio is the present value of the net increase in investment and replacement costs less salvage value attributable to the proposed energy or water conservation measure.

14. Section 436.23 is revised to read as follows:

§ 436.23 Estimated simple payback time.

The estimated simple payback time is the number of years required for the cumulative value of energy or water cost savings less future non-fuel or non-water costs to equal the investment costs of the building energy or water system, without consideration of discount rates.

15. Section 436.24 is amended by revising the last sentence in the section as follows:

§ 436.24 Uncertainty analyses.

* * * If additional analysis casts substantial doubt on the life cycle cost analysis results, a Federal agency

should consider obtaining more reliable data or eliminating the building energy or water system alternative.

[FR Doc. 96-16120 Filed 6-24-96;8:45am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95-AGL-20]

Establishment of Class E Airspace; Bigfork, MN; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace description of the Bigfork, MN, Class E airspace published in a final rule on May 2, 1996 (61 FR 19541), Airspace Docket Number 95-AGL-20.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294-7568.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 96-10972, Airspace Docket 95-AGL-20, published on May 2, 1996 (61 FR 19541), established the Class E airspace at Bigfork, MN. Errors were discovered in the legal description. This action corrects the spelling of Bigfork and adds the airport name, city and state in the title of the legal description.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the airspace legal description, as published in the Federal Register on May 2, 1996 (61 FR 19541), (Federal Register Document 96-10972; page 19542, column 1), is corrected in the legal description to the incorporation by reference in 14 CFR 71.1 as follows:

§ 71.1 [Corrected]

* * * * *

AGL MN E5 Bigfork, MN [Corrected]

Bigfork Municipal Airport, MN
(Lat. 47°46'45"N, long. 93°39'01"W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Bigfork Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on June 3, 1996.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 96-16111 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Ivermectin and Lincomycin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Merck Research Laboratories, Division of Merck & Co., Inc. The NADA provides for use of single ingredient ivermectin and lincomycin Type A medicated articles to make combination drug Type B and C medicated swine feeds used for treatment and control of certain helminth, lice, and mite infections, increased rate of weight gain, treatment and control of swine dysentery, and reduction of severity of swine mycoplasma pneumonia in growing-finishing swine.

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1643.

SUPPLEMENTARY INFORMATION: Merck Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, is sponsor of NADA 141-054, which provides for the use of Ivomec® (ivermectin 0.6 percent) Type A medicated article and Lincomix® (lincomycin 20 and 50 grams (g)/pound) Type A medicated articles to make ivermectin/ lincomycin Type B and C medicated swine feeds. The Type C medicated swine feeds containing 1.8 g ivermectin/ton with 20, 40, 100, or 200 g lincomycin/ton are fed to growing-finishing swine for treatment and control of gastrointestinal roundworms, kidney worms, lungworms, lice, mites, swine dysentery; reduction of severity of mycoplasma pneumonia; and to increase rate of weight gain. The NADA is approved as of June 25, 1996, and the regulations are amended in 21 CFR 558.300 and 558.325 to reflect the

approval. The basis of approval is discussed in the freedom of information summary.

NADA 141-054 provides for use of ivermectin and lincomycin Type A medicated articles to make combination drug Type B and C medicated swine feeds. Ivermectin is a Category II drug which, as provided in 21 CFR 558.4(b), requires an approved Form FDA 1900 for making Type C medicated feeds. Therefore, use of ivermectin and lincomycin Type A medicated articles in making combination drug Type B and C medicated feeds, as in this NADA, requires an approved Form FDA 1900.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for a 3-year marketing exclusivity beginning June 25, 1996, because the application contains reports of new clinical or field investigations (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.300 is amended by revising paragraph (a) and by adding

new paragraphs (c)(2) through (c)(5) to read as follows:

§ 558.300 Ivermectin.

(a) *Approvals.* (1) Type A medicated articles: 0.6 percent (2.72 grams per pound; 6 grams per kilogram) to 000006 in § 510.600(c) of this chapter, and

(2) Type B medicated feeds for ivermectin alone or with lincomycin. See § 558.4 of this chapter for maximum drug levels to 000006 in § 510.600(c) of this chapter.

* * * * *

(c) * * *

(2) *Amount per ton.* 1.8 grams of ivermectin (to provide 0.1 milligram per kilogram of body weight per day) with 20 grams of lincomycin.

(i) *Indications for use.* For treatment and control of gastrointestinal roundworms (*Ascaris suum*, adults and fourth-stage larvae; *Ascarops strongylina*, adults; *Hyostrogylus rubidus*, adults and fourth-stage larvae; *Oesophagostomum* spp., adults and fourth-stage larvae), kidneyworms (*Stephanurus dentatus*, adults and fourth-stage larvae), lungworms (*Metastrongylus* spp., adults), lice (*Haematopinus suis*), and mange mites (*Sarcoptes scabiei* var. *suis*). For increased rate of weight gain.

(ii) *Limitations.* For weaned, growing-finishing swine. Feed as sole ration for 7 consecutive days. Withdraw 5 days before slaughter. A separate feed containing 20 grams per ton lincomycin may be continued. Not to be fed to swine that weigh more than 250 pounds. Do not allow rabbits, hamsters, guinea pigs, horses, or ruminants access to feeds containing lincomycin. Ingestion by these species may result in severe gastrointestinal effects. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(3) *Amount per ton.* 1.8 grams of ivermectin (to provide 0.1 milligram per kilogram of body weight per day) with 40 grams of lincomycin.

(i) *Indications for use.* For treatment and control of gastrointestinal roundworms (*Ascaris suum*, adults and fourth-stage larvae; *Ascarops strongylina*, adults; *Hyostrogylus rubidus*, adults and fourth-stage larvae; *Oesophagostomum* spp., adults and fourth-stage larvae), kidneyworms (*Stephanurus dentatus*, adults and fourth-stage larvae), lungworms (*Metastrongylus* spp., adults), lice (*Haematopinus suis*), and mange mites (*Sarcoptes scabiei* var. *suis*). For control of swine dysentery. For use in swine on premises with a history of swine dysentery, but where symptoms have not yet occurred.

(ii) *Limitations.* For weaned, growing-finishing swine. Feed as sole ration for 7 consecutive days. Withdraw 5 days before slaughter. A separate feed containing 40 grams per ton lincomycin may be continued. Not to be fed to swine that weigh more than 250 pounds. Do not allow rabbits, hamsters, guinea pigs, horses, or ruminants access to feeds containing lincomycin. Ingestion by these species may result in severe gastrointestinal effects. Consult your veterinarian for assistance in the diagnosis, treatment and control of parasitism.

(4) *Amount per ton.* 1.8 grams of ivermectin (to provide 0.1 milligram per kilogram of body weight per day) with 100 grams of lincomycin.

(i) *Indications for use.* For treatment and control of gastrointestinal roundworms (*Ascaris suum*, adults and fourth-stage larvae; *Ascarops strongylina*, adults; *Hyostrogylus rubidus*, adults and fourth-stage larvae; *Oesophagostomum* spp., adults and fourth-stage larvae), kidneyworms (*Stephanurus dentatus*, adults and fourth-stage larvae), lungworms (*Metastrongylus* spp., adults), lice (*Haematopinus suis*), and mange mites (*Sarcoptes scabiei* var. *suis*). Treatment of swine dysentery.

(ii) *Limitations.* For weaned, growing-finishing swine. Feed as sole ration for 7 consecutive days followed by a separate feed containing 100 grams per ton lincomycin for an additional 14 days to complete the lincomycin treatment. Withdraw 6 days before slaughter. Not to be fed to swine that weigh more than 250 pounds. Do not allow rabbits, hamsters, guinea pigs, horses, or ruminants access to feeds containing lincomycin. Ingestion by these species may result in severe gastrointestinal effects. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(5) *Amount per ton.* 1.8 grams of ivermectin (to provide 0.1 milligram per kilogram of body weight per day) with 200 grams of lincomycin.

(i) *Indications for use.* For treatment and control of gastrointestinal roundworms (*Ascaris suum*, adults and fourth-stage larvae; *Ascarops strongylina*, adults; *Hyostrogylus rubidus*, adults and fourth-stage larvae; *Oesophagostomum* spp., adults and fourth-stage larvae), kidneyworms (*Stephanurus dentatus*, adults and fourth-stage larvae), lungworms (*Metastrongylus* spp., adults), lice (*Haematopinus suis*), and mange mites (*Sarcoptes scabiei* var. *suis*). For reduction in severity of swine

mycoplasmal pneumonia caused by *Mycoplasma hyopneumoniae*.

(ii) *Limitations.* For weaned, growing-finishing swine. Feed as sole ration for 7 consecutive days followed by a separate feed containing 200 grams per ton lincomycin for an additional 14 days to complete the lincomycin treatment. Withdraw 6 days before slaughter. Not to be fed to swine that weigh more than 250 pounds. Do not allow rabbits, hamsters, guinea pigs, horses, or ruminants access to feeds containing lincomycin. Ingestion by these species may result in severe gastrointestinal effects. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

3. Section 558.325 is amended by adding new paragraph (c)(4)(iii) to read as follows:

§ 558.325 Lincomycin.

* * * * *

(c) * * *

(4) * * *

(iii) Ivermectin as in § 558.300.

Dated: June 14, 1996.

Stephen F. Sundlof,
 Director, Center for Veterinary Medicine.
 [FR Doc. 96-16103 Filed 6-24-96; 8:45 am]
 BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8676]

RIN 1545-AT14

Modifications of Bad Debts and Dealer Assignments of Notional Principal Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the allowance of a deduction for a partially worthless debt when the terms of a debt instrument have been modified. The temporary regulations provide guidance to certain taxpayers that modify the terms of a debt instrument after deducting an amount for partial worthlessness. This document also contains temporary regulations relating to certain assignments of notional principal contracts by dealers in those contracts. The temporary regulations provide guidance to taxpayers relating to consequences of these assignments. The text of these temporary regulations

also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the Federal Register.

DATES: These regulations are effective September 23, 1996.

FOR FURTHER INFORMATION CONTACT: Concerning the modifications of bad debts, Craig R. Wojay, Office of Assistant Chief Counsel (Financial Institutions and Products), (202) 622-3920 (not a toll-free number), and concerning dealer assignments of notional principal contracts, Thomas J. Kelly, Office of the Assistant Chief Counsel (Financial Institutions and Products), (202) 622-3940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1992, the IRS published in the Federal Register (57 FR 57034) a notice of proposed rulemaking that set forth proposed income tax regulations (26 CFR part 1) under section 1001 of the Internal Revenue Code (Code). Under § 1.1001-3(a) of the proposed regulations, a significant modification of a debt instrument is deemed to result in an exchange of the original debt instrument for a modified instrument that differs materially either in kind or in extent. This rule is retained in the final regulations under § 1.1001-3, published in the Rules and Regulations section of this issue of the Federal Register. Thus, when a debt is significantly modified, a taxpayer (holder) is required to recognize gain or loss based on the difference between the issue price of the significantly modified debt and the taxpayer's adjusted issue price in the original instrument.

Prior to finalizing the § 1.1001-3 regulations, the IRS and Treasury received comments that gain recognized as the result of a significant modification of a debt instrument often is attributable to the fact that the taxpayer previously claimed a deduction for partial worthlessness with respect to the debt. According to the commentators, the modification does not alter the fact that a portion of the debt remains uncollectible. Thus, the commentators suggested that, in this situation, a taxpayer should be permitted to offset the gain with a corresponding bad debt deduction.

The IRS and Treasury also received comments that the assignment by a dealer in notional principal contracts of its position in a contract to another dealer should not result in a deemed exchange under section 1001. Although

the dealer will recognize gain or loss on the disposition of its position, treating the transaction as a deemed exchange would force the counterparty to realize the gain or loss on the contract even though the counterparty is maintaining its position. The commentators argued that dealer-to-dealer assignments are a common business practice and that these assignments have relatively little significance to the dealers' counterparties.

Explanation of Provisions

Section 166(a)(2) and § 1.166-3(a) provide that a deduction for a partially worthless debt is allowed only to the extent the debt is charged off in the taxable year. The charge-off requirement is also contained in § 1.166-2(d) (1) and (3), which provides for a conclusive presumption of worthlessness under certain circumstances.

In general, the amount of a deduction on account of partial worthlessness is the amount by which the adjusted basis of a debt (as determined under section 1011) exceeds the amount recoverable on the debt. The amount of the deduction, however, may not exceed the amount charged off during the taxable year. The charge-off requirement is satisfied for a debt when a portion of the debt is removed from a taxpayer's books and records. This generally is accomplished by reducing the debt's book basis. Thus, when an amount has been deducted for partial worthlessness, there is generally a reduction of both the book basis and tax basis of a debt.

When a taxpayer is required to recognize gain under section 1001 because of a modification of a debt instrument, the taxpayer's tax basis in the debt is increased by the amount of gain recognized. Commentators on the proposed § 1.1001-3 regulations have indicated, however, that regulatory and general accounting principles generally would not permit a corresponding increase in the book basis of the debt. Because the prior charge-off is not restored (that is, the book basis of the debt is not increased), there is no opportunity for the taxpayer to take a new charge-off for pre-existing worthlessness. Thus, the charge-off requirement of section 166(a)(2) can never be satisfied with respect to the amount by which the debt's tax basis exceeds its book basis as a result of the modification, and the excess would not be allowed as a deduction until the debt becomes totally worthless.

The temporary regulations contained in this document set forth limited circumstances under which a taxpayer will be permitted to deduct an amount on account of a partially worthless debt

even though no amount has been charged off within the taxable year. The purpose of these temporary regulations is to preserve the portion of a taxpayer's bad debt deduction with respect to a partially worthless debt that corresponds to the amount the taxpayer would have been entitled to deduct for partial worthlessness with respect to the modified debt if the book basis of the modified debt were increased to the same extent as the tax basis of that debt. Thus, these temporary regulations apply only if all of the following conditions are satisfied. First, a significant modification of a debt instrument (within the meaning of § 1.1001-3) must result in a taxpayer's recognition of gain under § 1.1001-1(a). In addition, the debt must have been previously charged off and deducted by the taxpayer, and the prior charge-off and deduction must have satisfied the requirements of § 1.166-3(a)(1) and (2). If these conditions are satisfied, then a modified debt is deemed to have been charged off in the year in which gain is recognized. The amount of the charge-off, however, is limited to the difference between the tax basis of the debt and the greater of the book basis or the fair market value of the debt.

Both the proposed and the final regulations under § 1.1001-3 deal only with modifications of debt instruments. In response to comments on the proposed regulations, however, the temporary regulations contained in this document provide a limited rule dealing with a dealer's assignment of its position in an interest rate or commodity swap, or other notional principal contract to another dealer. If the assignment is permitted by the terms of the contract, the assignment will not be treated as a deemed exchange by the nonassigning party of the original contract for a new contract that differs materially either in kind or in extent. Thus, an assignment to which the rule applies does not trigger gain or loss to the dealer's counterparty. No inference is intended with respect to whether an assignment of rights by one party to other types of bilateral contracts results in an exchange or other disposition under section 1001 by the nonassigning party.

Effective Dates

The temporary regulations apply to significant modifications of debt instruments and assignments of interest rate swaps, commodity swaps, and other notional principal contracts occurring on or after September 23, 1996.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of the regulations concerning the modification of bad debts is Craig R. Wojay, Office of the Assistant Chief Counsel (Financial Institutions and Products), IRS. The principal author of the regulations concerning the dealer assignments of certain notional principal contracts is Thomas J. Kelly, Office of the Assistant Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.166-3T is added to read as follows:

§ 1.166-3T Partial or total worthlessness (temporary).

(a)(1) and (2) [Reserved]. For guidance, see § 1.166-3(a)(1) and (2).

(3) *Significantly modified debt*—(i) *Deemed charge-off*. If a significant modification of a debt instrument (within the meaning of § 1.1001-3) during a taxable year results in the recognition of gain by a taxpayer under § 1.1001-1(a), and if the requirements of paragraph (a)(3)(ii) of this section are met, there is a deemed charge-off of the debt during that taxable year in the

amount specified in paragraph (a)(3)(iii) of this section.

(ii) *Requirements for deemed charge-off*. A debt is deemed to have been charged off only if—

(A) The taxpayer (or, in the case of a debt that constitutes transferred basis property within the meaning of section 7701(a)(43), a transferor taxpayer) has claimed a deduction for partial worthlessness of the debt in any prior taxable year; and

(B) Each prior charge-off and deduction for partial worthlessness satisfied the requirements of paragraphs (a)(1) and (2) of this section.

(iii) *Amount of deemed charge-off*. The amount of the deemed charge-off, if any, is the amount by which the tax basis of the debt exceeds the greater of the fair market value of the debt or the amount of the debt recorded on the taxpayer's books and records reduced as appropriate for a specific allowance for loan losses. The amount of the deemed charge-off, however, may not exceed the amount of recognized gain described in paragraph (a)(3)(i) of this section.

(iv) *Effective date*. This paragraph (a)(3) is effective September 23, 1996.

(b) [Reserved]. For further guidance, see § 1.166-3(b).

Par. 3. Section 1.1001-4T is added to read as follows:

§ 1.1001-4T Modifications of certain notional principal contracts.

(a) *Dealer assignments*. For purposes of § 1.1001-1(a), the substitution of a new party on an interest rate or commodity swap, or other notional principal contract (as defined in § 1.446-3(c)(1)) is not treated as a deemed exchange by the nonassigning party of the original contract for a modified contract that differs materially either in kind or in extent if—

(1) The party assigning its rights and obligations under the contract and the party to which the rights and obligations are assigned are both dealers in notional principal contracts, as defined in § 1.446-3(c)(4)(iii); and

(2) The terms of the contract permit the substitution.

(b) *Effective date*. This section is effective September 23, 1996.

Margaret Milner Richards,
Commissioner of Internal Revenue.

Approved: May 31, 1996.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 96-15829 Filed 6-24-96; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Chapter IV

46 CFR Chapter III

Great Lakes Pilotage; Consolidation of Regulations

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard's responsibility for administering the Secretary's functions under the Great Lakes Pilotage Act of 1960, as amended, (the Act) was transferred from the Coast Guard to the Saint Lawrence Seaway Development Corporation (SLSDC) on December 11, 1995. This rule moves the Great Lakes Pilotage Regulations from Title 46, Code of Federal Regulations, to Title 33, Code of Federal Regulations. This rule is necessary to consolidate all regulations administered by the SLSDC.

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT:

Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, United States Department of Transportation, 400 7th Street SW., Washington, DC 20590, room 5424, 1-800-785-2779, or Scott A. Poyer, Chief Economist, Saint Lawrence Seaway Development Corporation, Office of Great Lakes Pilotage, United States Department of Transportation, 400 7th Street SW., Washington, DC 20590, room 5421, 1-800-785-2779.

SUPPLEMENTARY INFORMATION: By final rule published in the Federal Register on December 11, 1995 (60 FR 63444), the Coast Guard's responsibility for administering the Secretary's functions under the Great Lakes Pilotage Act of 1960, as amended, (the Act) was transferred to the Saint Lawrence Seaway Development Corporation (SLSDC), effective on the date of publication.

This rule moves the Great Lakes Pilotage Regulations from Chapter III of Title 46, Code of Federal Regulations (46 CFR Parts 401-404), to Title 33, Code of Federal Regulations, Chapter IV as Parts 404-407. Chapter III of Title 46, Code of Federal Regulations, is removed in its entirety and vacated. This rule also amends references to the regulations that have been moved and renumbers those references in accordance with their new location in the Code of Federal Regulations, and amends the Authority citation for each part. This rule is necessary to

consolidate all regulations administered by the SLSDC.

Since this rule relates to departmental management, organization, procedure, and practice, notice and public comment are unnecessary. For the same reason, good cause exists for not publishing this rule at least 30 days before its effective date, as is ordinarily required by 5 U.S.C. 553(d). Because the transfer of Great Lakes Pilotage responsibility has already occurred, it is necessary to reflect redesignation in the Code of Federal Regulations immediately. Accordingly, this rule is effective on the date of its publication in the Federal Register.

For reasons set out in the preamble and under the authority of 49 U.S.C. 322 and 49 CFR 1.52, the Saint Lawrence Seaway Development Corporation is amending 33 CFR Chapter IV, and removing 46 CFR Chapter III as follows:

1. Parts 401, 402, 403, and 404 of 46 CFR chapter III are redesignated as parts 404, 405, 406, and 407, respectively, and transferred to 33 CFR chapter IV and 46 CFR chapter III is vacated.

33 CFR CHAPTER IV

PART 404—[AMENDED]

2. The authority citation for new part 404, Title 33, Code of Federal Regulations is revised to read as follows:

Authority: 46 U.S.C. 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.52. 33 CFR 404.105 also is issued under the authority of 44 U.S.C. 3507.

PART 405—[AMENDED]

3. The authority citation for new part 405, Title 33, Code of Federal Regulations is revised to read as follows:

Authority: 46 U.S.C. 8105, 9303, 9304; 49 CFR 1.52.

PART 406—[AMENDED]

4. The authority citation for new part 406, Title 33, Code of Federal Regulations is revised to read as follows:

Authority: 46 U.S.C. 8105, 9303, 9304; 49 CFR 1.52.

PART 407—[AMENDED]

5. The authority citation for new part 407, Title 33, Code of Federal Regulations is revised to read as follows:

Authority: 46 U.S.C. 8105, 9303, 9304; 49 CFR 1.52.

6. In the following new sections of 33 CFR chapter IV, references to part 401 in the text of each section are amended to reference part 404:

33 CFR Sections

404.210(a)(8)

- 404.210(b)
- 404.211(a)(1), (b) and (e)
- 404.230(e)
- 404.240(b)
- 404.320(b)
- 404.330(a)
- 404.335(a)(1)
- 404.340 (a) and (c)
- 404.400(c)
- 404.405 introductory text
- 404.410(a) introductory text
- 404.420(a)
- 404.425
- 404.428
- 404.431(a), (f) and (g)
- 404.451(a)(1)
- 404.600(b)
- 404.620(b)
- 404.645
- 404.700(b)
- 404.710(e)
- 404.720(b)
- 405.100
- 405.210(a)
- 405.320(a) introductory text
- 406.100
- 406.400(c)
- 407.1(a)

7. In the following new sections of 33 CFR chapter IV, references to part 402 in the text of each section are amended to reference part 405:

33 CFR Sections

404.340(a)

404.710 (d) and (e)

8. In the following new sections and parts of 33 CFR chapter IV, references to part 403 in the text of each section are amended to reference part 406:

33 CFR Sections and Parts

404.320(d)(3)

Part 407, Appendix A, Step 1.A.

9. In the following new sections and parts of 33 CFR chapter IV, references to part 404 in the text of each section are amended to reference part 407:

33 CFR Sections and Parts

406.120(b)

407.1(b)

407.10(a)

Part 407, Appendix A, Step 1.B.

Part 407, Appendix C, introductory text

§ 404.250 [Amended]

10. In 33 CFR 404.250(d), the term "Part 137 of this title" is revised to read "46 CFR part 137".

Issued at Washington D.C. on June 4, 1996.
Saint Lawrence Seaway Development Corporation.

Gail C. McDonald,
Administrator.

[FR Doc. 96-14637 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-61-P

DEPARTMENT OF EDUCATION**34 CFR Parts 639, 651, 652, and 667****Removal of Regulations****AGENCY:** Department of Education.**ACTION:** Final regulations.

SUMMARY: The Secretary amends the Code of Federal Regulations (CFR) to remove unnecessary and obsolete regulations. The regulations removed are 34 CFR parts 639 (Law School Clinical Experience Program), 651 (Training in the Legal Profession), 652 (National Science Scholars Program), and 667 (State Postsecondary Review Program). As a result of new legislation, absence of funding, and review in accordance with the President's regulatory reinvention initiative, the Secretary has determined that these regulations are no longer needed.

EFFECTIVE DATE: Parts 651, 652, and 667 are removed effective June 25, 1996. Part 639 is removed effective September 30, 1996.

FOR FURTHER INFORMATION CONTACT: Kenneth C. Depew, U.S. Department of Education, Room 5112, FB-10, 600 Independence Avenue, SW, Washington, DC 20202-2241. Telephone: (202) 401-8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: President Clinton's memorandum of March 4, 1995, titled "Regulatory Reinvention Initiative," directed heads of departments and agencies to review all existing regulations to eliminate those that are outdated and modify others to increase flexibility and reduce burden. The Department has undertaken a thorough review of its existing regulations and has identified the regulations removed by this document as obsolete or unnecessary. Additional obsolete and unnecessary regulations were previously removed on May 23, 1995 (60 FR 27223) and on April 29, 1996 (61 FR 18680) as part of the Regulatory Reinvention Initiative.

The regulations being removed are no longer necessary to administer the program, have been superseded by new legislation, or were issued to implement a program that is no longer funded. To the extent that regulations are needed to implement new legislation, they will be issued separately from this document. Any determination to issue new regulations will be carefully considered to ensure that it is consistent with the

President's regulatory reform efforts and the principles in Executive Order 12866.

The Department is continuing to review its other existing regulations thoroughly in consultation with its customers and partners. To the extent the Secretary can identify further opportunities for regulatory reinvention, the Secretary will propose appropriate amendments to revise or eliminate outdated provisions, reduce burden, and increase flexibility.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, these regulations merely reflect statutory changes and remove unnecessary and obsolete regulatory provisions. Removal of the regulations does not establish or affect substantive policy. Therefore, the Secretary has determined, pursuant to 5 U.S.C. 553(b)(B), that public comment is unnecessary and contrary to the public interest. For the same reasons the Secretary waives the 30-day delayed effective date in 5 U.S.C 553(d).

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Assessment of Educational Impact

Based on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects**34 CFR Part 639**

College and universities, Grant programs-education, Law.

34 CFR Part 651

Colleges and universities, Grant programs-education, Law.

34 CFR Part 652

Grant programs-education, Science and technology, Student aid.

34 CFR Part 667

Colleges and universities, Grant programs-education, Student aid. (Catalog of Federal Domestic Assistance numbers do not apply.)

Dated: June 19, 1996.

David A. Longanecker,
Assistant Secretary for Postsecondary Education.

For reasons stated in the preamble, under the authority at 20 U.S.C. 1221e-3, the Secretary amends Title 34 of the Code of Federal Regulations by removing Parts 639, 651, 652, and 667.

**PARTS 639, 651, 652 and 667—
[REMOVED]**

[FR Doc. 96-16082 Filed 6-24-96; 8:45 am]

BILLING CODE 4000-01-P

POSTAL RATE COMMISSION**39 CFR Part 3001**

[Docket Nos. RM96-1, MC95-1 and MC96-1; Order No. 1119]

Amendments to Domestic Mail Classification Schedule: Mail Classification Reform, Classification Reform I (MC95-1) and Experimental First-Class and Priority Mail Small Parcel Automation Rate Category (MC96-1)

AGENCY: Postal Rate Commission.**ACTION:** Final rule.

SUMMARY: This final rule sets forth the changes to the Domestic Mail Classification Schedule (DMCS) and the accompanying rate changes as a result of recent Governors' Decisions on Recommended Decisions of the Postal Rate Commission in Docket Nos. MC95-1 and MC96-1. As a result of Docket No. MC95-1, substantial changes were made in the classification provisions for postal services to reflect the reformed classification of mail. Docket No. MC96-1 established experimental automation rate categories and 4-cent per piece discounts for certain bulk barcoded First-Class and Priority Mail small parcels entered for processing at three test sites. For this reason, Appendix A to Subpart C has been revised in its entirety.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, Legal Advisor, Postal Rate Commission, 1333 H Street, NW, Suite 300, Washington, DC 20268-0001, (202) 789-6820.

SUPPLEMENTARY INFORMATION: On March 24, 1995, the United States Postal Service, pursuant to its authority under 39 U.S.C 3621 et seq., filed with the Postal Rate Commission (Commission) a request for a recommended decision on mail classification reform. The Commission designated the Postal

Service request as Docket No. MC95-1 and published a notice in the Federal Register on April 3, 1995, (60 FR 16888-16893), describing the Postal Service filing and offering interested participants an opportunity to intervene. Sixty-eight intervenors and the Commission's Office of the Consumer Advocate participated. The Commission held formal, on-the-record hearings, and received testimony from both Postal Service and intervenor witnesses. Parties filed briefs, reply briefs and participated in oral argument.

On January 26, 1996, the Commission issued its Opinion and Recommended Decision in Docket No. MC95-1. The Decision included recommended revisions to the DMCS. See Docket No. MC95-1 Opinion and Recommended Decision, January 26, 1996, Appendix Two.

On March 4, 1996, the Governors of the United States Postal Service, pursuant to their authority under 39 U.S.C. 3625, issued two separate decisions. In the Decision of the Governors of the United States Postal Service on the Recommended Decisions of the Postal Rate Commission on Courtesy Envelope Mail and Bulk Parcel Post, the Governors rejected the Commission's recommendation for establishing a "shell" rate category for prebarcoded Courtesy Envelope Mail and the recommended language defining Bulk Parcel Post. The Governors rejected the DMCS language recommendation for §§ 221.23 (CEM) and § 322.13 (Bulk Parcel Post), and left in effect the current provision for Bulk Parcel Post, § 400.0202. In the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Classification Reform I, Docket No. MC95-1 the Governors approved the Commission's recommendations on all other DMCS provisions and rate changes. July 1, 1996 was set as the effective date for those changes.

On December 19, 1995, the United States Postal Service, pursuant to its authority under 39 U.S.C. 3621 et. seq., filed a request with the Postal Rate Commission for an expedited decision on an experimental rate category for specific types of First-Class and Priority Mail. The filing was designated as Docket No. MC96-1 and a notice of the filing, and a description of the Postal Service proposal, was published in the Federal Register on December 27, 1995, (60 FR 66999-67000). The notice established a period for interested participants to intervene. The Commission determined that the Postal Service request met the conditions of an

experimental offering and established an expedited schedule for this review.

In accordance with 39 U.S.C. 3624, on March 13, 1996, the Commission issued its Opinion and Recommended Decision on the Postal Service's request. The Commission recommended the establishment of the experimental automation rate category for a two year period and Appendix Two, Part B, to its Decision contains the DMCS provisions for this rate category.

On April 8, 1996, the Governors issued a decision accepting the Recommended Decision of the Postal Rate Commission, and by Resolution No. 96-3 established April 28, 1996 as the effective date for implementation. Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on the Experimental First-Class and Priority Mail Small Parcel Automation Rate Category, Docket No. MC96-1, April 1, 1996.

The amendments to the DMCS which are published in this order reflect the Governors' decisions of March 4, 1996 and April 1, 1996. These revisions are published as a final rule, since procedural safeguards and ample opportunity for opposition have already been afforded to all interested persons.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b) of the Regulatory Flexibility Act, the Commission certifies that this rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Accordingly, regulatory flexibility analysis is not required.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

For reasons set out in the preamble, 39 CFR part 3001 is revised as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b), 3603, 3622-3624, 3661, 3662.

2. Appendix A to Subpart C—Postal Service Rates and Charges is revised to read as follows:

Appendix A to Subpart C—Postal Service Rates and Charges

Table of Contents

General Definitions, Terms and Conditions—Sections 1000 through 6030

Classification Schedule 100—Expedited Mail

Sec.

110	Definition
120	Description of Services
121	Same Day Airport Service
122	Custom Designed Service
123	Next Day Service and Second Day Service
130	Physical Limitations
140	Postage and Preparation
150	Deposit and Delivery
151	Deposit
152	Receipt
153	Service
154	Forwarding and Return
160	Ancillary Services
170	Rates and Fees
180	Insurance and Indemnity
181	Insurance Coverage
182	Indemnity Coverage
183	Insurance Claims and Procedures
184	Refunds

Classification Schedule 200—First-Class Mail

Sec.

210	Definition
220	Description of Subclasses
221	Letters and Sealed Parcels Subclass
222	Postal and Post Cards Subclass
223	Priority Mail
230	Physical Limitations
231	Size and Weight
232	Nonstandard Size Mail
240	Postage and Preparation
250	Deposit and Delivery
251	Deposit
252	Service
253	Forwarding and Return
260	Ancillary Services
270	Rates and Fees
280	Authorizations and Licenses

Classification Schedules 300—Standard Mail

Sec.

310	Definition
311	General
312	Printed Matter
313	Written Additions
320	Description of Subclasses
321	Subclasses Limited to Mail Weighing Less Than 16 Ounces
322	Subclasses Limited to Mail Weighing 16 Ounces or More
323	Subclasses with No 16-Ounce Limitation
330	Physical Limitations
331	Size
332	Weight
333	Nonstandard Size Mail
340	Postage and Preparation
341	Postage
342	Preparation
343	Non-Identical Pieces
344	Attachments and Enclosures
350	Deposit and Delivery
351	Deposit
352	Service
353	Forwarding and Return
360	Ancillary Services
361	All Subclasses

362 Single Piece, Parcel Post, Bound Printed Matter, Special, and Library Subclasses

370 Rates and Fees

380 Authorizations and Licenses

381 Regular, Enhanced Carrier Route, and Nonprofit Subclasses

382 Special Subclass

383 Parcel Post Subclass

Classification Schedule 400—Periodicals

Sec.

410 Definition

411 General Requirements

412 General Publications

413 Requester Publications

414 Publications of Institutions and Societies

415 Publications of State Departments of Agriculture

416 Foreign Publications

420 Description of Subclasses

421 Regular Subclass

422 [Reserved]

423 Preferred Rate Periodicals

430 Physical Limitations

440 Postage and Preparation

441 Postage

442 Presortation

443 Attachments and Enclosures

444 Identification

445 Filing of Information

446 Enclosures and Supplements

450 Deposit and Delivery

451 Deposit

452 Service

453 Forwarding and Return

460 Ancillary Services

470 Rates and Fees

480 Authorizations and Licenses

481 Entry Authorizations

482 Preferred Rate Authorization

483 Mailing by Publishers and News Agents

434 Fees

Classification Schedule SS-1—Address Correction Service

Classification Schedule SS-2—Business Reply Mail

Classification Schedule SS-3—Caller Service

Classification Schedule SS-4—Certificate of Mailing

Classification Schedule SS-5—Certified Mail

Classification Schedule SS-6—Collect on Delivery Service

Classification Schedule SS-8—Domestic Postal Money Orders

Classification Schedule SS-9—Insured Mail

Classification Schedule SS-10—Post Office Box Service

Classification Schedule SS-11—Mailing List Services

Classification Schedule SS-12—On-Site Meter Setting

Classification Schedule SS-13—Parcel Airlift (PAL)

Classification Schedule SS-14—Registered Mail

Classification Schedule SS-15—Restricted Delivery

Classification Schedule SS-16—Return Receipts

Classification Schedule SS-17—Special Delivery

Classification Schedule SS-18—Special Handling

Classification Schedule SS-19—Stamped Envelopes

Classification Schedule SS-20—Merchandise Return

Rate Schedules

General Definitions, Terms and Conditions

1000 GENERAL DEFINITIONS

As used in this Domestic Mail Classification Schedule, the following terms have the meanings set forth below.

1001 Advertising

Advertising includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. If an advertising rate is charged for the publication of reading matter or other material, such material shall be deemed to be advertising. Articles, items, and notices in the form of reading matter inserted in accordance with a custom or understanding that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears are deemed to be advertising. If a publisher advertises his own services or publications, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be advertising.

1002 Aspect Ratio

Aspect ratio is the ratio of width to length.

1003 Bills and Statements of Account

1003.1 A bill is a request for payment of a definite sum of money claimed to be owing by the addressee either to the sender or to a third party. The mere assertion of an indebtedness in a definite sum combined with a demand for payment is sufficient to make the message a bill.

1003.2 A statement of account is the assertion of the existence of a debt in a definite amount but which does not necessarily contain a request or a demand for payment. The amount may be immediately due or may become due after a certain time or upon demand or billing at a later date.

1003.3 A bill or statement of account must present the particulars of an indebtedness with sufficient definiteness to inform the debtor of the amount he is required to pay to acquit himself of the debt. However, neither a bill nor a statement of account need state the precise amount if it contains sufficient information to enable the debtor to determine the exact amount of the claim asserted.

1003.4 A bill or statement of account is not the less a bill or statement of account merely because the amount claimed is not in fact owing or may not be legally collectible.

1004 Girth

Girth is the measurement around a piece of mail at its thickest part.

1005 Invoice

An invoice is a writing showing the nature, quantity, and cost or price of items shipped or sent to a purchaser or consignor.

1006 Permit Imprints

Permit imprints are printed indicia indicating postage has been paid by the sender under the permit number shown.

1007 Preferred Rates

Preferred rates are the reduced rates established pursuant to 39 U.S.C. 3626.

1008 ZIP Code

The ZIP Code is a numeric code that facilitates the sortation, routing, and delivery of mail.

2000 DELIVERY OF MAIL

2010 Delivery Services

The Postal Service provides the following modes of delivery:

- a. Caller service. The fees for caller service are set forth in Rate Schedule SS-10.
- b. Carrier delivery service.
- c. General delivery.
- d. Post office box service. The fees for post office box service are set forth in Rate Schedule SS-10.

2020 Conditions of Delivery

2021 General. Except as provided in section 2022, mail will be delivered as addressed unless the Postal Service is instructed otherwise by the addressee in writing.

2022 Refusal of Delivery. The addressee may control delivery of his mail. The addressee may refuse to accept a piece of mail that does not require a delivery receipt at the time it is offered for delivery or after delivery by returning it unopened to the Postal Service. For mail that requires a delivery receipt, the addressee or his representative may read and copy the name of the sender of registered, insured, certified, COD, return receipt, and Express Mail prior to accepting delivery. Upon signing the delivery receipt the piece may not be returned to the Postal Service without the applicable postage and fees affixed.

2023 Receipt. If a signed receipt is required, mail will be delivered to the addressee (or competent member of his

family), to persons who customarily receive his mail or to one authorized in writing to receive the addressee's mail.

2024 Jointly Addressed Mail. Mail addressed to several persons may be delivered to any one of them. When two or more persons make conflicting orders for delivery for the same mail, the mail shall be delivered as determined by the Postal Service.

2025 Commercial Mail Receiving Agents. Mail may be delivered to a commercial mail receiving agency on behalf of another person. In consideration of delivery of mail to the commercial agent, the addressee and the agent are considered to agree that:

a. No change of address order will be filed with the post office when the agency relationship is terminated;

b. When remailed by the commercial agency, the mail is subject to payment of new postage.

2026 Mail Addressed To Organizations. Mail addressed to governmental units, private organizations, corporations, unincorporated firms or partnerships, persons at institutions (including but not limited to hospitals and prisons), or persons in the military is delivered as addressed or to an authorized agent.

2027 Held Mail. Mail will be held for a specified period of time at the office of address upon request of the addressee, unless the mail:

a. Has contrary retention instructions;

b. Is perishable; or

c. Is registered, COD, insured, return receipt, certified, or Express Mail for which the normal retention period expires before the end of the specified holding period.

2030 Forwarding and Return

2031 Forwarding. Forwarding is the transfer of undeliverable-as-addressed mail to an address other than the one originally placed on the mail piece. All post offices will honor change of address orders for a period of time specified by the Postal Service.

2032 Return. Return is the delivery of undeliverable-as-addressed mail to the sender.

2033 Applicable Provisions. The provisions of sections 150, 250, 350 and 450 apply to forwarding and return.

2034 Forwarding for Postal Service Adjustments. When mail is forwarded due to Postal Service adjustments (such as, but not limited to, the discontinuance of the post office of original address, establishment of rural carrier service, conversion to city delivery service from rural, readjustment of delivery districts, or renumbering of houses and renaming of streets), it is forwarded without charge

for a period of time specified by the Postal Service.

3000 POSTAGE AND PREPARATION

3010 Packaging

Mail must be packaged so that:

a. The contents will be protected against deterioration or degradation;

b. The contents will not be likely to damage other mail, Postal Service employees or property, or to become loose in transit;

c. The package surface must be able to retain postage indicia and address markings;

d. It is marked by the mailer with a material which is not readily water soluble nor which can be easily rubbed off or smeared, and the marking will be sharp and clear.

3020 Envelopes

Paper used in the preparation of envelopes may not be of a brilliant color. Envelopes must be prepared with paper strong enough to withstand normal handling.

3030 Payment of Postage and Fees

Postage must be fully prepaid on all mail at the time of mailing, except as authorized by law or this Schedule. Except as authorized by law or this Schedule, mail deposited without prepayment of sufficient postage shall be delivered to the addressee subject to payment of deficient postage, returned to the sender, or otherwise disposed of as prescribed by the Postal Service. Mail deposited without any postage affixed will be returned to the sender without any attempt at delivery.

3040 Methods for Paying Postage and Fees

Postage for all mail may be prepaid by postage meter, adhesive stamps, or permit imprint, unless otherwise limited or prescribed by the Postal Service. The following methods of paying postage and fees require prior authorization from the Postal Service:

a. Permit imprint,

b. Postage meter,

c. Precanceled stamps, precanceled envelopes, and mailer's precanceled postmarks.

3050 Authorization Fees

Fees for authorization to use a permit imprint are set forth in Rate Schedule 1000. No fee is charged for authorization to use a postage meter. Fees for setting postage meters are set forth in Rate Schedule SS-12. No fee is charged for authorization to use precanceled stamps, precanceled envelopes or mailer's precanceled postmark.

3060 Special Service Fees

Fees for special services may be prepaid in any manner appropriate for the class of mail indicated or as otherwise prescribed by the Postal Service.

3070 Marking of Unpaid Mail

Matter authorized for mailing without prepayment of postage must bear markings identifying the class of mail service. Matter so marked will be billed at the applicable rate of postage set forth in this Schedule. Matter not so marked will be billed at the applicable First-Class rate of postage.

3080 Refund of Postage

When postage and special service fees have been paid on mail for which no service is rendered for the postage or fees paid, or collected in excess of the lawful rate, a refund may be made. There shall be no refund for registered, COD, and insured fees when the article is later withdrawn by the mailer. In cases involving returned articles improperly accepted because of excess size or weight, a refund may be made.

3090 Calculation of Postage

When a rate schedule contains per piece and per pound rates, the postage shall be the sum of the charges produced by those rates. When a rate schedule contains a minimum-per-piece rate and a pound rate, the postage shall be the greater of the two. When the computation of postage yields a fraction of a cent in the charge, the next higher whole cent must be paid.

4000 POSTAL ZONES

4010 Geographic Units of Area

In the determination of postal zones, the earth is considered to be divided into units of area thirty minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. The distance between these units of area is the basis of the postal zones.

4020 Measurement of Zone Distances

The distance upon which zones are based shall be measured from the center of the unit of area containing the dispatching sectional center facility or multi-ZIP coded post office not serviced by a sectional center facility. A post office of mailing and a post office of delivery shall have the same zone relationship as their respective sectional center facilities or multi-ZIP coded post offices, but this shall not cause two post offices to be regarded as within the same local zone.

4030 Definition of Zones

4031 Local Zone. The local zone applies to mail mailed at any post office for delivery at that office; at any city letter carrier office or at any point within its delivery limits for delivery by carriers from that office; at any office from which a rural route starts for delivery on the same route; and on a rural route for delivery at the office from which the route starts or on any rural route starting from that office.

4032 First Zone. The first zone includes all territory within the quadrangle of entry in conjunction with every contiguous quadrangle, representing an area having a mean radial distance of approximately 50 miles from the center of a given unit of area. The first zone also applies to mail between two post offices in the same sectional center.

4033 Second Zone. The second zone includes all units of area outside the first zone lying in whole or in part within a radius of approximately 150 miles from the center of a given unit of area.

4034 Third Zone. The third zone includes all units of area outside the second zone lying in whole or in part within a radius of approximately 300 miles from the center of a given unit of area.

4035 Fourth Zone. The fourth zone includes all units of area outside the third zone lying in whole or in part within a radius approximately 600 miles from the center of a given unit of area.

4036 Fifth Zone. The fifth zone includes all units of area outside the fourth zone lying in whole or in part within a radius of approximately 1,000 miles from the center of a given unit of area.

4037 Sixth Zone. The sixth zone includes all units of area outside the fifth zone lying in whole or in part within a radius of approximately 1,400 miles from the center of a given unit of area.

4038 Seventh Zone. The seventh zone includes all units of area outside the sixth zone lying in whole or in part within a radius of approximately 1,800 miles from the center of a given unit of area.

4039 Eighth Zone. The eighth zone includes all units of area outside the seventh zone.

4040 Zoned Rates

Except as provided in section 4050, rates according to zone apply for zone-rated mail sent between Postal Service facilities including armed forces post offices, wherever located.

4050 APO/FPO Mail

4051 General. Except as provided in section 4052, the rates of postage for zone-rated mail transported between the United States, or the possessions or territories of the United States, on the one hand, and Army, Air Force and Fleet Post Offices on the other, or among the latter, shall be the applicable zone rates for mail between the place of mailing or delivery and the city of the postmaster serving the Army, Air Force or Fleet Post Office concerned.

4052 Transit Mail. The rates of postage for zone-rated mail which is mailed at or addressed to an armed forces post office and which is transported directly to or from armed forces post offices at the expense of the Department of Defense, without transiting any of the 48 contiguous states (including the District of Columbia), shall be the applicable local zone rate; provided, however, that if the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery is greater than the local zone for such mail, postage shall be assessed on the basis of the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery of such mail, as the case may be. The word "transiting" does not include enroute transfers at coastal gateway cities which are necessary to transport military mail directly between military post offices.

5000 PRIVACY OF MAIL**5010 First-Class and Express Mail**

Matter mailed as First-Class Mail or Express Mail shall be treated as mail which is sealed against postal inspection and shall not be opened except as authorized by law.

5020 All Other Mail

Matter not paid at First-Class Mail or Express Mail rates must be wrapped or secured in the manner prescribed by the Postal Service so that the contents may be examined. Mailing of sealed items as other than First-Class Mail or Express Mail is considered consent by the sender to the postal inspection of the contents.

6000 MAILABLE MATTER**6010 General**

Mailable matter is any matter which:

- Is not mailed in contravention of 39 U.S.C. Chapter 30, or of 17 U.S.C. 109;
- While in the custody of the Postal Service is not likely to become damaged itself, to damage other pieces of mail, to cause injury to Postal Service employees or to damage Postal Service property; and

- Is not mailed contrary to any special conditions or limitations placed on transportation or movement of certain articles, when imposed under law by the U.S. Department of the Treasury; U.S. Department of Agriculture; U.S. Department of Commerce; U.S. Department of Health and Human Services, U.S. Department of Transportation; and any other Federal department or agency having legal jurisdiction.

6020 Minimum Size Standards

The following minimum size standards apply to all mailable matter:

- All items must be at least 0.007 inches thick, and
- all items, other than keys and identification devices, which are 0.25 inch thick or less must be
 - rectangular in shape,
 - at least 3.5 inches in width, and
 - at least 5 inches in length.

6030 Maximum Size and Weight Standards

Where applicable, the maximum size and weight standards for each class of mail are set forth in sections 130, 230, 330 and 430. Additional limitations may be applicable to specific subclasses, and rate and discount categories as provided in the eligibility provisions for each subclass or category.

Expedited Mail Classification Schedule**110 DEFINITION**

Expedited Mail is mail matter entered as Express Mail in accordance with the provisions of this Schedule. Any matter eligible for mailing may, at the option of the mailer, be mailed as Express Mail.

120 Description of Services**121 Same Day Airport Service**

Same Day Airport service is available between designated airport mail facilities.

122 Custom Designed Service

122.1 General. Custom Designed service is available between designated postal facilities or other designated locations for mailable matter tendered in accordance with a service agreement between the Postal Service and the mailer. Service under a service agreement shall be offered in a manner consistent with 39 U.S.C. 403(c).

122.2 Service Agreement. A service agreement shall set forth the following:

- The scheduled place for each shipment tendered for service to each specific destination;
- Scheduled place for claim, or delivery, at destination for each scheduled shipment;

c. Scheduled time of day for tender at origin and for claim or delivery at destination.

122.3 Pickup and Delivery. Pickup at the mailer's premises, and/or delivery at an address other than the destination postal facility is provided under terms and conditions as prescribed by the Postal Service.

122.4 Commencement of Service Agreement. Service provided pursuant to a service agreement shall commence not more than 10 days after the signed service agreement is tendered to the Postal Service.

122.5 Termination of Service Agreement

122.51 Termination by Postal Service. Express Mail service provided pursuant to a service agreement may be terminated by the Postal Service upon 10 days prior written notice to the mailer if:

a. Service cannot be provided for reasons beyond the control of the Postal Service or because of changes in Postal Service facilities or operations, or

b. The mailer fails to adhere to the terms of the service agreement or this schedule.

122.52. Termination by Mailers. The mailer may terminate a service agreement, for any reason, by notice to the Postal Service.

123 Next Day Service and Second Day Service

123.1 Availability of Services. Next Day and Second Day Services are available at designated retail postal facilities or locations for items tendered by the time or times prescribed by the Postal Service. Next Day Service is available for overnight delivery. Second Day Service is available for second day delivery.

123.2 Pickup Service. Pickup service is available for Next Day and Second Day Services under terms and conditions as prescribed by the Postal Service. Service shall be offered in a manner consistent with 39 U.S.C. 403(c).

130 PHYSICAL LIMITATIONS

Express Mail may not exceed 70 pounds or 108 inches in length and girth combined.

140 POSTAGE AND PREPARATION

Except as provided in Rate Schedules 121, 122 and 123, postage on Express Mail is charged on each piece. For shipments tendered in Express Mail pouches under a service agreement, each pouch is a piece.

150 DEPOSIT AND DELIVERY

151 Deposit

Express Mail must be deposited at places designated by the Postal Service.

152 Receipt

A receipt showing the time and date of mailing will be provided to the mailer upon acceptance of Express Mail by the Postal Service. This receipt serves as evidence of mailing.

153 Service

Express Mail service provides a high speed, high reliability service. Same Day Airport Express Mail will be dispatched on the next available transportation to the destination airport mail facility. Custom Designed Express Mail will be available for claim or delivery as specified in the service agreement.

154 Forwarding and Return

When Express Mail is returned, or forwarded, as prescribed by the Postal Service, there will be no additional charge.

160 ANCILLARY SERVICES

The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of applicable fees:

Service	Schedule
a. Address correction	SS-1
b. Return receipts	SS-16
c. COD	SS-6

170 RATES AND FEES

The rates for Express Mail are set forth in the following rate schedules:

	Schedule
a. Same Day Airport	121
b. Custom Designed	122
c. Next Day Post Office-to-Post Office	123
d. Second Day Post Office-to-Post Office	123
e. Next Day Post Office-to-Addressee	123
f. Second Day Post Office-to-Addressee	123

180 INSURANCE AND INDEMNITY

181 Insurance Coverage

Express Mail is insured against loss, damage or rifling at no additional charge.

182 Indemnity Coverage

182.1 Payment of Indemnity. Indemnity will be paid by the Postal Service as follows:

a. For document reconstruction the maximum liability is \$50,000 per piece,

up to \$500,000 per occurrence regardless of the number of claimants, to be paid under terms and conditions prescribed by the Postal Service.

b. For merchandise the maximum liability is \$500 to be paid under terms and conditions prescribed by the Postal Service.

c. For mailings valued at \$15 or less, for negotiable items, or currency or bullion, the indemnity is \$15 to be paid under terms and conditions prescribed by the Postal Service.

182.2 Indemnity Not Available. Indemnity will not be paid by the Postal Service for loss, damage or rifling:

- a. Of nonmailable matter;
- b. Due to improper packaging;
- c. Seizure by any agency of government; or,
- d. Due to war, insurrection or civil disturbances.

183 Insurance Claims And Procedures

Claims for refunds of postage or insurance must be filed within the period of time and under terms and conditions prescribed by the Postal Service.

184 Refunds

184.1 Same Day Airport. The Postal Service will refund the postage for Same Day Airport Express Mail not available for claim by the time specified, unless the delay is caused by:

- a. Strikes or work stoppage;
- b. Delay or cancellation of flights; or
- c. Governmental action beyond the control of Postal Service or air carriers.

184.2 Custom Designed. Except where a service agreement provides for claim, or delivery, of Custom Designed Express Mail more than 24 hours after scheduled tender at point of origin, the Postal Service will refund postage for such mail not available for claim, or not delivered, within 24 hours of mailing, unless the item was delayed by strike or work stoppage.

184.3 Next Day. Unless the item was delayed by strike or work stoppage, the Postal Service will refund postage for Next Day Express Mail not available for claim or not delivered:

- a. By 10:00 a.m., or earlier time(s) prescribed by the Postal Service, of the next delivery day in the case of Post Office-to-Post Office service;
- b. By 3:00 p.m., or earlier time(s) prescribed by the Postal Service, of the next delivery day in the case of Post Office-to-Addressee service.

184.4 Second Day. Unless the item was delayed by strike or work stoppage, the Postal Service will refund postage for Second Day Express Mail not available for claim or not delivered:

- a. By 10:00 a.m., or earlier time(s) prescribed by the Postal Service, of the

second delivery day in the case of Post Office-to-Post Office service;

b. By 3:00 p.m., or earlier time(s) prescribed by the Postal Service, of the second delivery day in the case of Post Office-to-Addressee service.

First-Class Mail Classification Schedule

210 DEFINITION

Any matter eligible for mailing may, at the option of the mailer, be mailed as First-Class Mail. The following must be mailed as First-Class Mail, unless mailed as Express Mail or exempt under title 39, United States Code, or except as authorized under sections 344.12, 344.23 and 443:

a. Mail sealed against postal inspection as set forth in section 5000;

b. Matter wholly or partially in handwriting or typewriting except as specifically permitted by sections 312, 313, 323, 344.22, and 446;

c. Matter having the character of actual and personal correspondence except as specifically permitted by sections 312, 313, 323, 344.22, and 446; and

d. Bills and statements of account.

220 DESCRIPTION OF SUBCLASSES

221 Letters and Sealed Parcels Subclass

221.1 General. The Letters and Sealed Parcels subclass consists of First-Class Mail weighing 11 ounces or less that is not mailed under section 222 or 223.

221.2 Regular Rate Categories. The regular rate categories consist of Letters and Sealed Parcels subclass mail not mailed under section 221.3.

221.21 Single Piece Rate Category. The single piece rate category applies to regular rate Letters and Sealed Parcels subclass mail not mailed under section 221.22.

221.22 Presort Rate Category. The Presort rate category applies to Letters and Sealed Parcels subclass mail that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as prescribed by the Postal Service; and

c. Meets the addressing and other preparation requirements prescribed by the Postal Service.

221.23 [Reserved]

221.24 Nonstandard Size Surcharge. Regular rate category Letters and Sealed Parcels subclass mail is subject to a surcharge if it is nonstandard size mail, as defined in section 232.

221.25 Presort Discount for Pieces Weighing More Than Two Ounces. Presort rate category Letters and Sealed Parcels subclass mail is eligible for an additional presort discount on each piece weighing more than two ounces.

221.3 Automation Rate Categories—Letters and Flats

221.31 General. The automation rate categories consist of Letters and Sealed Parcels subclass mail weighing 11 ounces or less that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as specified by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service; and

d. Meets the machinability, addressing, barcoding, and other preparation requirements prescribed by the Postal Service.

221.32 Basic Rate Category. The basic rate category applies to letter-size automation rate category mail not mailed under section 221.33, 221.34, or 221.35.

221.33 Three-Digit Rate Category. The three-digit rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as prescribed by the Postal Service.

221.34 Five-Digit Rate Category. The five-digit rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as prescribed by the Postal Service.

221.35 Carrier Route Rate Category. The carrier route rate category applies to letter-size automation rate category mail presorted to carrier routes. It is available only for those carrier routes prescribed by the Postal Service.

221.36 Basic Flats Rate Category. The basic flats rate category applies to flat-size automation rate category mail not mailed under section 221.37.

221.37 Three- and Five-Digit Flats Rate Category. The three- and five-digit flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

221.38 Nonstandard Size Surcharge. Flat-size automation rate category pieces are subject to a surcharge if they are

nonstandard size mail, as defined in section 232.

221.39 Presort Discount for Pieces Weighing More Than Two Ounces. Presorted automation rate category mail is eligible for an additional presort discount on each piece weighing more than two ounces.

221.4 Automation Rate Category—Parcels

221.41 Prebarcoded Parcel Rate Category. The prebarcoded parcel rate category applies to Letters and Sealed Parcels subclass nonpresorted mail that:

a. Is prepared in a mailing of at least 50 pieces;

b. Bears a barcode as prescribed by the Postal Service;

c. Is marked and presented as prescribed by the Postal Service; and

d. Meets the machinability, addressing, barcoding, and other preparation requirements prescribed by the Postal Service.

This provision is applicable only to mailings entered for processing at no more than six facilities designated by the Postal Service. This provision expires April 28, 1998.

222 Postal and Post Cards Subclass

222.1 Definition

222.11 Postal Card. A postal card is a card with postage imprinted or impressed on it and supplied by the Postal Service for the transmission of messages.

222.12 Post Card. A post card is a privately printed mailing card for the transmission of messages. To be eligible to be mailed as a First-Class post card, a card must be of uniform thickness and must not exceed any of the following dimensions:

a. 6 inches in length;

b. 4 1/4 inches in width;

c. 0.016 inch in thickness.

222.13 Double Cards. Double postal or post cards may be mailed as postal or post cards. A double postal or post card consists of two attached cards, one of which may be detached by the receiver and returned by mail as a single postal or post card.

222.2 Restriction. A mailpiece with any of the following characteristics is not mailable as a postal or post card unless it is prepared as prescribed by the Postal Service:

a. Numbers or letters unrelated to postal purposes appearing in the address portion of the card;

b. Punched holes;

c. Vertical tearing guide;

d. An address portion which is smaller than the remainder of the card.

222.3 Regular Rate Categories

222.31 Single Piece Rate Category. The single piece rate category applies to regular rate Postal and Post Cards subclass mail not mailed under section 222.32.

222.32 Presort Rate Category. The presort rate category applies to Postal and Post Cards subclass mail that:

- a. Is prepared in a mailing of at least 500 pieces;
- b. Is presorted, marked, and presented as prescribed by the Postal Service; and
- c. Meets the addressing and other preparation requirements prescribed by the Postal Service.

222.4 Automation Rate Categories

222.41 General. The automation rate categories consist of Postal and Post Cards subclass mail that:

- a. Is prepared in a mailing of at least 500 pieces;
- b. Is presorted, marked, and presented as specified by the Postal Service;
- c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service; and
- d. Meets the machinability, addressing, barcoding, and other preparation requirements prescribed by the Postal Service.

222.42 Basic Rate Category. The basic rate category applies to automation rate category cards not mailed under section 222.43, 222.44, or 222.45.

222.43 Three-Digit Rate Category. The three-digit rate category applies to automation rate category cards presorted to single or multiple three-digit ZIP Code destinations as prescribed by the Postal Service.

222.44 Five-Digit Rate Category. The five-digit rate category applies to automation rate category cards presorted to single or multiple five-digit ZIP Code destinations as prescribed by the Postal Service.

222.45 Carrier Route Rate Category. The carrier route rate category applies to automation rate category cards presorted to carrier routes. It is available only for those carrier routes prescribed by the Postal Service.

223 Priority Mail

223.1 General. The Priority Mail subclass consists of:

- a. First-Class Mail weighing more than 11 ounces; and
- b. Any mailable matter which, at the option of the mailer, is mailed for expeditious mailing and transportation.

223.2 Single Piece Priority Mail Rate Category. The single piece priority mail rate category applies to Priority Mail

subclass mail not mailed under section 223.3.

223.3 Presorted Priority Mail Rate Category. The presorted priority mail rate category applies to Priority Mail subclass mail that:

- a. Is prepared in a mailing of at least 300 pieces;
- b. Is presorted, marked, and presented as prescribed by the Postal Service; and
- c. Meets the machinability, addressing, and other preparation requirements prescribed by the Postal Service.

223.4 Prebarcoded Priority Mail Parcel Rate Category. The prebarcoded Priority Mail Parcel rate category applies to Priority Mail subclass nonpresorted mail that:

- a. Is prepared in a mailing of at least 50 pieces;
- b. Bears a barcode as prescribed by the Postal Service;
- c. Is marked and presented as prescribed by the Postal Service; and
- d. Meets the machinability, addressing, barcoding, and other preparation requirements prescribed by the Postal Service.

This provision is applicable only to mailings entered for processing at no more than six facilities designated by the Postal Service. This provision expires April 28, 1998.

223.5 Flat Rate Envelope. Priority Mail subclass mail sent in a "flat rate" envelope provided by the Postal Service is charged the two-pound rate.

223.6 Pickup Service. Pickup service is available for Priority Mail subclass mail under terms and conditions prescribed by the Postal Service.

223.7 Bulky Parcels. Priority Mail subclass mail weighing less than 15 pounds, and measuring over 84 inches in length and girth combined, is charged a minimum rate equal to that for a 15-pound parcel for the zone to which the piece is addressed.

230 PHYSICAL LIMITATIONS

231 Size and Weight

First-Class Mail may not exceed 70 pounds or 108 inches in length and girth combined. Additional size and weight limitations apply to individual First-Class Mail subclasses.

232 Nonstandard Size Mail

Letters and Sealed Parcels subclass mail weighing one ounce or less is nonstandard size if:

- a. Its aspect ratio does not fall between 1 to 1.3 and 1 to 2.5 inclusive; or
- b. It exceeds any of the following dimensions:
 - i. 11.5 inches in length;

- ii. 6.125 inches in width; or
- iii. 0.25 inch in thickness.

240 POSTAGE AND PREPARATION

Postage on First-Class Mail must be paid as set forth in section 3000. Postage is computed separately on each piece of mail. Pieces not within the same postage rate increment may be mailed at other than a single piece rate as part of the same mailing only when specific methods approved by the Postal Service for ascertaining and verifying postage are followed. All mail mailed at other than a single piece rate must have postage paid in a manner not requiring cancellation.

250 DEPOSIT AND DELIVERY

251 Deposit

First-Class Mail must be deposited at places and times designated by the Postal Service.

252 Service

First-Class Mail receives expeditious handling and transportation, except that when First-Class Mail is attached to or enclosed with mail of another class, the service of that class applies.

253 Forwarding and Return

First-Class Mail that is undeliverable-as-addressed is forwarded or returned to the sender without additional charge.

260 ANCILLARY SERVICES

First-Class Mail, except as otherwise noted, will receive the following additional services upon payment of the fees prescribed in the corresponding schedule:

Service	Schedule
a. Address correction	SS-1
b. Business reply mail	SS-2
c. Certificates of mailing	SS-4
d. Certified mail	SS-5
e. COD	SS-6
f. Insured mail	SS-9
g. Registered mail	SS-14
h. Special delivery	SS-17
i. Return receipt (merchandise only)	SS-16
j. Merchandise return	SS-20

270 RATES AND FEES

The rates and fees for First-Class Mail are set forth in the following rate schedules:

	Schedule
a. Letters and Sealed Parcels	221
b. Postal and Post Cards	222
c. Priority Mail	223
d. Fees	1000

280 AUTHORIZATIONS AND LICENSES

The fee set forth in Rate Schedule 1000 must be paid once each year at each office of mailing by any person who mails other than single piece First-Class Mail or courtesy envelope mail. Payment of the fee allows the mailer to mail at any First-Class rate.

Standard Mail Classification Schedule

310 DEFINITION**311 General**

Anyailable matter may be mailed as Standard Mail except:

- a. Matter required to be mailed as First-Class Mail;
- b. Copies of a publication that is entered as Periodicals class mail, except copies sent by a printer to a publisher, and except copies that would have traveled at the former second-class transient rate. (The transient rate applied to individual copies of second-class mail forwarded and mailed by the public, as well as to certain sample copies mailed by publishers.)

312 Printed Matter

Printed matter, including printed letters which according to internal evidence are being sent in identical terms to several persons, but which do not have the character of actual or personal correspondence, may be mailed as Standard Mail. Printed matter does not lose its character as Standard Mail when the date and name of the addressee and of the sender are written thereon. For the purposes of the Standard Mail Classification Schedule, "printed" does not include reproduction by handwriting or typewriting.

313 Written Additions

Standard Mail may have the following written additions placed on the wrapper, on a tag or label attached to the outside of the parcel, or inside the parcel, either loose or attached to the article:

- a. Marks, numbers, name, or letters descriptive of contents;
- b. "Please Do Not Open Until Christmas," or words of similar import;
- c. Instructions and directions for the use of an article in the package;
- d. Manuscript dedication or inscription not in the nature of personal correspondence;
- e. Marks to call attention to any word or passage in text;
- f. Corrections of typographical errors in printed matter;
- g. Manuscripts accompanying related proof sheets, and corrections in proof sheets to include: corrections of typographical and other errors,

alterations of text, insertion of new text, marginal instructions to the printer, and rewrites of parts if necessary for correction;

h. Handstamped imprints, except when the added matter is itself personal or converts the original matter to a personal communication;

i. An invoice.

320 DESCRIPTION OF SUBCLASSES**321 Subclasses Limited to Mail Weighing Less than 16 Ounces****321.1 Single Piece Subclass**

321.11 Definition. The Single Piece subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under sections 321.2, 321.3, 321.4 or 323.

321.12 Basic Rate Category. The basic rate category applies to Single Piece subclass mail not mailed under section 321.13.

321.13 Keys and Identification Devices Rate Category. The keys and identification devices rate category applies to keys, identification cards, identification tags, or similar identification devices mailed without cover, and which bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return to such address and a statement guaranteeing the payment of postage due on delivery.

321.14 Nonstandard Size Surcharge. Single Piece subclass mail, other than that mailed under section 321.13, is subject to a surcharge if it is nonstandard size mail, as defined in section 333.

321.2 Regular Subclass

321.21 Definition. The Regular subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under sections 321.1, 321.3, 321.4 or 323, and that:

- a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;
- b. Is presorted, marked, and presented as prescribed by the Postal Service; and
- c. Meets the machinability, addressing, and other preparation requirements prescribed by the Postal Service.

321.22 Regular Rate Categories

321.221 Basic Sortation Rate Category. Mailers must sort Regular subclass mail as prescribed by the Postal Service. Mail which is not presorted to three-digit or five-digit ZIP Code areas or to carrier routes qualifies for the basic rates in Rate Schedule 321.2A.

321.222 Basic Sortation, Pre-Barcoded Rate Category. The basic

sortation, pre-barcoded rate category applies to mail mailed under section 321.21 which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

321.223 Three- and Five-Digit Presort Level Rate Category. The three- and five-digit presort level rate category applies to Regular subclass mail presorted to single or multiple three- and five-digit ZIP Code destinations, as prescribed by the Postal Service.

321.224 Three-Digit Presort Level, Pre-Barcoded Rate Category. The three-digit presort level, pre-barcoded rate category applies to letter-size mail mailed under section 321.21 which is presorted to three digits, which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

321.225 Five-Digit Presort Level, Pre-Barcoded Rate Category. The five-digit presort level, pre-barcoded rate category applies to letter-size mail mailed under section 321.21 which is presorted to five digits, which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

321.226 Three- and Five-Digit Presort Level, Pre-Barcoded Rate Category. The three- and five-digit presort level, pre-barcoded rate category applies to flat-size mail mailed under section 321.21 which is presorted to single or multiple three- and five-digit ZIP Code destinations as prescribed by the Postal Service, which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

321.23 Destination Entry Discount. The destination entry discounts apply to Regular subclass mail prepared as prescribed by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), or sectional center facility (SCF), at which it is entered, as defined by the Postal Service.

321.3 Enhanced Carrier Route Subclass

321.31 Definition. The Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321.1, 321.2, 321.4 or 323, and that:

- a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;
- b. Is prepared, marked, and presented as prescribed by the Postal Service;
- c. Is presorted to carrier routes as prescribed by the Postal Service;
- d. Is sequenced as prescribed by the Postal Service; and
- e. Meets the machinability, addressing, and other preparation requirements prescribed by the Postal Service.

321.32 Basic Rate Category. The basic rate category applies to Enhanced Carrier Route subclass mail not mailed under section 321.33, 321.34 or 321.35.

321.33 Basic Pre-Barcoded Rate Category. The basic pre-barcoded rate category applies to letter-size Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including "correction" digits), as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

321.34 High Density Rate Category. The high density rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements prescribed by the Postal Service.

321.35 Saturation Rate Category. The saturation rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements prescribed by the Postal Service.

321.36 Destination Entry Discounts. Destination entry discounts apply to Enhanced Carrier Route subclass mail prepared as prescribed by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

321.4 Nonprofit Subclass

321.41 Definition

321.411 General. The Nonprofit subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321.1, 321.2, 321.3 or 323, and that is prepared in quantities of at least 50 pounds or 200

pieces, presorted and marked as prescribed by the Postal Service, and mailed by authorized nonprofit organizations or associations of the following types:

- a. Religious,
- b. Educational,
- c. Scientific,
- d. Philanthropic,
- e. Agricultural,
- f. Labor,
- g. Veterans',
- h. Fraternal,
- i. Qualified political committees.

321.412 Nonprofit Organizations and Associations. Nonprofit organizations or associations are organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to each type of organization or association, except veterans' and fraternal. The standard of primary purpose requires that each type of organization or association be both organized and operated for the primary purpose. The following are the types of organizations or associations which may qualify as authorized nonprofit organizations or associations.

a. Religious. A nonprofit organization whose primary purpose is one of the following:

- i. To conduct religious worship;
- ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;
- iii. To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational. A nonprofit organization whose primary purpose is one of the following:

- i. The instruction or training of the individual for the purpose of improving or developing his capabilities;
- ii. The instruction of the public on subjects beneficial to the community. An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. Scientific. A nonprofit organization whose primary purpose is one of the following:

- i. To conduct research in the applied, pure or natural sciences;

ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations which are organized for:

- i. Relief of the poor and distressed or of the underprivileged;
- ii. Advancement of religion;
- iii. Advancement of education or science;

iv. Erection or maintenance of public buildings, monuments, or works;

v. Lessening of the burdens of government;

vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or:

- (A) To lessen neighborhood tensions;
- (B) To eliminate prejudice and discrimination;
- (C) To defend human and civil rights secured by law; or
- (D) To combat community deterioration and juvenile delinquency.

e. Agricultural. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agricultural pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

g. Veterans'. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal. A nonprofit organization which meets all of the following criteria:

i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;

ii. Is organized under a lodge or chapter system with a representative form of government;

iii. Follows a ritualistic format; and

iv. Is comprised of members who are elected to membership by vote of the members.

i. Qualified political committees. The term "qualified political committee" means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee:

i. The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

ii. The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.

321.413 Limitation on Authorization. An organization authorized to mail at the nonprofit Standard rates for qualified nonprofit organizations may mail only its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at special Standard rates to any other person, organization or association.

321.42 Nonprofit Rate Categories

321.421 Basic Sortation Rate Category. Mailers must sort Nonprofit subclass mail as prescribed by the Postal Service. Mail which is not presorted to three-digit or five-digit ZIP Code areas or to carrier routes qualifies for the basic rates in Rate Schedule 321.4.

321.422 Basic Sortation, ZIP + 4 Rate Category. The basic sortation, ZIP + 4 rate category applies to mail mailed under section 321.421 which bears a proper ZIP + 4 code and which meets the machinability, address readability and other preparation requirements prescribed by the Postal Service.

321.423 Basic Sortation, Pre-Barcoded Rate Category. The basic sortation, pre-barcoded rate category applies to mail mailed under section 321.421 which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

321.424 Three- and Five-Digit Presort Level Rate Category. The three- and five-digit presort level rate category applies to Nonprofit subclass mail which is presorted to three-digit or five-digit ZIP Code areas. The mail must be prepared in the manner prescribed by the Postal Service.

321.425 Three- and Five-Digit Presort Level, ZIP + 4 Rate Category. The three- and five-digit presort level, ZIP + 4 rate category applies to mail mailed under section 321.424 which bears a proper ZIP + 4 code and which meets the machinability, address readability and other preparation requirements prescribed by the Postal Service.

321.426 Three-Digit Presort Level, Pre-Barcoded Rate Category. The three-digit presort level, pre-barcoded rate category applies to mail mailed under section 321.424 which is presorted to three digits, which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

321.427 Five-Digit Presort Level, Pre-Barcoded Rate Category. The five-digit presort level, pre-barcoded rate category applies to mail mailed under section 321.424 which is presorted to five digits, which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications, and other preparation requirements prescribed by the Postal Service.

321.428 Carrier Route Presort Level Rate Category. The carrier route presort level rate category applies to Nonprofit subclass mail which is presorted to a carrier route, with at least 10 pieces to each carrier route. The mail must be prepared in the manner prescribed by the Postal Service.

321.429 Pre-barcoded Flats Rate Category. The pre-barcoded flats rate category applies to Nonprofit subclass flat size pieces which are properly prepared and presorted, bear a barcode as prescribed by the Postal Service, and meet the flats machinability and address readability specifications of the Postal Service. Such flats must be presented for mailing in a manner which does not require cancellation.

321.43 Nonprofit Subclass Discounts

321.431 Saturation Discount. The saturation discount applies to Nonprofit subclass mail presented in a carrier

route presort mailing which is walk sequenced and which meets the saturation and preparation requirements prescribed by the Postal Service.

321.432 125-Piece Walk-sequence Discount. The 125-piece walk-sequence discount applies to Nonprofit subclass mail presented in a carrier route presort mailing which is walk sequenced and contains a minimum of 125 pieces per carrier route, and which meets the preparation requirements prescribed by the Postal Service.

321.433 Destination Entry Discount. The destination entry discount applies to Nonprofit subclass mail which is destined for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

322 Subclasses Limited to Mail Weighing 16 Ounces or More

322.1 Parcel Post Subclass

322.11 Definition. The Parcel Post subclass consists of Standard Mail weighing 16 ounces or more that is not mailed under sections 322.3, 323.1, or 323.2.

322.12 Basic Rate Category. The basic rate category applies to all Parcel Post subclass mail not mailed under sections 322.13 or 322.14.

322.13 [Reserved] **

**Revised language describing the bulk parcel post rate category was not accepted in Docket No. MC95-1. The following description, last amended in Docket No. R84-1, remains in effect.

400.0202 Bulk

Bulk parcel post mail is fourth-class parcel post mail consisting of properly prepared and separated single mailings of at least 300 pieces or 2000 pounds. Pieces weighing less than 15 pounds and measuring over 84 inches in length and girth combined are not mailable as bulk parcel post. Provision for mailing nonidentical pieces is set forth in section 400.046.

322.14 Destination BMC Rate Category. Parcel Post subclass mail is eligible for destination BMC rates if it is included in a mailing of at least 50 pieces deposited at the destination BMC, auxiliary service facility, or other equivalent facility, as prescribed by the Postal Service.

322.15 Intra-BMC Discount. Basic rate category Parcel Post subclass mail is eligible for the intra-BMC discount if it originates and destinates within the same BMC or auxiliary service facility service area, Alaska, Hawaii or Puerto Rico.

322.16 Nonmachinable Surcharge. Basic rate category Parcel Post subclass mail that does not meet machinability criteria prescribed by the Postal Service is subject to a nonmachinable surcharge.

322.17 Pickup Service. Pickup service is available for Parcel Post subclass mail under terms and conditions prescribed by the Postal Service.

322.2 [Reserved]

322.3 Bound Printed Matter Subclass

322.31 Definition. The Bound Printed Matter subclass consists of Standard Mail weighing at least 16 ounces, but not more than 10 pounds, which:

a. Consists of advertising, promotional, directory, or editorial material, or any combination thereof;

b. Is securely bound by permanent fastenings including, but not limited to, staples, spiral bindings, glue, and stitching; loose leaf binders and similar fastenings are not considered permanent;

c. Consists of sheets of which at least 90 percent are imprinted with letters, characters, figures or images or any combination of these, by any process other than handwriting or typewriting;

d. Does not have the nature of personal correspondence;

e. Is not stationery, such as pads of blank printed forms.

322.32 Single Piece Rate Category. The single piece rate category applies to Bound Printed Matter subclass mail which is not mailed under section 322.33 or 322.34.

322.33 Bulk Rate Category. The bulk rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces, prepared and presorted as prescribed by the Postal Service.

322.34 Carrier Route Presort Rate Category. The carrier route rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces of carrier route presorted mail, prepared and presorted as prescribed by the Postal Service.

323 Subclasses With No 16-Ounce Limitation

323.1 Special Subclass

323.11 Definition. The Special subclass consists of Standard Mail of the following types:

a. Books, including books issued to supplement other books, of at least eight printed pages, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental

announcements of books. Not more than three of the announcements may contain as part of their format a single order form, which may also serve as a post card. The order forms permitted in this subsection are in addition to and not in lieu of order forms which may be enclosed by virtue of any other provision;

b. 16 millimeter or narrower width films which must be positive prints in final form for viewing, and catalogs of such films, of 24 pages or more, at least 22 of which are printed, except when sent to or from commercial theaters;

c. Printed music, whether in bound form or in sheet form;

d. Printed objective test materials and accessories thereto used by or in behalf of educational institutions in the testing of ability, aptitude, achievement, interests and other mental and personal qualities with or without answers, test scores or identifying information recorded thereon in writing or by mark;

e. Sound recordings, including incidental announcements of recordings and guides or scripts prepared solely for use with such recordings. Not more than three of the announcements permitted in this subsection may contain as part of their format a single order form, which may also serve as a post card. The order forms permitted in this subsection are in addition to and not in lieu of order forms which may be enclosed by virtue of any other provision;

f. Playscripts and manuscripts for books, periodicals and music;

g. Printed educational reference charts, permanently processed for preservation;

h. Printed educational reference charts, including but not limited to

i. Mathematical tables,

ii. Botanical tables,

iii. Zoological tables, and

iv. Maps produced primarily for educational reference purposes;

i. Looseleaf pages and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students; and

j. Computer-readable media containing prerecorded information and guides or scripts prepared solely for use with such media.

323.12 Single Piece Rate Category. The single piece rate category applies to Special subclass mail not mailed under section 323.13 or 323.14.

323.13 Level A Presort Rate Category. The Level A presort rate category applies to mailings of at least 500 pieces of Special subclass mail, prepared and presorted to five-digit

destination ZIP Codes as prescribed by the Postal Service.

323.14 Level B Presort Rate Category. The Level B presort rate category applies to mailing of at least 500 pieces of Special subclass mail, prepared and presorted to destination Bulk Mail Centers as prescribed by the Postal Service.

323.2 Library Subclass

323.21 Definition.

323.211 General. The Library subclass consists of Standard Mail of the following types, separated or presorted as prescribed by the Postal Service:

a. Matter designated in subsection 323.213, loaned or exchanged (including cooperative processing by libraries) between:

i. Schools or colleges, or universities;

ii. Public libraries, museums and herbaria, nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations, or between such organizations and their members, readers or borrowers.

b. Matter designated in subsection 323.214, mailed to or from schools, colleges, universities, public libraries, museums and herbaria and to or from nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations; or

c. Matter designated in subsection 323.215, mailed from a publisher or a distributor to a school, college, university or public library.

323.212 Definition of Nonprofit Organizations and Associations. Nonprofit organizations or associations are organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to each type of organization or association, except veterans' and fraternal. The standard of primary purposes requires that each type of organization or association be both organized and operated for the primary purpose. The following are the types of organizations or associations which may qualify as authorized nonprofit organizations or associations:

a. Religious. A nonprofit organization whose primary purpose is one of the following:

i. To conduct religious worship;

ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;

iii. To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational. A nonprofit organization whose primary purpose is one of the following:

i. The instruction or training of the individual for the purpose of improving or developing his capabilities;

ii. The instruction of the public on subjects beneficial to the community.

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. Scientific. A nonprofit organization whose primary purpose is one of the following:

i. To conduct research in the applied, pure or natural sciences;

ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations which are organized for:

i. Relief of the poor and distressed or of the underprivileged;

ii. Advancement of religion;

iii. Advancement of education or science;

iv. Erection or maintenance of public buildings, monuments, or works;

v. Lessening of the burdens of government;

vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or:

(A) To lessen neighborhood tensions;

(B) To eliminate prejudice and discrimination;

(C) To defend human and civil rights secured by law; or

(D) To combat community deterioration and juvenile delinquency.

e. Agricultural. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agricultural pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its

fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

g. Veterans'. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal. A nonprofit organization which meets all of the following criteria:

i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;

ii. Is organized under a lodge or chapter system with a representative form of government;

iii. Follows a ritualistic format; and

iv. Is comprised of members who are elected to membership by vote of the members.

323.213 *Library subclass mail under section 323.211a.* Matter eligible for mailing as Library subclass mail under section 323.211a consists of:

a. Books consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations and containing no advertising other than incidental announcements of books;

b. Printed music, whether in bound form or in sheet form;

c. Bound volumes of academic theses in typewritten or other duplicated form;

d. Periodicals, whether bound or unbound;

e. Sound recordings;

f. Other library materials in printed, duplicated or photographic form or in the form of unpublished manuscripts; and

g. Museum materials, specimens, collections, teaching aids, printed matter and interpretative materials intended to inform and to further the educational work and interest of museums and herbaria.

323.214 *Library subclass mail under section 323.211b.* Matter eligible for mailing as Library subclass mail under section 323.211b consists of:

a. 16-millimeter or narrower width films; filmstrips; transparencies; slides; microfilms; all of which must be positive prints in final form for viewing;

b. Sound recordings;

c. Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria;

d. Scientific or mathematical kits, instruments or other devices;

e. Catalogs of the materials in section 323.214 a through d and guides or scripts prepared solely for use with such materials.

323.215 *Library subclass mail under section 323.211c.* Matter eligible for mailing as Library subclass mail under section 323.211c consists of books, including books to supplement other books, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books.

323.22 *Basic Rate Category.* The basic rate category applies to all Library subclass mail.

330 PHYSICAL LIMITATIONS

331 Size

Standard Mail may not exceed 108 inches in length and girth combined. Additional size limitations apply to individual Standard Mail subclasses. The maximum size for mail presorted to carrier route in the Enhanced Carrier Route and Nonprofit subclasses is 14 inches in length, 11.75 inches in width, and 0.75 inch in thickness. For merchandise samples mailed with detached address cards, the carrier route maximum dimensions apply to the detached address cards and not to the samples.

332 Weight

Standard Mail may not weigh more than 70 pounds. Additional weight limitations apply to individual Standard Mail subclasses.

333 Nonstandard Size Mail

Single Piece subclass mail weighing one ounce or less is nonstandard size if:

a. Its aspect ratio does not fall between 1 to 1.3 and 1 to 2.5 inclusive; or

b. It exceeds any of the following dimensions:

i. 11.5 inches in length;

ii. 6.125 inches in width; or

iii. 0.25 inch in thickness.

340 POSTAGE AND PREPARATION

341 Postage

Postage must be paid as set forth in section 3000. When the postage computed at a Single Piece, Regular, Enhanced Carrier Route or Nonprofit Standard rate is higher than the rate prescribed in any of the Standard subclasses listed in 322 or 323 for which the piece also qualifies (or would qualify, except for weight), the piece is eligible for the applicable lower rate. All mail mailed at a bulk or presort rate must have postage paid in a manner not requiring cancellation.

342 Preparation

All pieces in a Standard mailing must be separately addressed. All pieces in a Standard mailing must be identified as prescribed by the Postal Service, and must contain the ZIP Code of the addressee when prescribed by the Postal Service. All Standard mailings must be prepared and presented as prescribed by the Postal Service. Two or more Standard mailings may be commingled and mailed only when specific methods approved by the Postal Service for ascertaining and verifying postage are followed.

343 Non-Identical Pieces

Pieces not identical in size and weight may be mailed at a bulk or presort rate as part of the same mailing only when specific methods approved by the Postal Service for ascertaining and verifying postage are followed.

344 Attachments and Enclosures

344.1 Single Piece, Regular, Enhanced Carrier Route, and Nonprofit Subclasses (section 321)

344.11 General. First-Class Mail may be attached to or enclosed in Standard books, catalogs, and merchandise entered under section 321. The piece must be marked as prescribed by the Postal Service. Except as provided in section 344.12, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class rate for which it qualifies.

344.12 Incidental First-Class Attachments and Enclosures. First-Class Mail, as defined in section 210 b through d, may be attached to or enclosed with Standard merchandise entered under section 321, including books but excluding merchandise samples, with postage paid on the combined piece at the applicable Standard rate, if the attachment or enclosure is incidental to the piece to

which it is attached or with which it is enclosed.

344.2 Parcel Post, Bound Printed Matter, Special, and Library Subclasses (sections 322 and 323)

344.21 General. First-Class Mail or Standard Mail from any of the subclasses listed in section 321 (Single Piece, Regular, Enhanced Carrier Route or Nonprofit) may be attached to or enclosed in Standard Mail mailed under sections 322 and 323. The piece must be marked as prescribed by the Postal Service. Except as provided in sections 344.22 and 344.23, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class or section 321 Standard rate for which it qualifies (unless the rate applicable to the host piece is higher), or, if a combined piece with a section 321 Standard Mail attachment or enclosure weighs 16 ounces or more, the piece is subject to the Parcel Post rate for which it qualifies.

344.22 Specifically Authorized Attachments and Enclosures. Standard Mail mailed under sections 322 and 323 may contain enclosures and attachments as prescribed by the Postal Service and as described in section 323.11 a and e, with postage paid on the combined piece at the Standard rate applicable to the host piece.

344.23 Incidental First-Class Attachments and Enclosures. First-Class Mail that meets one or more of the definitions in section 210 b through d, may be attached to or enclosed with Standard Mail mailed under section 322 or 323, with postage paid on the combined piece at the Standard rate applicable to the host piece, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

350 DEPOSIT AND DELIVERY

351 Deposit

Standard Mail must be deposited at places and times designated by the Postal Service.

352 Service

Standard Mail may receive deferred service.

353 Forwarding and Return

353.1 Single Piece, Regular, Enhanced Carrier Route, and Nonprofit Subclasses (section 321)

Undeliverable-as-addressed Standard Mail mailed under section 321 will be returned on request of the mailer, or forwarded and returned on request of

the mailer. Undeliverable-as-addressed combined First-Class and Standard pieces will be returned as prescribed by the Postal Service. The Single Piece Standard rate is charged for each piece receiving return only service. Charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. The charge for those returned pieces is the appropriate Single Piece Standard rate for the piece plus that rate multiplied by a factor equal to the number of section 321 Standard pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

353.2 Parcel Post, Bound Printed Matter, Special, and Library Subclasses (sections 322 and 323)

Undeliverable-as-addressed Standard Mail mailed under sections 322 and 323 will be forwarded on request of the addressee, returned on request of the mailer, or forwarded and returned on request of the mailer. Pieces which combine Standard Mail from one of the subclasses described in 322 and 323 with First-Class Mail or Standard Mail from one of the subclasses described in 321 will be forwarded if undeliverable-as-addressed, and returned if undeliverable, as prescribed by the Postal Service. When Standard Mail mailed under sections 322 and 323 is forwarded or returned from one post office to another, additional charges will be based on the appropriate Single Piece Standard rate.

360 ANCILLARY SERVICES

361 All Subclasses

All Standard Mail will receive the following services upon payment of the appropriate fees:

Service	Schedule
a. Address correction	SS-1
b. Certificates of mailing indicating that a specified number of pieces have been mailed.	SS-4

Certificates of mailing are not available for Regular, Enhanced Carrier Route, and Nonprofit subclass mail when postage is paid by permit imprint.

362 Single Piece, Parcel Post, Bound Printed Matter, Special, and Library Subclasses

Single Piece, Parcel Post, Bound Printed Matter, Special, and Library subclass mail will receive the following additional services upon payment of the appropriate fees:

Service	Schedule
a. Certificates of mailing	SS-4
b. COD	SS-6
c. Insured mail	SS-9
d. Special delivery	SS-17
e. Special handling	SS-18
f. Return receipt (merchandise only)	SS-16
g. Merchandise return	SS-20

Insurance, special delivery, special handling, and COD services may not be used selectively for individual pieces in a multi-piece Parcel Post subclass mailing unless specific methods approved by the Postal Service for ascertaining and verifying postage are followed.

370 RATES AND FEES

The rates and fees for Standard Mail are set forth as follows:

	Schedule
a. Single Piece subclass	321.1
b. Regular subclass	321.2
c. Enhanced Carrier Route subclass	321.3
d. Nonprofit subclass	321.4
e. Parcel Post subclass:	
Basic	322.1A
Destination BMC	322.1B
f. Bound Printed Matter subclass:	
Single Piece	322.3A
Bulk and Carrier Route	322.3B
g. Special subclass	323.1
h. Library subclass	323.2
i. Fees	1000

380 AUTHORIZATIONS AND LICENSES

381 Regular, Enhanced Carrier Route, and Nonprofit Subclasses

A mailing fee as set forth in Rate Schedule 1000 must be paid once each year by mailers of Regular, Enhanced Carrier Route, and Nonprofit subclass mail.

382 Special Subclass

A presort mailing fee as set forth in Rate Schedule 1000 must be paid once each year at each office of mailing by or for any person who mails presorted Special subclass mail. Any person who engages a business concern or other individuals to mail presorted Special subclass mail must pay the fee.

383 Parcel Post Subclass

A mailing fee as set forth in Rate Schedule 1000 must be paid once each year by mailers of Destination BMC rate category mail in the Parcel Post subclass.

Periodicals Classification Schedule

410 DEFINITION

411 General Requirements

411.1 Definition. A publication may qualify for mailing under the Periodicals Classification Schedule if it meets all of the requirements in sections 411.2 through 411.5 and the requirements for one of the qualification categories in sections 412 through 415. Eligibility for specific Periodicals rates is prescribed in section 420.

411.2 Periodicals. Periodicals class mail is mailable matter consisting of newspapers and other periodical publications. The term "periodical publications" includes, but is not limited to:

a. Any catalog or other course listing including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education.

b. Any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

411.3 Issuance

411.31 Regular Issuance. Periodicals class mail must be regularly issued at stated intervals at least four times a year, bear a date of issue, and be numbered consecutively.

411.32 Separate Publication. For purposes of determining Periodicals rate eligibility, an "issue" of a newspaper or other periodical shall be deemed to be a separate publication when the following conditions exist:

a. The issue is published at a regular frequency more often than once a month either on (1) the same day as another regular issue of the same publication; or (2) on a day different from regular issues of the same publication, and

b. More than 10 percent of the total number of copies of the issue is distributed on a regular basis to recipients who do not subscribe to it or request it, and

c. The number of copies of the issue distributed to nonsubscribers or nonrequesters is more than twice the number of copies of any other issue distributed to nonsubscribers or nonrequesters on that same day, or, if no other issue that day, any other issue distributed during the same period. "During the same period" shall be defined as the periods of time ensuing

between the distribution of each of the issues whose eligibility is being examined. Such separate publications must independently meet the qualifications for Periodicals eligibility.

411.4 Office of Publication.

Periodicals class mail must have a known office of publication. A known office of publication is a public office where business of the publication is transacted during the usual business hours. The office must be maintained where the publication is authorized original entry.

411.5 Printed Sheets. Periodicals class mail must be formed of printed sheets. It may not be reproduced by stencil, mimeograph, or hectograph processes, or reproduced in imitation of typewriting. Reproduction by any other printing process is permissible. Any style of type may be used.

412 General Publications

412.1 Definition. To qualify as a General Publication, Periodicals class mail must meet the requirements in section 411 and in sections 412.2 through 412.4.

412.2 Dissemination of Information. A General Publication must be originated and published for the purpose of disseminating information of a public character, or devoted to literature, the sciences, art, or some special industry.

412.3 Paid Circulation

412.31 Total Distribution. A General Publication must be designed primarily for paid circulation. At least 50 percent or more of the copies of the publication must be distributed to persons who have paid above a nominal rate.

412.32 List of Subscribers. A General Publication must be distributed to a legitimate list of persons who have subscribed by paying or promising to pay at a rate above nominal for copies to be received during a stated time. Copies mailed to persons who are not on a legitimate list of subscribers are nonsubscriber copies.

412.33 Nominal Rates. As used in section 412.31, nominal rate means:

a. A token subscription price that is so low that it cannot be considered a material consideration;

b. A reduction to the subscriber, under a premium offer or any other arrangements, of more than 50 percent of the amount charged at the basic annual rate for a subscriber to receive one copy of each issue published during the subscription period. The value of a premium is considered to be its actual cost to the publishers, the recognized retail value, or the represented value, whichever is highest.

412.34 Nonsubscriber Copies**412.341 Up to Ten Percent.**

Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to subscribers during the calendar year are mailable at the rates that apply to subscriber copies provided that the nonsubscriber copies would have been eligible for those rates if mailed to subscribers.

412.342 Over Ten Percent.

Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to subscribers during the calendar year which are presorted and commingled with subscriber copies are charged the applicable rates for Regular Periodicals. The 10 percent limitation for a publication is based on the total number of all copies of that publication mailed to subscribers during the calendar year.

412.35 Advertiser's Proof Copies.

One complete copy of each issue of a General Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to subscriber copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as subscriber copies.

412.36 Expired Subscriptions. For six months after a subscription has expired, copies of a General Publication may be mailed to a former subscriber at the rates that apply to copies mailed to subscribers, if the publisher has attempted during that six months to obtain payment, or a promise to pay, for renewal. These copies do not count as subscriber copies.

412.4 Advertising Purposes

A General Publication may not be designed primarily for advertising purposes. A publication is "designed primarily for advertising purposes" if it:

- a. Has advertising in excess of 75 percent in more than one-half of its issues during any 12-month period;
- b. Is owned or controlled by individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it;
- c. Consists principally of advertising and editorial write-ups of the advertisers;
- d. Consists principally of advertising and has only a token list of subscribers, the circulation being mainly free;

e. Has only a token list of subscribers and prints advertisements free for advertisers who pay for copies to be sent to a list of persons furnished by the advertisers; or

f. Is published under a license from individuals or institutions and features other businesses of the licensor.

413 Requester Publications

413.1 Definition. A publication which is circulated free or mainly free may qualify for Periodicals class as a Requester Publication if it meets the requirements in sections 411, and 413.2 through 413.4.

413.2 Minimum Pages. It must contain at least 24 pages.

413.3 Advertising Purposes

413.31 Advertising Percentage. It must devote at least 25 percent of its pages to nonadvertising and not more than 75 percent to advertisements.

413.32 Ownership and Control. It must not be owned or controlled by one or more individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it.

413.4 Circulated to Requesters

413.41 List of Requesters. It must have a legitimate list of persons who request the publication, and 50 percent or more of the copies of the publication must be distributed to persons making such requests. Subscription copies paid for or promised to be paid for, including those at or below a nominal rate may be included in the determination of whether the 50 percent request requirement is met. Persons will not be deemed to have requested the publication if their request is induced by a premium offer or by receipt of material consideration, provided that mere receipt of the publication is not material consideration.

413.42 Nonrequester Copies

413.421 Up to Ten Percent. Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to requesters during the calendar year are mailable at the rates that apply to requester copies provided that the nonrequester copies would have been eligible for those rates if mailed to requesters.

413.422 Over Ten Percent. Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to requesters during

the calendar year which are presorted and commingled with requester copies are charged the applicable rates for Regular Periodicals. The 10 percent limitation for a publication is based on the total number of all copies of that publication mailed to requesters during the calendar year.

413.43 Advertiser's Proof Copies.

One complete copy of each issue of a Requester Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to requester copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as requester copies.

414 Publications of Institutions and Societies

414.1 Publisher's Own Advertising. Except as provided in section 414.2, a publication which meets the requirements of sections 411 and 412.4, and which contains no advertising other than that of the publisher, qualifies for Periodicals class as a publication of an institution or society if it is:

- a. Published by a regularly incorporated institution of learning;
- b. Published by a regularly established state institution of learning supported in whole or in part by public taxation;
- c. A bulletin issued by a state board of health or a state industrial development agency;
- d. A bulletin issued by a state conservation or fish and game agency or department;
- e. A bulletin issued by a state board or department of public charities and corrections;
- f. Published by a public or nonprofit private elementary or secondary institution of learning or its administrative or governing body;
- g. Program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof, or by a nonprofit educational radio or television station;
- h. Published by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than 1,000 persons;
- i. Published by or under the auspices of a trade(s) union;
- j. Published by a strictly professional, literary, historical, or scientific society; or,
- k. Published by a church or church organization.

414.2 General Advertising. A publication published by an institution or society identified in sections 414.1 h

through k, may contain advertising of other persons, institutions, or concerns, if the following additional conditions are met:

- a. The publication is originated and published to further the objectives and purposes of the society;
- b. Circulation is limited to:
 - i. Copies mailed to members who pay either as a part of their dues or assessment or otherwise, not less than 50 percent of the regular subscription price;
 - ii. Other actual subscribers; and
 - iii. Exchange copies.
- c. The circulation of nonsubscriber copies, including sample and complimentary copies, does not exceed 10 percent of the total number of copies referred to in 414.2b.

415 Publications of State Departments of Agriculture

A publication which is issued by a state department of agriculture and which meets the requirements of section 411 qualifies for Periodicals class as a publication of a state department of agriculture if it contains no advertising and is published for the purpose of furthering the objects of the department.

416 Foreign Publications

Foreign newspapers and other periodicals of the same general character as domestic publications entered as Periodicals class mail may be accepted on application of the publishers thereof or their agents, for transmission through the mail at the same rates as if published in the United States. This section does not authorize the transmission through the mail of a publication which violates a copyright granted by the United States.

420 DESCRIPTION OF SUBCLASSES

421 Regular Subclass

421.1 Definition. The Regular subclass consists of Periodicals class mail that is not mailed under section 423 and that:

- a. Is presorted, marked, and presented as prescribed by the Postal Service; and
- b. Meets machinability, addressing, and other preparation requirements prescribed by the Postal Service.

421.2 Regular Pound Rates

An unzoned pound rate applies to the nonadvertising portion of Regular subclass mail. A zoned pound rate applies to the advertising portion and may be reduced by applicable destination entry discounts. The pound rate postage is the sum of the nonadvertising portion charge and the advertising portion charge.

421.3 Regular Piece Rates

421.31 Basic Rate Category. The basic rate category applies to all Regular subclass mail not mailed under section 421.32 or 421.33.

421.32 Three-Digit City and Five-Digit Rate Category. The rates for this category apply to Regular subclass mail presorted to three-digit cities and five-digit ZIP Code destinations as prescribed by the Postal Service.

421.33 Carrier Route Rate Category. The carrier route rate category applies to Regular subclass mail presorted to carrier routes as prescribed by the Postal Service.

421.4 Regular Subclass Discounts

421.41 Barcoded Letter Discounts. Barcoded letter discounts apply to letter size Regular subclass mail mailed under sections 421.31 and 421.32 which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

421.42 Barcoded Flats Discounts. Barcoded flats discounts apply to flat size Regular subclass mail mailed under sections 421.31 and 421.32 which bear a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

421.43 High Density Discount. The high density discount applies to Regular subclass mail mailed under section 421.33, presented in walk sequence order, and meeting the high density and preparation requirements prescribed by the Postal Service.

421.44 Saturation Discount. The saturation discount applies to Regular subclass mail mailed under section 421.33, presented in walk-sequence order, and meeting the saturation and preparation requirements prescribed by the Postal Service.

421.45 Destination Entry Discounts. Destination entry discounts apply to Regular subclass mail which is destined for delivery within the service area of the destination sectional center facility (SCF) or the destination delivery unit (DDU) in which it is entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail.

421.46 Nonadvertising Discount. The nonadvertising discount applies to all Regular subclass mail and is determined by multiplying the

proportion of nonadvertising content by the discount factor set forth in Rate Schedule 421 and subtracting that amount from the applicable piece rate.

422 [Reserved]

423 Preferred Rate Periodicals

423.1 Definition. Periodicals class mail, other than publications qualifying as Requester Publications, may qualify for Preferred Rate Periodicals rates if it meets the applicable requirements for those rates in sections 423.2 through 423.5.

423.2 Within County Subclass

423.21 Definition. Within County mail consists of Preferred Rate Periodicals class mail mailed in, and addressed for delivery within, the county where published and originally entered, from either the office of original entry or additional entry. In addition, a Within County publication must meet one of the following conditions:

- a. The total paid circulation of the issue is less than 10,000 copies; or
- b. The number of paid copies of the issue distributed within the county of publication is at least one more than one-half of the total paid circulation of such issue.

423.22 Entry in an Incorporated City. For the purpose of determining eligibility for Within County mail, when a publication has original entry at an independent incorporated city which is situated entirely within a county or which is contiguous to one or more counties in the same state, such incorporated city shall be considered to be within the county with which it is principally contiguous. Where more than one county is involved, the publisher will select the principal county.

423.3 Nonprofit Subclass

423.31 Definition. Nonprofit mail is Preferred Rate Periodicals class mail entered by authorized nonprofit organizations or associations of the following types:

- a. Religious,
- b. Educational,
- c. Scientific,
- d. Philanthropic,
- e. Agricultural,
- f. Labor,
- g. Veterans',
- h. Fraternal, and
- i. Associations of rural electric cooperatives,
- j. One publication, which contains no advertising published by the official highway or development agency of a state,
- k. Program announcements or guides published by an educational radio or

television agency of a state or political subdivision thereof or by a nonprofit educational radio or television station.

1. One conservation publication published by an agency of a state which is responsible for management and conservation of the fish or wildlife resources of such state.

423.32 Definitions of Nonprofit Organizations and Associations.

Nonprofit organizations or associations are organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to organizations listed under section 423.31 a through f. The standard of primary purpose requires that each type of organization or association be both organized and operated for the primary purpose.

a. Religious. A nonprofit organization whose primary purpose is one of the following:

- i. To conduct religious worship;
- ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;
- iii. To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational. A nonprofit organization whose primary purpose is one of the following:

- i. The instruction or training of the individual for the purpose of improving or developing his capabilities;
- ii. The instruction of the public on subjects beneficial to the community.

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. Scientific. A nonprofit organization whose primary purpose is one of the following:

- i. To conduct research in the applied, pure or natural sciences;
- ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations which are organized for:

- i. Relief of the poor and distressed or of the underprivileged;
- ii. Advancement of religion;
- iii. Advancement of education or science;
- iv. Erection or maintenance of public buildings, monuments, or works;
- v. Lessening of the burdens of government;
- vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or;
 - (a) To lessen neighborhood tensions;
 - (b) To eliminate prejudice and discrimination;
 - (c) To defend human and civil rights secured by law; or
 - (d) To combat community deterioration and juvenile delinquency.
- e. Agricultural. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agricultural pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.
- f. Labor. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.
- g. Veterans'. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.
- h. Fraternal. A nonprofit organization which meets all of the following criteria:
 - i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;
 - ii. Is organized under a lodge or chapter system with a representative form of government;
 - iii. Follows a ritualistic format; and
 - iv. Is comprised of members who are elected to membership by vote of the members.

423.4 Classroom Subclass

Classroom mail is of Preferred Rate Periodicals class mail which, consists of religious, educational, or scientific publications designed specifically for use in school classrooms or religious instruction classes.

423.5 Science of Agriculture

Science of Agriculture mail consists of Preferred Rate Periodicals class mail devoted to the science of agriculture if the total number of copies of the publication furnished during any 12-month period to subscribers residing in rural areas amounts to at least 70 percent of the total number of copies distributed by any means for any purpose.

423.6 Preferred Rate Discounts

423.61 Destination Entry Discounts. Copies of any Preferred Rate Periodicals class mail which are destined for delivery within the destination sectional center facility (SCF) area or the destination delivery unit (DDU) area in which they are entered, as defined by the Postal Service, qualify for the applicable discount as set forth in Rate Schedules 423.2, 423.3, and 423.4.

423.62 ZIP + 4 and Pre-barcode Letter Discounts. Copies of any automation compatible Preferred Rate Periodicals class mail which bear a proper ZIP + 4 code, or which bear a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meet the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service qualify for the applicable ZIP + 4 or pre-barcode discounts as set forth in Rate Schedules 423.2, 423.3, and 423.4.

423.63 125-piece Walk-sequence Discount. Copies of Preferred Rate Periodicals class mail presented in mailings which are walk sequenced and contain a minimum of 125 pieces per carrier route and which meet the preparation requirements prescribed by the Postal Service are eligible for the applicable discount set forth in Rate Schedules 423.2, 423.3, and 423.4.

423.64 Saturation Discount. Saturation Preferred Rate Periodicals class mail presented in mailings which are walk sequenced and which meet the saturation and preparation requirements prescribed by the Postal Service qualifies for the applicable discount set forth in Rate Schedules 423.2, 423.3, and 423.4.

423.65 Pre-barcode Flats Discounts. Pre-barcode Preferred Rate Periodicals class flats which are properly prepared and presorted, which bear a barcode as prescribed by the

Postal Service, and which meet the flats machinability and address readability specifications of the Postal Service, are eligible for the applicable discounts for pre-barcoded flats set forth in Rate Schedules 423.2, 423.3, and 423.4.

430 PHYSICAL LIMITATIONS

There are no maximum size or weight limits for Periodicals class mail.

440 POSTAGE AND PREPARATION

441 Postage. Postage must be paid on Periodicals class mail as set forth in section 3000.

442 Presortation. Periodicals class mail must be presorted in accordance with regulations prescribed by the Postal Service.

443 Attachments and Enclosures

443.1 General. First-Class Mail or Standard Mail from any of the subclasses listed in section 321 (Single Piece, Regular, Enhanced Carrier Route or Nonprofit) may be attached to or enclosed with Periodicals class mail. The piece must be marked as prescribed by the Postal Service. Except as provided in section 443.2, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the appropriate First-Class or section 321 Standard Mail rate for which it qualifies (unless the rate applicable to the host piece is higher), or, if a combined piece with a section 321 Standard Mail attachment or enclosure weighs 16 ounces or more, the piece is subject to the Parcel Post rate for which it qualifies.

443.2 Incidental First-Class Mail Attachments and Enclosures. First-Class Mail that meets one or more of the definitions in sections 210 b through d may be attached to or enclosed with Periodicals class mail, with postage paid on the combined piece at the applicable Periodicals rate, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

444 Identification

Periodicals class mail must be identified as required by the Postal Service. Nonsubscriber and nonrequester copies, including sample and complimentary copies, must be identified as required by the Postal Service.

445 Filing of Information

Information relating to Periodicals class mail must be filed with the Postal Service in accordance with 39 U.S.C. 3685.

446 Enclosures and Supplements

Periodicals class mail may contain enclosures and supplements as prescribed by the Postal Service. An enclosure or supplement may not contain writing, printing or sign thereof or therein, in addition to the original print, except as authorized by the Postal Service, or as authorized under section 443.2.

450 DEPOSIT AND DELIVERY

451 Deposit

Periodicals class mail must be deposited at places and times designated by the Postal Service.

452 Service

Periodicals class mail is given expeditious handling insofar as is practicable.

453 Forwarding and Return

Undeliverable-as-addressed Periodicals class mail will be forwarded or returned to the mailer, as prescribed by the Postal Service. Undeliverable-as-addressed combined First-Class and Periodicals class mail pieces will be forwarded or returned, as prescribed by the Postal Service. Additional charges when Periodicals class mail is returned will be based on the applicable Standard Mail rate.

460 ANCILLARY SERVICES

Service	Schedule
Special delivery	SS-17

470 RATES AND FEES

The rates and fees for Periodicals class mail are set forth as follows:

	Schedule
a. Regular	421
b. Within County	423.2
c. Nonprofit	423.3
d. Classroom	423.4
e. Science of Agriculture	421
f. Fees	1000

480 AUTHORIZATIONS AND LICENSES

481 Entry Authorizations

Prior to mailing at Periodicals rates, a publication must be authorized for entry as Periodicals class mail by the Postal Service. Each authorized publication will be granted one original entry authorization at the post office where the office of publication is maintained. An authorization for the establishment of an account to enter a publication at an additional entry office may be granted by the Postal Service upon application by the publisher. An application for re-entry must be made

whenever the publisher proposes to change the publication's title, frequency of issue or office of original entry.

482 Preferred Rate Authorization

Prior to mailing at Nonprofit, Classroom, and Science of Agriculture rates, a publication must obtain an additional Postal Service entry authorization to mail at those rates.

483 Mailing by Publishers and News Agents

Periodicals class mail may be mailed only by publishers or registered news agents. A news agent is a person or concern engaged in selling two or more Periodicals publications published by more than one publisher. News agents must register at all post offices at which they mail Periodicals class mail.

484 Fees

Fees for original entry, additional entry, re-entry, and registration of a news agent are set forth in Rate Schedule 1000.

Classification Schedule SS-1—Address Correction Service

1.01 Definition

1.010 Address correction service is a service which provides the mailer with a method of obtaining the correct address, if available to the Postal Service, of the addressee or the reason for nondelivery.

1.02 Description of Service

1.020 Address correction service is available to mailers of postage prepaid mail of all classes. Periodicals class mail will receive address correction service.

1.021 Address correction service is not available for items addressed for delivery by military personnel at any military installation.

1.022 Address correction provides the following service to the mailer:

a. If the correct address is known to the Postal Service, the mailer is notified of both the old and the correct address.

b. If the item mailed cannot be delivered, the mailer will be notified of the reason for nondelivery.

1.03 Requirements of the Mailer

1.030 Mail, other than Periodicals class mail, sent under this classification schedule must bear a request for address correction service.

1.04 Fees

1.040 There is no charge for address correction service when the correction is provided incidental to the return of the mail piece to the sender.

1.041 A fee, as set forth in Rate Schedule SS-1, is charged for all other forms of address correction service.

Classification Schedule SS-2—Business Reply Mail

2.01 Definition

2.010 Business reply mail is a service whereby business reply cards, envelopes, cartons and labels may be distributed by or for a business reply distributor for use by mailers for sending First-Class Mail without prepayment of postage to an address chosen by the distributor. A distributor is the holder of a business reply license.

2.02 Description of Service

2.020 The distributor guarantees payment on delivery of postage and fees for all returned business reply mail. Any distributor of business reply cards, envelopes, cartons, and labels under any one license, for return to several addresses guarantees to pay postage and fees on any returns refused by any such addressee.

2.03 Requirements of the Mailer

2.030 Business reply cards, envelopes, cartons and labels must be preaddressed and bear business reply markings.

2.0301 Handwriting, typewriting or handstamping are not acceptable methods of preaddressing or marking business reply cards, envelopes, cartons and labels.

2.04 Fees

2.040 The fees for business reply mail are set forth in Rate Schedule SS-2.

2.041 To qualify as an active business reply mail advance deposit trust account, the account must be used solely for business reply mail and contain sufficient postage and fees due for returned business reply mail.

2.042 An accounting fee as set forth in Rate Schedule SS-2 must be paid each year for each advance deposit business reply account at each facility where the mail is to be returned.

2.05 Authorizations and Licenses

2.050 In order to distribute business reply cards, envelopes, cartons or labels, the distributor must obtain a license or licenses from the Postal Service and pay the appropriate fee as set forth in Rate Schedule SS-2.

2.0501 Except as provided in section 2.0502, the license to distribute business reply cards, envelopes, cartons or labels must be obtained at each office from which the mail is offered for delivery.

2.0502 If the business reply mail is to be distributed from a central office to

be returned to branches or dealers in other cities, one license obtained from the post office where the central office is located may be used to cover all business reply mail.

2.051 The license to mail business reply mail may be canceled for failure to pay business reply postage and fees when due, and for distributing business reply cards or envelopes which do not conform to prescribed form, style or size.

Classification Schedule SS-3—Caller Service

3.01 Definitions

3.010 Caller service is a service which permits a customer to obtain his mail addressed to a box number through a call window or loading dock.

3.02 Description of Service

3.020 Caller service uses post office box numbers as the address medium but does not actually use a post office box.

3.021 Caller service is not available at certain postal facilities.

3.022 Caller service is provided to customers on the basis of mail volume received, and number of post office boxes rented at any one facility.

3.023 A customer may reserve a caller number.

3.024 Caller service cannot be used when the sole purpose is, by subsequently filing change of address orders, to have mail forwarded or transferred to another address by the Postal Service free of charge.

3.03 Fees

3.030 Fees for caller service are set forth in Rate Schedule SS-10.

Classification Schedule SS-4—Certificate of Mailing

4.01 Definition

4.010 Certificate of mailing service is a service which furnishes evidence of mailing.

4.02 Description of Service

4.020 Certificate of mailing service is available to mailers of matter sent under the classification schedule to any class of mail.

4.021 A receipt is not obtained upon delivery of the mail to the addressee. No record of mailing is maintained at the post office.

4.022 Additional copies of certificates of mailing may be obtained by the mailer.

4.03 Other Services

4.030 The following services, if applicable to the class of mail, may be obtained in conjunction with mail sent

under this classification schedule upon payment of the applicable fees:

	Classification schedule
a. Parcel airlift	SS-13
b. Special delivery	SS-17
c. Special handling	SS-18

4.04 Fees

4.040 The fees for certificate of mailing service are set forth in Rate Schedule SS-4.

Classification Schedule SS-5—Certified Mail

5.01 Definition

5.010 Certified mail service is a service that provides a mailing receipt to the sender and a record of delivery at the office of address.

5.02 Description of Service

5.020 Certified mail service is provided for matter mailed as First-Class Mail.

5.021 If requested by the mailer, the time of acceptances by the Postal Service will be indicated on the receipt.

5.022 A record of delivery is retained at the office of delivery for a specified period of time.

5.023 If the initial attempt to delivery mail is not successful, a notice of arrival is left at the mailing address.

5.024 A receipt of mailing may be obtained only if the article is mailed at a post office, branch or station, or given to a rural carrier.

5.025 Additional copies of the original mailing receipt may be obtained by the mailer.

5.03 Deposit of Mail

5.030 Certified mail must be deposited in a manner specified by the Postal Service.

5.04 Other Services

5.040 The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

	Classification schedule
a. Restricted delivery	SS-15
b. Return receipt	SS-16
c. Special delivery	SS-17

5.05 Fees

5.050 The fees for certified mail service are set forth in Rate Schedule SS-5.

Classification Schedule SS-6—Collect on Delivery Service

6.01 Definition

6.010 Collect on Delivery (COD) service is a service which allows a mailer to mail an article for which he has not been paid and have the price, the cost of postage and fees, and anticipated or past due charges collected by the Postal Service from the addressee when the article is delivered.

6.02 Description of Service

6.020 COD service is available for collection of \$600 or less upon the delivery of postage prepaid mail sent under the following classification schedules:

- a. Express Mail
- b. First-Class Mail
- c. Single Piece, Parcel Post, Bound Printed Matter, Special, and Library Standard Mail

6.0201 Service under this schedule is not available for:

- a. Collection agency purposes;
- b. Return of merchandise about which some dissatisfaction has arisen, unless the new addressee has consented in advance to such return;
- c. Sending only bills or statements of indebtedness, even though the sender may establish that the addressee has agreed to collection in this manner; however, when the legitimate COD shipment consisting of merchandise or bill of lading, is being mailed, the balance due on a past or anticipated transaction may be included in the charges on a COD article, provided the addressee has consented in advance to such action;
- d. Parcels containing moving-picture films mailed by exhibitors to moving-picture manufacturers, distributors, or exchanges;
- e. Goods which have not been ordered by the addressee.

6.021 COD service provides the mailer with insurance against loss, rifling and damage to the article as well as failure to receive the amount collected from the addressee. This provision insures only the receipt of the instrument issued to the mailer after payment of COD charges, and is not to be construed to make the Postal Service liable upon any such instrument other than a Postal Service money order.

6.022 A receipt is issued to the mailer for each piece of COD mail. Additional copies of the original mailing receipt may be obtained by the mailer.

6.023 Delivery of COD mail will be made in a manner specified by the Postal Service. If a delivery to the mailing address is not attempted or if a

delivery attempt is unsuccessful, a notice of arrival will be left at the mailing address.

6.024 The mailer may receive a notice of nondelivery if the piece mailed is endorsed appropriately.

6.025 The mailer may designate a new addressee or alter the COD charges by submitting the appropriate form and by paying the appropriate fee as set forth in Rate Schedule SS-6.

6.026 A claim for complete loss may be filed by the mailer only. A claim for damage or for partial loss may be filed by either the mailer or addressee.

6.027 COD indemnity claims must be filed within a specified period of time from the date the article was mailed.

6.03 Requirements of the Mailer

6.030 COD mail must be identified as COD mail.

6.04 Deposit of Mail

6.040 COD mail must be deposited in a manner specified by the Postal Service.

6.05 Forwarding and Return

6.050 A mailer of COD mail guarantees to pay any return postage, unless otherwise specified on the piece mailed.

6.051 For COD mail sent as Standard Mail, postage at the applicable rate will be charged to the addressee:

- a. When an addressee, entitled to delivery to the mailing address under Postal Service regulations, requests delivery of COD mail which was refused when first offered for delivery;
- b. For each delivery attempt, to an addressee entitled to delivery to the mailing address under Postal Service regulations, after the second such attempt.

6.06 Other Services

6.060 The following services, if applicable to the class of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fee:

	Classification schedule
a. Registered mail, if sent as First-Class.	SS-14
b. Restricted delivery	SS-15
c. Special delivery	SS-17
d. Special handling	SS-18

6.07 Fees

6.070 Fees for COD service are set forth in Rate Schedule SS-6.

Classification Schedule SS-8—Domestic Postal Money Orders

8.01 Definition

8.010 Money order service is a service that provides the customer with an instrument for payment of a specified sum of money.

8.02 Description of Service

8.020 The maximum value for which a domestic postal money order may be purchased is \$700. Other restrictions on the number or dollar value of postal money order sales, or both, may be imposed in accordance with regulations prescribed by the Postal Service.

8.021 A receipt of purchase is provided at no additional cost.

8.022 The Postal Service will replace money orders that are spoiled or incorrectly prepared, regardless of who caused the error, without charge if replaced on the date originally issued.

8.0221 If a replacement money order is issued after the date of original issue because the original was spoiled or incorrectly prepared, the applicable money order fee may be collected from the customer.

8.023 Inquiries and/or claims may be filed by the purchaser, payee, or endorsee.

8.03 Fees

8.030 The fees for domestic postal money orders are set forth in Rate Schedule SS-8.

Classification Schedule SS-9—Insured Mail

9.01 Definition

9.010 Insured mail service is a service that provides the mailer with indemnity for loss of, rifling of, or damage to items sent under this classification schedule.

9.02 Description of Service

9.020 The maximum liability of the Postal Service under this schedule is \$600.

9.021 Insured mail service is available for mail sent under the following classification schedules:

- a. First-Class Mail, if containing matter which may be mailed as Standard Mail
- b. Single Piece, Parcel Post, Bound Printed Matter, Special, and Library Standard Mail

9.022 This service is not available for matter offered for sale, addressed to prospective purchasers who have not ordered or authorized their sending. If such matter is received in the mail, payment will not be made for loss, rifling, or damage.

9.023 The mailer is issued a receipt for each item mailed. For items insured for more than \$50, a receipt of delivery is obtained by the Postal Service.

9.024 For items insured for more than \$50, a notice of arrival is left at the mailing address when the first attempt at delivery is unsuccessful.

9.025 A claim for complete loss may be filed by the mailer only. A claim for damage or for partial loss may be filed by either the mailer or addressee.

9.026 A claim for damage or loss on a parcel sent merchandise return (SS-20) may only be filed by the purchaser of the insurance.

9.027 Indemnity claims for insured mail must be filed within a specified period of time from the date the article was mailed.

9.028 Additional copies of the original mailing receipt may be obtained by the mailer, upon payment of the applicable fee set forth in Rate Schedule SS-9.

9.03 Deposit of Mail

9.030 Insured mail must be deposited in a manner specified by the Postal Service.

9.04 Forwarding and Return

9.040 By insuring an item, the mailer guarantees forwarding and return postage unless instructions on the piece mailed indicate that it not be forwarded or returned.

9.041 Mail undeliverable as addressed sent under this schedule will be returned to the sender as specified by the sender or by the Postal Service.

9.05 Other Services

9.050 The following services, if applicable to the class of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

	Classification schedule
a. Parcel Airlift	SS-13
b. Restricted delivery (for items insured for more than \$50).	SS-15
c. Return receipt (for items insured for more than \$50).	SS-16
d. Special delivery	SS-17
e. Special handling	SS-18
f. Merchandising return (shippers only).	SS-20

9.06 Fees

9.060 The fees for insured mail service are set forth in Rate Schedule SS-9.

Classification Schedule SS-10—Post Office Box Service

10.01 Definition

10.010 Post office box service is a service which provides the customer with a private, locked receptacle for the receipt of his mail during the hours when the lobby of a postal facility is open.

10.02 Description of Service

10.020 The Postal Service may limit the number of post office boxes occupied by any one customer.

10.021 A post office box holder may request the Postal Service to deliver all mail properly addressed to him through the post office box. If the post office box is located at the post office indicated on the piece, it will be transferred without additional charge, in accordance with existing regulations.

10.022 Post office box service cannot be used when the sole purpose is, by subsequently filing change of address orders, to have mail forwarded or transferred to another address by the Postal Service free of charge.

10.03 Fees

10.030 Fees for post office box service are set forth in Rate Schedule SS-10.

10.031 In postal facilities primarily serving academic institutions or the students of such institutions, periods of rental and fees for post office boxes are:

Period for box rentals	Fee
95 days or less	1/2 semi-annual fee.
96 to 140 days	3/4 semi-annual fee.
141 to 190 days	Full semi-annual fee.
191 to 230 days	1 1/4 semi-annual fee.
231 to 270 days	1 1/2 semi-annual fee.
271 days to full year	Full annual fee.

10.032 No refunds will be made for boxes rented under section 10.031. For purposes of this classification schedule SS-10, the full annual fee is twice the amount of the semi-annual fee.

Classification Schedule SS-11—Mailing List Services

11.01 Definition

11.010 Mailing list services include:
 a. Correction of mailing lists;
 b. Change of address information for election boards and registration commissions;
 c. ZIP coding of mailing lists; and
 d. Arrangement of address cards in the sequence of delivery.

11.0101 Correction of mailing list service provides current information concerning name and address mailing lists or correct information concerning occupant mailing lists.

11.0102 ZIP coding of mailing lists service is a service identifying ZIP code addresses in areas served by multi-ZIP coded postal facilities.

11.02 Description of Service

11.020 Correction of mailing list service is available only to the following owners of name and address or occupant mailing lists:

- a. Members of Congress
- b. Federal agencies
- c. State government departments
- d. Municipalities
- e. Religious organizations
- f. Fraternal organizations
- g. Recognized charitable organizations
- h. Concerns or persons who solicit business by mail

11.0201 The following corrections will be made to name and address lists:

- a. Names to which mail cannot be delivered or forwarded will be deleted;
- b. Incorrect house, rural, or post office box numbers will be corrected;
- c. When permanent forwarding orders are on file for customers who have moved, new addresses including ZIP codes will be furnished;
- d. New names will not be added to the list.

11.0202 The following corrections will be made to occupant lists:

- a. Numbers representing incorrect or non-existent street addresses will be deleted;
- b. Business or rural route addresses will be distinguished if known;
- c. Corrected cards or sheets will be grouped by route;
- d. Street address numbers will not be added or changed.

11.0203 Corrected lists will be returned to customers at no additional charge.

11.021 Residential change-of-address information is available only to election boards or registration commissions for obtaining, if known to the Postal Service, the current address of an addressee.

11.022 ZIP coding or mailing list service provides that addresses will be sorted to the finest possible ZIP code sortation.

11.0221 Gummed labels, wrappers, envelopes or postal or post cards indicative of one-time use will not be accepted as mailing lists.

11.023 Sequencing of address cards service provides for the removal of incorrect addresses, notation of missing addresses and addition of missing addresses.

11.03 Requirements of Customer

11.030 A customer desiring correction of a mailing list or arrangement of address cards in sequence of carrier delivery must

submit the list or cards as prescribed by regulation.

11.04 Fees

11.040 The fees for mailing list services are set forth in Rate Schedules SS-11a, SS-11b, SS-11c and SS-11d.

Classification Schedule SS-12—On-Site Meter Setting

12.01 Definition

12.010 On-site meter setting or examination service is a service whereby the Postal Service will service a postage meter at the mailer's or meter manufacturer's premises.

12.02 Description of Service

12.020 On-site meter setting or examination service is available on a scheduled basis, and meter setting may be done on an emergency basis for those customers enrolled in the scheduled on-site meter setting or examination program.

12.03 Fees

12.030 The fees for on-site meter setting or examination service are set forth in Rate Schedule SS-12.

Classification Schedule SS-13—Parcel Airlift (PAL)

13.01 Definition

13.010 Parcel airlift service is a service that provides for air transportation of parcels on a space available basis to or from military post offices outside the contiguous 48 states.

13.02 Description of Service

13.020 Parcel airlift service is available for mail sent under the following classification schedule:

Standard Mail

13.03 Physical Limitations

13.030 The minimum physical limitations established for the mail sent under the classification schedule for which postage is paid apply to parcel airlift mail. In no instance may the parcel exceed 30 pounds in weight, or 60 inches in length and girth combined.

13.04 Requirements of the Mailer

13.040 Mail sent under this schedule must be endorsed as prescribed by regulation.

13.05 Deposit of Mail

13.050 PAL mail must be deposited in a manner specified by the Postal Service.

13.06 Forwarding and Return

13.060 PAL mail sent for delivery outside the contiguous 48 states is

forwarded as set forth in section 2030 of the General Definitions, Terms and Conditions. PAL mail sent for delivery within the contiguous 48 states is forwarded or returned as set forth in section 353 as appropriate.

13.07 Other Services

13.070 The following services, if applicable to the class of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

	Classification schedule
a. Certificate of mailing	SS-4
b. Insured mail	SS-9
c. Restricted delivery (if insured for more than \$25).	SS-15
d. Return receipt (if insured for more than \$25).	SS-16
e. Special delivery (if mailed for delivery within the 48 contiguous states).	SS-17
f. Special handling	SS-18

13.08 Fees

13.080 The fees for parcel airlift service are set forth in Rate Schedule SS-13.

Classification Schedule SS-14—Registered Mail

14.01 Definition

14.010 Registered mail is a service which provides added protection to mail sent under this Domestic Mail Classification Schedule and optional indemnity in case of loss or damage.

14.02 Description of Service

14.020 Registered mail service is available to mailers of prepaid mail sent as First-Class Mail except that registered mail must meet the minimum requirements for length and width regardless of thickness.

14.021 Registered mail service provides optional insurance up to a maximum of \$25,000.

14.022 There is no limit on the value of articles sent under this classification schedule.

14.023 Registered mail service is not available for:

a. All delivery points because of the high security required for registered mail; in addition, not all delivery points will be available for registry and liability is limited in some geographic areas.

b. Mail of any class sent in combination with First-Class Mail;

c. Two or more articles tied or fastened together, unless the envelopes are enclosed in the same envelope or container.

14.024 The following services are provided as part of registered mail service at no additional cost to the mailer:

- a. A receipt;
- b. A record of delivery, retained by the Postal Service for a specified period of time;
- c. A notice of arrival will be left at the mailing address if the initial delivery attempt is unsuccessful;
- d. When registered mail is undeliverable-as-addressed and cannot be forwarded, a notice of nondelivery is provided.

14.025 A claim for complete loss of insured articles may be filed by the mailer only. A claim for damage or for partial loss of insured articles may be filed by either the mailer or addressee.

14.026 Indemnity claims for registered mail on which optional insurance has been elected must be filed within a specified period of time from the date the article was mailed.

14.027 No indemnity is paid on any matter registered free.

14.03 Deposit of Mail

14.030 Registered mail must be deposited in a manner specified by the Postal Service.

14.04 Service

14.040 Registered mail is provided maximum security.

14.05 Forwarding and Return

14.050 Registered mail is forwarded and returned without additional registry charge.

14.06 Other Services

14.060 The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of applicable fees:

	Classification schedule
a. Collect on delivery	SS-6
b. Restricted delivery	SS-15
c. Return receipt	SS-16
d. Special delivery	SS-17
e. Merchandise return (shippers only).	SS-20

14.07 Fees

14.070 The fees for registered mail and related optional indemnity purchase are set forth in Rate Schedule SS-14.

Classification Schedule SS-15—Restricted Delivery

15.01 Definition

15.010 Restricted delivery service is a service that provides a means by

which a mailer may direct that delivery will be made only to the addressee or to someone authorized by the addressee to receive such mail.

15.02 Description of Service

15.020 This service is available for mail sent under the following classification schedules:

	Classification schedule
a. Certified Mail	SS-5
b. COD Mail	SS-6
c. Insured Mail (if insured for more than \$50).	SS-9
d. Registered Mail	SS-14

15.021 Restricted delivery is available to the mailer at the time of mailing or after mailing.

15.022 Restricted delivery service is available only to natural persons specified by name.

15.023 A record of delivery will be retained by the Postal Service for a specified period of time.

15.024 Failure to provide restricted delivery service when requested after mailing, due to prior delivery, is not grounds for refund of the fee or communications charges.

15.03 Fees

15.030 The fees for restricted delivery service are set forth in Rate Schedule SS-15.

Classification Schedule SS-16—Return Receipts

16.01 Definition

16.010 Return receipt service is a service which provides evidence to the mailer that an article has been received at the delivery address.

16.02 Description of Service

16.020 Return receipt service is available for mail sent under the following classification schedules:

	Classification schedule
a. Certified mail	SS-5
b. COD mail	SS-6
c. Insured mail (if insured for more than \$50).	SS-9
d. Registered mail	SS-14
e. Express Mail.	
f. First-Class (merchandise only).	
g. Standard Mail (merchandise only).	

16.021 Return receipt service is available at the time of mailing or after mailing.

16.0211 Mailers requesting return receipt service at the time of mailing will be provided, as appropriate:

- a. The signature of the addressee or his agent and the date delivered, or
- b. The signature of the addressee or his agent, the date delivered and the address of delivery.

16.0212 Mailers requesting return receipt service *after mailing* will be provided the date of delivery and the name of the person who signed for the article.

16.022 If the mailer does not receive a return receipt within a specified period of time from the date of mailing, the mailer may request a duplicate return receipt. No fee is charged for a duplicate return receipt.

16.03 Fees

16.030 The fees for return receipt service are set forth in Rate Schedule SS-16.

Classification Schedule SS-17—Special Delivery

17.01 Definition

17.010 Special delivery service is a service that provides for preferential handling in dispatch and transportation, and delivery of mail as soon as practicable after arrival at the addressee's post office.

17.02 Description of Service

17.020 Special delivery service is available for mail sent under the following classification schedules:

- a. First-Class Mail
- b. Periodicals
- c. Single Piece, Parcel Post, Bound Printed Matter, Special, and Library Standard Mail

17.021 Special delivery is made only to addresses where it is known that such delivery can be made.

17.022 Special delivery mail is delivered during prescribed hours in addition to regular carrier delivery hours.

17.023 If delivery cannot be made a notice of arrival is left at the address.

17.03 Requirements of the Mailers

17.030 Mail sent under this classification schedule must be identified as prescribed by regulation.

17.04 Deposit of Mail

17.040 Special delivery mail must be deposited in a manner prescribed by the Postal Service.

17.05 Forwarding and Return

17.050 Special delivery mail which is forwarded or returned does not receive special delivery service unless the special delivery fee has been guaranteed, or if a forwarding order had been given by the addressee at the office of original address in advance of the arrival of the mail.

17.06 Other Services

17.060 The following services, if applicable to the class of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

	Classification schedule
a. Certificate of mailing	SS-4
b. Certified mail	SS-5
c. COD mail	SS-6
d. Insured mail	SS-9
e. Parcel airlift	SS-13
f. Registered mail	SS-14

17.07 Fees

17.070 The fees for special delivery service are set forth in Rate Schedule SS-17.

Classification Schedule SS-18—Special Handling

18.01 Definition

18.010 Special handling service is a service that provides preferential handling to the extent practicable during dispatch and transportation.

18.02 Description of Service

18.020 Special handling service is available for mail sent under the following classification schedules:

- a. First-Class Mail
- b. Single Piece, Parcel Post, Bound Printed Matter, Special, and Library Standard Mail

18.021 Special handling (or special delivery) service is mandatory for matter which requires special attention in handling, transportation and delivery.

18.03 Requirements of the Mailer

18.030 Mail sent under this schedule must be identified as prescribed by regulation.

18.04 Deposit of Mail

18.040 Mail sent under this schedule must be deposited in a manner prescribed by the Postal Service.

18.05 Forwarding and Return

18.050 If undeliverable as addressed, special handling mail that is forwarded to the addressee is given special handling without requiring payment of an additional handling fee. However, additional postage at the applicable Standard Mail rate is collected on delivery.

18.06 Other Services

18.060 The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

	Classi- fication schedule
a. COD mail	SS-6
b. Insured mail	SS-9
c. Parcel airlift	SS-13
d. Merchandise return (shippers only).	SS-20

18.07 Fees

18.070 The fees for special handling service are set forth in Rate Schedule SS-18.

Classification Schedule SS-19—
Stamped Envelopes

19.01 Definition

19.010 Plain stamped envelopes and printed stamped envelopes are envelopes with postage thereon offered for sale by the Postal Service.

19.02 Description of Service

19.020 Stamped envelopes are available for:

- a. First-Class Mail within the first rate increment.
- b. Standard Mail mailed at a minimum per-piece rate as prescribed by the Postal Service.

19.021 Printed stamped envelopes may be obtained by special request.

19.03 Fees

19.030 The fees for stamped envelopes are set forth in Rate Schedule SS-19.

Classification Schedule SS-20—
Merchandise Return

20.01 Definition

20.010 Merchandise return service provides a method whereby a shipper

may authorize its customers to return a parcel with the postage paid by the shipper. A shipper is the holder of a merchandise return permit.

20.02 Description of Service

20.020 Merchandise return service is available to all shippers who obtain the necessary permit and who guarantee payment of postage and fees for all returned parcels.

20.021 Merchandise return service is available for the return of any parcel under the following classification schedules.

- a. First-Class Mail
- b. Standard Mail

20.03 Requirements of the Mailer

20.030 Merchandise return labels must be prepared at the shipper's expense to specifications set forth by the Postal Service.

20.031 The shipper must furnish its customer with an appropriate merchandise return label.

20.04 Other Services

20.040 The following services may be purchased in conjunction with Merchandise Return Service:

	Classi- fication schedule
a. Certificate of mailing	SS-4
b. Insured mail	SS-9
c. Registered mail	SS-14
d. Special handling	SS-18

20.041 Only the shipper may purchase insurance service for the merchandise return parcel by indicating the amount of insurance on the

merchandise return label before providing it to the customer. The customer who returns a parcel to the shipper under merchandise return service may not purchase insurance.

20.05 Fees

20.050 The fee for the merchandise return service is set forth in Rate Schedule SS-20. This fee is paid by the shipper.

20.06 Authorizations and Licenses

20.060 A permit fee as set forth in Rate Schedule 1000 must be paid once each calendar year by shippers utilizing merchandise return service.

20.061 The merchandise return permit may be canceled for failure to maintain sufficient funds in a trust account to cover postage and fees on returned parcels or for distributing merchandise return labels that do not conform to Postal Service specifications.

Rate Schedules

Calculation of Postage

When a rate schedule contains per-piece and per pound rates, the postage shall be the sum of the charges produced by those rates.

When a rate schedule contains a minimum-per-piece rate and a pound rate, the postage shall be the greater of the two.

When the computation of postage yields a fraction of a cent in the charge, the next higher whole cent must be paid.

EXPRESS MAIL RATE SCHEDULES 121,122, AND 123 *

[Dollars]

Weight not exceeding (pounds)	Schedule 121 same day airport service	Schedule 122 custom de- signed	Schedule 123 next day and second day PO to PO	Schedule 123 next day and second day PO to ad- dressee
1/2				
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				

EXPRESS MAIL RATE SCHEDULES 121,122, AND 123*—Continued
 [Dollars]

Weight not exceeding (pounds)	Schedule 121 same day airport service	Schedule 122 custom designed	Schedule 123 next day and second day PO to PO	Schedule 123 next day and second day PO to addressee
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
31				
32				
33				
34				
35				
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* Notes:

1. The applicable 2-pound rate is charged for matter sent in a 'flat rate' envelope provided by the Postal Service.
2. Add \$ for each pickup stop.
3. Add \$ for each Custom Designed delivery stop.

**FIRST-CLASS MAIL RATE SCHEDULE
221, LETTERS AND SEALED PARCELS**

Postage rate unit	Rate (cents)
Letters & Sealed Parcels	
Regular	
Single First ounce	
Piece:	
Presort ¹	
Pre-barcoded parcels (experimental) ¹¹	
Courtesy Envelope Mail	
Additional Ounce ²	
Nonstandard Surcharge	
Single Piece	
Presort	
Automation—Presort¹	
Letters ³	
Basic Presort ⁴	
3-Digit Presort ⁵	
5-Digit Presort ⁶	
Carrier Route Presort ⁷	
Flats ⁸	
Basic Presort ⁹	
3/5-Digit Presort ¹⁰	
Additional Ounce ²	
Nonstandard Surcharge	

Schedule 221 Notes:

¹A mailing fee of \$ must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate. For presorted mailing weighing more than 2 ounces, subtract cents per piece.

²Rate applies through 11 ounces. Heavier pieces are subject to Priority Mail rates.

³Rates apply to bulk-entered mailings of at least 500 letter-size pieces, which must be delivery point barcoded and meet other preparation requirements prescribed by the Postal Service.

⁴Rate applies to letter-size Automation-Presort category mail not mailed at 3-Digit, or Carrier Route rates.

⁵Rate applies to letter-size Automation-Presort category mail presorted to single or multiple three-digit ZIP Code designations as prescribed by the Postal Service.

⁶Rate applies to letter-size Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations as prescribed by the Postal Service.

⁷Rate applies to letter-size Automation-Presort category mail presorted to carrier routes specified by the Postal Service.

⁸Rates apply to bulk-entered mailings of at least 500 flat-size pieces, each of which must be delivery-point barcoded or bear a ZIP+4 barcode, and must meet other preparation requirements prescribed by the Postal Service.

⁹Rate applies to flat-size Automation-Presort category mail not mail at the 3/5-Digit rate.

¹⁰Rate applies to flat-size Automation-Presort category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

¹¹Nonpresorted pre-barcoded parcels must be properly prepared and submitted in mailings of at least 50 pieces.

**FIRST-CLASS MAIL RATE SCHEDULE
222**

[Postal and Post Cards]

Postage rate unit	Rate (cents)
Cards	
Regular	
Single Piece	
Presort ¹	
Automation-Presort ^{1,2}	
Basic Presort ³	
3-Digit Presort ⁴	
5-Digit Presort ⁵	
Carrier Route Presort ⁶	

Schedule 222 Notes:

¹A mailing fee of \$ must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate.

²Rates apply to bulk-entered mailings of at least 500 pieces, which must be barcoded and meet other preparation requirements prescribed by the Postal Service.

³Rate applies to Automation-Presort category mail not mailed at 3-Digit, 5-Digit, or Carrier Route rates.

⁴Rate applies to Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations as prescribed by the Postal Service.

⁵Rate applies to Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations as prescribed by the Postal Service.

⁶Rate applies to Automation-Presort category mail presorted to carrier routes specified by the Postal Service.

FIRST-CLASS MAIL RATE SCHEDULES 223 PRIORITY MAIL SUBCLASS *

[Dollars]

Weight not exceeding (pounds)	L, 1,2,3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						

FIRST-CLASS MAIL RATE SCHEDULES 223 PRIORITY MAIL SUBCLASS *—Continued
 [Dollars]

Weight not exceeding (pounds)	L, 1,2,3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
30						
31						
32						
33						
34						
35						
36						
37						
38						
39						
40						
41						
42						
43						
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70						

***Notes:**

1. The 2-pound rate is charged for matter sent in a 'flat rate' envelope provided by the Postal Service.
2. Add \$ for each pickup stop.
3. Pieces presented in mailings of at least 300 pieces and meeting applicable Postal Service regulations for presorted Priority Mail received the cente per-piece discount.
4. EXCEPTION: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, and chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.
5. Pieces presented in mailings of at least 50 pieces and meeting applicable Postal Service regulations for pre-barcode Priority Mail parcels receive a discount of cents per piece (experimental).

**STANDARD MAIL RATE SCHEDULE
321.1**
[Single piece subclass]

	Rate ¹ (cents)
Basic: One ounce or less Not more than two ounces Not more than three ounces Not more than four ounces Not more than five ounces Not more than six ounces Not more than seven ounces Not more than eight ounces Not more than nine ounces Not more than ten ounces Not more than eleven ounces Not more than thirteen ounces More than thirteen ounces but less than sixteen ounces Nonstandard Surcharge ²	
Keys and identification Devices First 2 ounces Each additional 2 ounces	

Schedule 321.1 Notes:
¹When the postage rate computed at the single piece rate is higher than the rate prescribed in the other Standard Class parcel categories contained in rate schedules 322.1, 322.2, 322.3, or 323.1 for which the piece qualifies, the lower rate applies.
²Applies only to pieces weighing one ounce or less.

**STANDARD MAIL RATE SCHEDULE
321.2A REGULAR SUBCLASS**
[Presort Category¹]

	Rate ¹ (cents)
Letter size Piece Rate Basic 3/5-Digit Destination Entry Discount per Piece BMC SCF	
Non-Letter Size Piece Rate Minimum per Piece 2/ Basic 3/5 Digit Destination Entry Discount per Piece BMC SCF	
Pound Rate 2/ Plus per Piece Rate Basic 3/5-Digit Destination Entry Discount per Pound BMC SCF	

Schedule 321.2A Notes:

¹A fee of \$ must be paid each 12-month period for each bulk mailing permit
²Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

**STANDARD MAIL RATE SCHEDULE
321.2B REGULAR SUBCLASS**
[Automation Category¹]

Letter size ²	Rate (cents)
Piece Rate Basic Letter ³ 3-Digit Letter ⁴ 5-Digit Letter ⁵ Destination Entry Discount per Piece BMC SCF	
Flat size ⁶ Piece Rate Minimum per Piece ⁷ Basic Flat ⁸ 3/5-Digit Flat ⁹ Destination Entry Discount per Piece BMC SCF	
Pound Rate ⁷ Plus per piece Rate Basic Flat 3/5-Digit Flat Destination Entry Discount per Pound BMC SCF	

Schedule 321.2B Notes:
¹A fee of \$ must be paid once each 12-month period for each bulk mailing permit.
²For letter-size automation pieces meeting applicable Postal Service regulations.
³Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.
⁴Rate applies to letter-size automation presorted to single or multiple three-digit ZIP Code destinations as prescribed by the Postal Service.
⁵Rate applies to letter-size automation presorted to single or multiple five-digit ZIP Code destinations as prescribed by the Postal Service.
⁶For flat-size automation mail meeting applicable Postal Service regulations.
⁷Mailer pays minimum piece rate or pound rate, whichever is higher.
⁸Rate applies to flat-size automation mail not mailed at 3/5-digit rate.
⁹Rate applies to flat-size automation mail presorted to single or multiple three- and five-digit ZIP Code destinations as prescribed by the Postal Service.

**STANDARD MAIL RATE SCHEDULE
321.3**
[Enhanced Carrier Route Subclass¹]

	Rate (cents)
Letter Size Piece Rate Basic Basic Automated Letter ² High Density Saturation Destination Entry Discount per Piece BMC SCF DDU ³	
Non-Letter Size Piece Rate Minimum per Piece ⁴ Basic High Density Saturation Destination Entry Discount per Piece BMC SCF DDU ³	
Pound Rate ⁴ Plus per Piece Rate Basic High Density Saturation Destination Entry Discount per Pound BMC SCF DDU ³	

Schedule 321.3 Notes:
¹A fee of \$ must be paid each 12-month period for each bulk mailing permit.
²Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.
³Applies only to enhanced carrier route mail.
⁴Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE
 321.4 NONPROFIT SUBCLASS ¹
 [Full rates]

	Piece rate (cents)	Pound rate (cents)
Piece Rate		
Discounts (per piece)		
Destination Entry		
BMC		
SCF		
Delivery Office ²		
Presort Level		
3/5 Digit		
Carrier Route		
Saturation		
Automation ³		
ZIP + 4 ⁴		
Basic		
3/5 Digit ⁵		
Barcode ⁴		
Basic		
3-Digit ⁵		
5-Digit ⁵		
Piece Rate ⁶		
Discounts (per piece)		
Destination Entry		
BMC		
SCF		
Delivery Office ²		
Presort Level		
3/5 Digit		
Carrier Route		
125-Piece Walk Sequence		
Saturation		
Automation ⁷		
Barcode ⁴		
Basic		
3/5 Digit		
Pound Rate ⁶		
Pound Rate plus Per-Piece Rate		
Discounts		
Destination Entry (per pound)		
BMC		
SCF		
Delivery Office ²		
Presort Level (per piece)		
3/5 Digit		
Carrier Route		
Saturation		
Automation (per piece) ⁷		
Barcode ⁴		
Basic		
3/5 Digit		

Schedule 321.4 Notes:

¹ A fee of \$ must be paid once each 12-month period for each bulk mailing permit.

² Applies only to carrier route presort, 125-piece walk sequence and saturation mail.

³ For letter-size pieces meeting applicable Postal Service regulations.

⁴ Among ZIP + 4 and barcode discounts, only one discount may be applied.

⁵ Deducted from otherwise applicable 3/5-digit rate.

⁶ Mailer pays either the piece or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 322.3A BOUND PRINTED MATTER SUBCLASS SINGLE PIECE RATES*—Continued
[Dollars]

Weight not exceeding (pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
10 Per piece rate Per pound rate								

* Includes both catalogs and similar bound printed matter.

STANDARD MAIL RATE SCHEDULE 322.3B BOUND PRINTED MATTER SUBCLASS BULK AND CARRIER ROUTE PRESORT RATES¹

[Dollars]

Zone	Per-piece	Carrier route ²	Per-pound
Local			
1 & 2			
3			
4			
5			
6			
7			
8			

¹ Includes both catalogs and similar bound printed matter.

² Applies to mailings of at least 300 pieces presorted to carrier route as prescribed by the Postal Service.

STANDARD MAIL RATE SCHEDULES 323.1 & 323.2 SPECIAL AND LIBRARY RATE SUBCLASSES

	Rates (cents)
Schedule 323.1: Special	Full Rates (cents)
First Pound	
Not presorted	
LEVEL A Presort (5-digits) ^{1,2}	
LEVEL B Presort (BMC) ^{1,3}	
Each additional pound through 7 pounds	
Each additional pound over 7 pounds	
Schedule 323.2: Library	
First pound	
Each additional pound through 7 pounds	
Each additional pound over 7 pounds	

Schedule 323.1 Notes:

¹ A fee must be paid once each 12-month period for each permit.

² For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.

³ For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.

PERIODICALS RATE SCHEDULE 421 REGULAR SUBCLASS^{1,2}

	Postage rate unit	Rate ³ (cents)
Per pound:		
Nonadvertising Portion.	Pound	
Advertising Portion:		
Delivery Office ⁴ ...	Pound	
SCF ⁵	Pound	
1&2	Pound	
3	Pound	
4	Pound	
5	Pound	
6	Pound	
7	Pound	
8	Pound	
Science of Agriculture		
Delivery Office	Pound	
SCF	Pound	
Zone 1&2	Pound	
PER PIECE: Less		cents. ⁶
Nonadvertising Factor of		
Required Preparation ⁷ .	Piece	
Presorted to 3-digit city/5-digit.	Piece	
Presorted to Carrier Route.	Piece	
Discounts:		
Prepared to Delivery Office ⁴ .	Piece	
Prepared to SCF ⁵	Piece	
High Density ⁸	Piece	
Saturation ⁹	Piece	
Automation Discounts for Automation Compatible Mail ¹⁰		
From Required:		
Pre-barcoded letter size.	Piece	
Pre-barcoded flats.	Piece	
From 3/5 Digit:		
Pre-barcoded 3-digit letter size.	Piece	
Pre-barcoded 5-digit letter size.	Piece	
Pre-barcoded flats.	Piece	

Schedule 421 Notes:

¹ The rates in this schedule also apply to commingled nonsubscriber, non-requester, complimentary, and sample copies in excess of 10 percent allowance in regular-rate, non-profit, and classroom periodicals.

² Rates do not apply to otherwise regular rate mail that qualifies for the Within-County rates in Schedule 423.2.

³ Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

⁴ Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.

⁵ Applies to mail delivered within the SCF area of the originating SCF office.

⁶ For postage calculations, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.

⁷ Mail presorted to 3-digit (other than 3-digit city), SCF, states, or mixed states.

⁸ Applicable to high density mail, deducted from carrier route presort rate.

⁹ Applicable to saturation mail, deducted from carrier route presort rate.

¹⁰ For automation compatible mail meeting applicable Postal Service regulations.

PERIODICALS RATE SCHEDULE 423.2 WITHIN COUNTY [Full Rates]

	Rate (cents)
Per pound:	
General	
Delivery ¹ Office	
Per piece:	
Required Presort	
Carrier Route Presort	
Per piece discounts:	
Delivery ² Office	
125-piece Walk Sequence ³	
Saturation	
Automation Discounts for Automation Compatible Mail ⁴	
From Required:	
ZIP+4 Letter size	
3-Digit Pre-barcoded Letter size	
5-Digit Pre-barcoded Letter size	
3/5-Digit Pre-barcoded Flats	

¹ Applicable only to the pound charge of carrier route (including 125-piece walk sequence and saturation) presorted pieces to be delivered within the delivery area of the originating post office.

²Applicable only to carrier presorted pieces to be delivered within the delivery area of the originating post office.
³Applicable only to batches of 125 or more pieces from carrier presorted pieces.
⁴For automation compatible pieces meeting applicable Postal Service regulations.

³Applies to mail delivered within the SCF area of the originating SCF office.
⁴For postage calculation, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.
⁵Mail presorted to 3-digit (other than 3-digit city), SCF, states, or mixed states.
⁶For walk sequenced mail in batches of 125 pieces or more from carrier route presorted mail.
⁷Applicable to saturation mail; deduct from carrier route presorted rate.
⁸For automation compatible mail meeting applicable Postal Service regulations.
⁹Not applicable to publications containing 10 percent or less advertising content.
¹⁰If qualified, nonprofit publications may use Within-County rates for applicable portions of a mailing.

PERIODICALS RATE SCHEDULE 423.4 CLASSROOM PUBLICATIONS¹⁰—Continued

[Full Rates]

	Postage rate unit	Rate ¹ (cents)
7	Pound	
8	Pound	

Schedule 423.4 Notes:

¹Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.
²Applies to carrier route (including 125-piece walk sequence and saturation) mail delivered within the delivery area of the originating post office.
³Applies to mail delivered within the SCF area of the originating SCF office.
⁴For postage calculation, multiply the portion of nonadvertising content by this factor and subtract from the applicable piece rate.
⁵Mail presorted to 3-digit (other than 3-digit city), SCF, states, or mixed states.
⁶For walk sequenced mail in batches of 125 pieces or more from carrier route presorted mail.
⁷Applicable to saturation mail; deduct from carrier route presorted mail.
⁸For automation compatible mail meeting applicable Postal Service regulations.
⁹Not applicable to publications containing 10 percent or less of advertising content.
¹⁰If qualified, classroom publications may use Within-County rates for applicable portions of a mailing.

PERIODICALS RATE SCHEDULE 423.3 PUBLICATIONS OF AUTHORIZED NONPROFIT ORGANIZATIONS¹⁰

[Full Rates]

	Postage rate unit	Rate ¹ (cents)
Nonadvertising portion:	Pound	
Advertising portion: ⁹		
Delivery Office ²	Pound	
SCF ³	Pound	
1 & 2	Pound	
3	Pound	
4	Pound	
5	Pound	
6	Pound	
7	Pound	
8	Pound	

Schedule 423.3 Notes

¹Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.
²Applies to carrier route (including 125-piece walk sequence and saturation) mail delivered within the delivery area of the originating post office.

PERIODICALS RATE SCHEDULE 423.4 CLASSROOM PUBLICATIONS¹⁰

[Full Rates]

	Postage rate unit	Rate ¹ (cents)
Per pound:		
Nonadvertising Portion:	Pound	
Advertising Portion: ⁹		
Delivery Office ²	Pound	
Advertising Portion: ⁹		
SCF ³	Pound	
1 & 2	Pound	
3	Pound	
4	Pound	
5	Pound	
6	Pound	

Special services	Description	Fee
SCHEDULE SS-1 Address Corrections	Per manual correction Per automated correction	
SCHEDULE SS-2 Business Reply Mail	Active business reply advance deposit account: Per Piece: Pre-barcoded Other Payment of postage due charges if active business reply mail advances deposit account not used Per Piece. Annual License and Accounting Fees: Accounting Fee for Advance Deposit Account Permit Fee (with or without Advance Deposit Account)	
SCHEDULE SS-4 Certificates of Mailing	Individual Pieces Original certificate of mailing for listed pieces of all classes of ordinary mail (per piece) Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece) Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified, and COD mail (each copy) Bulk Pieces: Identical pieces of First-Class and Single Piece, Regular, and Nonprofit Standard Mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees: Up to 1,000 pieces (one certificate for total number). Each additional 1,000 pieces or fraction. Duplicate copy.	(in addition to postage)
SCHEDULE SS-5 Certified Mail	Per Piece	(in addition to postage)
SCHEDULE SS-6		

Special services	Description	Fee
Collect on Delivery	Amount to be collected, or Insurance Coverage Desired Notice of nondelivery of COD Alteration of COD charges or designation of new addresses	(in addition to postage) Registered COD
SCHEDULE SS-8 Money Orders	Domestic \$0.01 to \$700 APO-FPO \$0.01 to \$700 Inquiry Fee, which includes the issuance of copy of a paid money order	
SCHEDULE SS-9 Insured Mail	Liability:	

	Box size	Box capacity (cu. in.)	Semi-annual fees		
			IA	IB	IC
SCHEDULE SS-10 Post Office Boxes and Caller Service					
A. Post Office Box Semi-Annual Rental Rate					
Group I—offices with city carrier service.	1	under 296.			
	2	296-499.			
	3	500-999.			
	4	1000-1999.			
	5	2000 & over.			
Group II—offices city carrier	1	annual.			
	2	annual.			
	3	semi-annual.			
	4	semi-annual.			
	5	semi-annual.			
Group III—offices rural carrier	1-5	annual.			
B. Caller Service					
For Caller Service		semi-annual.			
For Each Reserved Call Number		annual.			

	Description	Fee
SCHEDULE SS-11a Zip Coding of Mailing Lists	Per thousand addresses	
SCHEDULE SS-11b Correction of Mailing Lists	Per submitted address Minimum charge per list corrected	
SCHEDULE SS-11c Address Changes for Election Boards and Registration Per change of address Commissions		
SCHEDULE SS-11d Corrections Associated with Arrangement of Address Cards in Carrier Delivery Per correction Sequence NOTE: When rural routes have been consolidated or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.		
SCHEDULE SS-12 On-site Meter Setting	First Meter	By appointment Unscheduled request Additional meters Checking meter in or out of (per meter) service Fee (in addition to Parcel Post postage)
SCHEDULE SS-13 Parcel Air Lift	Up to 2 pounds Over 2 up to 3 pounds	

		Fee
	Over 3 up to 4 pounds Over 4 pounds	

	Value	Fees (in addition to postage)	
		For Articles Covered by Insurance	For Articles Not Covered by Insurance
Schedule SS-14—Registered Mail: ...	\$0.00 to \$100 100.01 to 500 500.01 to 1,000 1,000.01 to 2,000 2,000.01 to 3,000 3,000.01 to 4,000 4,000.01 to 5,000 5,000.01 to 6,000 6,000.01 to 7,000 7,000.01 to 8,000 8,000.01 to 9,000 9,000.01 to 10,000 10,000.01 to 11,000 11,000.01 to 12,000 12,000.01 to 13,000 13,000.01 to 14,000 14,000.01 to 15,000 15,000.01 to 16,000 16,000.01 to 17,000 17,000.01 to 18,000 18,000.01 to 19,000 19,000.01 to 20,000 20,000.01 to 21,000 21,000.01 to 22,000 22,000.01 to 23,000 23,000.01 to 24,000 24,000.01 to 25,000 \$25,000.01 to \$1,000,000 Plus handling charge per \$1,000 or fraction over first \$25,000 \$1,000,000 to \$15,000,000 Plus handling charge per \$1,000 or fraction over first \$1,000,000.. Over \$15,000,000: additional charges may be based on consideration of weight, space and value..		

	Description	Fee (in addition to postage)
SCHEDULE SS-15 Restricted Delivery Per Piece		
SCHEDULE SS-16 Return Receipts	Requested at time of mailing: Showing to whom (signature) and date delivered Merchandise only—without another special service Showing to whom (signature) and date and address where delivered Merchandise only—without another special service Requested after mailing: Showing to whom and date delivered	Fee (in addition to postage)
SCHEDULE SS-17 Special Delivery	First-Class and priority Mail Not more than 2 pounds Over 2 pounds but not over 10 pounds Over 10 pounds All Other Classes Not more than 2 pounds Over 2 pounds but not over 10 pounds Over 10 pounds	
SCHEDULE SS-18 Special handling	Not more than 10 pounds More than 10 pounds	
SCHEDULE SS-19 Stamped Single Sale Envelopes	BULK (500) #6¾ size: Regular Window BULK (500) size > #6¾ through #10 ¹ Regular Window Multi-Color Printing (500) #6¾ size, #10 size ¹ Printing charge per 500 Envelopes (for each type of printed envelope) Minimum Order (500) envelopes Order for 1,000 or more envelopes Double Window (500)—Size > #6¾ through #10 ¹ Household (50): size #6¾—Regular Window size > #6¾ through #10—Regular Window	
SCHEDULE SS-20 Merchandise Per Transaction Return	Shipper must have an advance deposit account (see DMCS Schedule 1000)	\$0.30
SCHEDULE 1000 Fees	First-Class Presorted Mailing Fee Periodicals Fees A. Original Entry B. Additional Entry C. Re-entry D. Registration for News Agents Regular, Enhanced Carrier Route and Nonprofit Standard Mail Bulk Mailing Fee Parcel Post: Destination BMC Special Standard Mail Presorted Mailing Fee Authorization to Use Permit Imprint Merchandise Return (per facility receiving merchandise return labels) Business Reply Mail Permit	

¹ Fee for precancelled envelopes is the same.

Issued by the Commission on June 18, 1996.

Cyril J. Pittack,
Acting Secretary.

[FR Doc. 96-15932 Filed 6-24-96; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[TX-FRL-5526-4]

Clean Air Act Final Interim Approval of Operating Permits Program; the State of Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Source Category-Limited Interim Approval.

SUMMARY: The EPA is promulgating source category-limited interim approval of the Operating Permits program submitted by the Texas Natural Resource Conservation Commission (TNRCC) for the State of Texas for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, except any sources of air pollution over which an Indian tribe has jurisdiction.

EFFECTIVE DATE: July 25, 1996.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing this source category-limited interim approval are available for inspection during normal business hours at the following location:

EPA, Region 6, Permits Section (6PD-R),
1445 Ross Avenue, Suite 700, Dallas,
Texas 75202-2733.

TNRCC

C, Office of Air Quality, 12124 Park 35
Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT:

David F. Garcia, Permits Section (6PD-R), EPA, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7217.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act (the Act)), and implementing regulations at 40 CFR part 70 require that States develop and submit Operating Permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program

review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after November 15, 1993, or by the end of an interim program, it must establish and implement a Federal program.

On June 7, 1995, EPA proposed source category-limited interim approval of the Operating Permits program for the State of Texas. See 60 FR 30037 (June 7, 1995). The EPA received comments on the proposal and compiled an updated Technical Support Document which describes the Operating Permits program in greater detail. In this document, EPA is taking final action to promulgate source category-limited interim approval of the Operating Permits program for the State of Texas.

II. Final Action and Implications

A. Analysis of State Submission

The Governor of Texas submitted a title V Operating Permits program for the State of Texas on September 17, 1993, and supplemental submittals from the Executive Director of TNRCC on October 28, 1993, and November 12, 1993. The Texas title V Operating Permits program includes among other things TNRCC Regulation XII, title 30 of the Texas Administrative Code (TAC) Chapter 122 "Federal Operating Permits" (the Texas permit regulation) and TNRCC General Rules, title 30 of TAC, section 101 (the Texas fee regulation).

The EPA identified and discussed the specific inconsistencies precluding full approval of the Texas program in the June 7, 1995, Federal Register document. It is essential that these inconsistencies be remedied by the State consistent with the Act and part 70 prior to EPA granting full approval of the State's Operating Permits program. The State committed to address certain of the identified inconsistencies in a manner sufficient to satisfy EPA concerns. The State in the October 3, 1995, letter agreed to: (1) Revise section 122.120(4)(A-B) of the Texas permit regulation regarding source applicability; (2) revise section 122.010 of the Texas permit regulation to make the Texas definition of "air pollutant" consistent with part 70, as it relates to regulated air pollutant; (3) revise section 122.010 of the Texas permit regulation

to make the definition of "site" consistent with part 70, as it relates to research and development activities; (4) revise section 122.132 of the Texas permit regulation in regard to compliance schedule requirements; (5) revise section 122.211 of the Texas permit regulation to require "similar" changes allowed under an Administrative Amendment to be approved by EPA; and (6) revise section 122.202 of the Texas permit regulation as it relates to General Permits. These particular rules will be acceptable for full approval if the State makes the changes in its rules as specified in the letter. Also, the State's criminal enforcement provisions meet title V and part 70. The EPA proposed in the June 7, 1995, notice to accept that these criminal enforcement statutory provisions satisfied the intent of part 70 and solicited comments. No adverse comments were received. The EPA's position is that the State's criminal enforcement provisions are acceptable for both interim and full approval.

During the State's process to revise the Operating Permit regulation for full title V approval, EPA will comment based on the part 70 rule in place at the time. In the action on the State's submittal for full approval, EPA will use the criteria in whatever is the final part 70 regulation, whether it be the existing July 21, 1992, regulation or a later version (part 70).

B. Response to Comments

The EPA received three comment letters (including one from TNRCC) during the 30-day public comment period held on the proposed interim approval of the Texas program. The commenters requested a 90-day extension of the public comment period based on interest to reevaluate the Texas title V program and submit a plan with a redesigned Texas title V program. The EPA extended the comment period until October 5, 1995, in a Federal Register notice published August 4, 1995. Comments were received from 27 parties during the extended period. Below is EPA's response to comments received on the proposed source category-limited interim approval for the Texas Operating Permits program.

1. *Comment 1*—All the comments received unanimously suggested EPA delay and/or defer final approval of the Texas interim program until such time as TNRCC is able to submit a revised Regulation XII and program submittal.

EPA Response—The EPA cannot "delay and/or defer" an action on a pending title V program submittal. However, in addition to preparing a Response to Comments and a Federal

Register notice after the end of the comment period in October, EPA also met with TNRCC a number of times to discuss possible significant changes to the State's program design. Thus, EPA tried to accommodate the State and industry's wishes to submit a revised program design and yet meet its own obligation to move forward on the pending program submittal. The EPA has expressed fundamental concerns regarding the approvability of such significant changes to the existing program design. Mary Nichols, Assistant Administrator for the Office of Air and Radiation, sent a letter, dated February 7, 1996, to Mr. Barry McBee, Chairman of TNRCC, which outlined EPA's broad concern with such a program redesign as presented to EPA in discussion meetings. A copy of the letter has been placed in the docket and is available for public review.

During this same timeframe, EPA reviewed and drafted a detailed response to comments received during the public comment period. In addition, EPA continued working on promulgation of part 71, the Federal operating permit rule. After the promulgation of the part 71 rule, States such as Texas without an approved program will be subject to a part 71 program. This rule is expected to be finalized and made effective in the summer of 1996. On March 14, 1996, EPA then received a request from Texas to proceed expeditiously with a final action on the June 7, 1995, proposal.

2. *Comment 2*—A commenter noted that EPA cannot impose the three conditions stated in the August 29, 1994, proposal for Operating Permits Programs Interim Approval Criteria until that action is promulgated. That proposal would revise part 70 to allow interim approval for States such as Texas whose programs do not provide for permits to incorporate all requirements established through an EPA-approved minor new source review (MNSR) program. The EPA proposed at 60 FR 30039 three conditions a State must meet in order to be eligible for interim approval. Texas must: (1) include in each operating permit issued during the interim approval period, a statement that MNSR requirements are not included; (2) include a cross-reference in each operating permit to the MNSR permit for that source; and (3) require reopening of permits for incorporation of MNSR permit conditions upon completion of the interim approval period.

EPA Response—The EPA agrees, and the August 29, 1994, proposal for Operating Permits Programs Interim

Approval Criteria was finalized on June 20, 1996.

3. *Comment 3*—A commenter said that all companies cannot meet the three proposed conditions outlined in the August 29, 1994, Federal Register notice as previously discussed in comment 2. The concern is that EPA is assuming companies can list modifications found in State MNSR permits made years before, and cross-reference the modification in the MNSR permit with then-applicable enabling authority.

EPA Response—The EPA does not agree with the comment. Facilities that emit air pollutants are required to obtain and maintain the appropriate new source review authorization whether it is a major or MNSR permit. Due to these requirements, EPA believes that companies will be able to list and cross-reference MNSR permits modifications made in the past. Where adequate company records do not exist, the facility may use State records. Where no company or State records exist, the facility must take steps to obtain the required permit and may be subject to appropriate enforcement action.

4. *Comment 4*—A commenter requested that the negative applicability requirement be eliminated for "tier 3 permits." Only applicable requirements should be addressed in the application; no negative applicability requirements are necessary.

EPA Response—The EPA does not consider this comment relevant to this action. The TNRCC has not adopted a permitting program that includes "tier 3 permits," nor has such a proposal been submitted for EPA approval.

5. *Comment 5*—The State commented that it does not agree with EPA that MNSR should be considered an "applicable requirement" under part 70. Should EPA determine MNSR to be an applicable requirement in the final part 70 rule, the State requested EPA allow it to use the "program substitution" concept presented in its comments on the EPA's August 29, 1994, proposed rulemaking.

EPA Response—The EPA does not agree with the State's comment. First, it continues to be the EPA's position that MNSR is an applicable requirement. Since July 21, 1992, in the promulgated rules which define the minimum elements of an approvable State Operating Permits program, EPA has interpreted the Federal definition of "applicable requirement" to include terms and conditions of "any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I." Such permits include all MNSR permits.

While the exclusion of certain MNSR provisions may be allowed under interim approval of the program, for full program approval, the State program must provide permits that include all MNSR permits.

Second, the State can use its "program substitution" concept as long as it meets all requirements of title V, including requirements for annual and initial compliance certification, the EPA veto, compliance plans and schedules, six month reporting, and prompt reporting of deviations. The Texas "program substitution" concept as presented to EPA does not meet title V and part 70. Furthermore, in the area of compliance for all part 70 permits, EPA believes that compliance certification places the burden of proof on the source, not on the permitting agency, for certifying compliance with all applicable requirements. It is EPA's position the burden of proof is placed on the source since the Texas permit regulation 122.132(b)(1) requires the responsible official of a source, not of the permitting agency, to sign the compliance documents.

6. *Comment 6*—The conditions on permits issued during the interim approval period were proposed in the August 1994 proposal for programs that do not require MNSR changes to be incorporated in the operating permit as applicable requirements. These conditions were subsequently addressed in the June 7, 1995, proposal, and were commented on by the State. The State proposes to: (a) Include in each operating permit a standardized permit provision stating "Preconstruction authorizations including permits, standard permits, flexible permit, special permits, or special exemptions which are referenced in this permit will only be enforced under Regulation VI"; (b) use the permit form entitled "Preconstruction Authorization References" for cross referencing; and (c) if MNSR is determined to be an applicable requirement in the final part 70 rule, the TNRCC staff will propose to use the "program substitution" concept.

EPA Response—The final regulation revising the interim approval criteria (*Operating Permits Program Interim Approval Criteria*) requires any operating permit issued during an interim approval meet certain conditions if the permit does not incorporate minor New Source Review (MNSR) requirements. These conditions are:

- (1) Each permit must state that MNSR requirements are not incorporated.
- (2) Each permit must provide a cross reference, such as a listing of the permit number, for each MNSR permit

containing an excluded minor NSR term.

(3) The State must reopen or use a substantially equivalent revision process to incorporate any excluded MNSR applicable requirements into each operating permit prior to or upon program transition to full approval.

(4) Each permit must indicate how citizens may obtain access to excluded MNSR permits.

(5) Each permit must state that the MNSR requirements which are excluded are not eligible for the permit shield under section 70.6(f).

The State's comment in (a) above indicates that the title V permit will reference NSR permit actions as enforceable under Regulation VI. The EPA does not agree this response satisfies criterion (1) above. This provision must be revised to state that MNSR requirements are not incorporated in each operating permit issued during the interim approval period. Additionally, the State must be quite clear in any standardized permit provision that all its major "preconstruction authorizations including permits, standard permits, flexible permit, special permits, or special exemptions" are incorporated by reference into the operating permit as if fully set forth therein and therefore enforceable under regulation XII (the Texas operating permit regulation) as well as regulation VI (the Texas preconstruction permit regulation). As noted in (b) above of the comment, the State plans to use the "Preconstruction Authorization Reference" form. This form must list all MNSR authorizations (permit number) for each minor emission unit not being incorporated into the operating permit. This reference form which is part of the permit application and permit will adequately meet criterion (2). Criterion (3) requires the State to reopen/revise permits for incorporation of MNSR permit conditions prior to or upon full program approval. As noted in (c) above, the State proposes to use its "program substitution" concept. The EPA believes that this concept is acceptable as long as each permit issued during the interim period is revised to meet all requirements of title V, including requirements for annual and initial compliance certification, the EPA veto, compliance plans and schedules, six month reporting, and prompt reporting of deviations.

The State must also ensure that the additional conditions of the final interim approval criteria rule, not addressed in its comments, are met during the interim period. As noted in (4) above, the State must indicate in the

operating permit how citizens may obtain access to excluded MNSR permits. Finally, criterion (5) requires the State to document in the title V permit that excluded minor MNSR terms are not eligible for the permit shield under section 70.6(f).

7. Comment 7—The State proposes to revise section 122.120(4)(C), pertaining to Applicability, to state "any area source, in a source category designated by the Administrator" shall obtain an operating permit. The TNRCC believes this revision to the Texas permit regulation is consistent with 40 CFR 70.3(a). The TNRCC believes this suggested revision to the Texas permit regulation corrects the deficiency identified by EPA in the June 1995 Federal Register and makes section 122.120(4)(C) consistent with 40 CFR 70.3(a).

EPA Response—The EPA does not agree with TNRCC's comment. The proposed language restricts the Administrator to only "area sources" for designation to title V permitting. Pursuant to 40 CFR 70.3(a), the Administrator may designate a number of different types of sources other than area sources subject to title V permitting. As a condition for full approval, TNRCC must revise section 122.120(4)(C) to be consistent with 40 CFR 70.3(a).

8. Comment 8—The State commented that until a final part 70 and section 302(j) rulemaking become final they do not plan to correct the identified deficiency requiring the definition of "major source" to be revised to require the inclusion of fugitive emissions for source categories regulated under section 111 or 112 of the Act. Specifically, in the State's definition, source category xxvii only applies to "any other stationary source category which as of August 7, 1980, is being regulated under section 111 or 112 of the Act."

EPA Response—Currently, part 70 requires fugitive emissions to be counted for all sources subject to section 111 and 112 standards, and does not limit the stationary source categories to those which existed as of August 7, 1980. However, the August 29, 1994, part 70 proposed revisions and the August 31, 1995, supplemental part 70 proposal, if finalized, would not include fugitive emissions for source categories subject to section 111 or section 112 standards which were promulgated after August 7, 1980. The August 31, 1995, supplemental proposal further requires the Administrator to make an affirmative determination under section 302(j). For full approval, the State must

revise the Texas permit regulation to be consistent with part 70.

9. Comment 9—The State defines in the Texas permit regulation and also requests that the EPA define "title I modification" to include only prevention of significant deterioration, nonattainment, new source performance standard and section 112(g) modifications. The State does not propose to change their definition which was identified by EPA as a deficiency in the June 1995 Federal Register notice until this issue has been resolved definitively and is defined in the final part 70.

EPA Response—The EPA has proposed to define "title I modification" in the August 31, 1995, Operating Permits program and Federal Operating Permits program, proposed rule. The EPA proposed to define title I modification to mean any modification under part C and D of title I or sections 111(a)(4), 112(a)(5), or 112(g) of the Act and regulations promulgated pursuant to § 61.07 of part 61. If the definition of "title I modification" is finalized as proposed in the August 31, 1995, proposed rule, the State's definition of "title I modification" would be consistent with part 70. If the definition of "title I modification" is changed from that proposed in the August 31, 1995, proposed rule to include MNSR changes, the State must revise the Texas permit regulation to be consistent with part 70.

10. Comment 10—The State does not agree to revise section 122.138 of the Texas permit regulation as it relates to the application shield for significant modifications at this time. Instead, this section will be revised when part 70 becomes final and the issue is resolved definitively.

EPA Response—The EPA does not agree with this comment. For full approval, the Texas permit regulation must be revised with whatever is the final part 70 regulation, whether it be the existing July 21, 1992, regulation or a later version at the time a corrected program is submitted. However, EPA cannot approve a State program based on revisions to part 70 that have not been finalized.

11. Comment 11—The State provided comments on the permit revisions process. In regard to permit additions (section 122.215) and off-permit (section 122.215), TNRCC does not propose to change existing language in the Texas permit regulation to correct the identified deficiencies until part 70 becomes final and these issues are resolved definitively.

EPA Response—In order to receive full program approval, the State must

revise its rules to be consistent with part 70, in accordance with whatever is the final part 70 regulation, whether it be the existing July 21, 1992, regulation or a later version at the time a corrected program is submitted. However, EPA cannot approve a State program based on revisions to part 70 that have not been finalized.

12. *Comment 12*—The State proposes not to further define section 502(b)(10) as it relates to the operational flexibility provisions in section 122.221 of the Texas permit regulation.

EPA Response—In order to receive full program approval, the State must revise its rules to be consistent with part 70, in accordance with whatever is the final part 70 regulation, whether it be the existing July 21, 1992, regulation or a later version at the time a corrected program is submitted. However, EPA cannot approve a State program based on revisions to part 70 that have not been finalized.

13. *Comment 13*—The State disagrees with the EPA-identified deficiency that the public notification for an operating permit should include such information as the emission changes from any modification. The State believes section 122.153 of the Texas permit regulation does not include this requirement because its program should not be based on emission changes.

EPA Response—The EPA disagrees with this comment. The EPA specifies in 40 CFR 70.7(h)(2) the information that the public notice must include. For full program approval, the State must include the emissions change involved in any permit modification.

14. *Comment 14*—The State commented that fugitive emissions from units without applicable requirements need not be quantified in permit applications, especially if the source declares that it has major status.

EPA Response—The EPA agrees with a portion of the comment. On July 10, 1995, EPA released White Paper I from Lydia Wegman, Deputy Director for the Office of Air Quality Planning and Standards. A copy of this guidance document has been placed in the docket and is available for public review. Under section B.2. "Required Emission Information and Source Descriptions" of White Paper I, for fugitive emissions that are not subject to any applicable requirements, the source would be required to provide a general description of the emission units and their emissions in the application. However, fugitive emissions from units covered by an applicable requirement need to be quantified. For full approval, the Texas permit regulation must be revised to reflect this position.

15. *Comment 15*—The State commented that section 122.122 (relating to establishment of federally enforceable restrictions on potential to emit) of the Texas permit regulation serves as an acceptable certification process for grandfathered sites who choose to limit their potential to emit under the Operating Permit program. The State also has concerns regarding the January 25, 1995, guidance memorandum which, among other things, announced the availability of a two-year transition period during which a State could give sources additional options for seeking federally enforceable limitations on potential to emit. The time period allotted—January 25, 1995, through January 25, 1997—may not be adequate given the expected delay of the part 70 rule and approval of the Texas Operating Permits program. Therefore, the State requests EPA to extend the transition period for two years following interim approval of the Texas program.

EPA Response—The EPA will consider this request to extend the transition period for two years after interim approval for States such as Texas. However, this issue is not being addressed in this document. This issue will be addressed in EPA guidance and/or memorandum at a later date. The EPA is not addressing here whether section 122.122 of the Texas permit regulation is acceptable for purposes of limiting potential to emit other than during the transition period.

16. *Comment 16*—The State believes that the notice of emergency required in section 70.6(g)(3)(iv) is satisfied in the TNRCC General Rules, section 101.6 and therefore does not agree with EPA that there is a deficiency for full approval. Section 101.6 has two opportunities to submit information to the State. First, the occurrence of a major upset must be reported to the agency as soon as possible. If a company does not have all the information available at the time of the initial notification, then a second report is to be submitted within two weeks of the upset.

EPA Response—The EPA does not agree with this comment. The State's allowance of time for agency notification is inconsistent with the part 70 regulation. The part 70 regulation, at section 70.6(g)(3), requires the permittee to submit notice of the emergency to the permitting authority within two working days. For full approval, the Texas permit regulation must be consistent with part 70.

17. *Comment 17*—The State commented that the Texas Legislature convenes every two years and approves the TNRCC budget for two-year periods

only. Therefore, the State is unable to provide a four year estimate of the permit program cost, as required in the June 1995 Federal Register notice for full approval, but will continue to provide budgetary information when it becomes available.

EPA Response—The EPA disagrees with this comment. Pursuant to 40 CFR 70.4(b)(8), the State must include in the fee demonstration an estimate of the permit program cost for the first four years after approval and a plan detailing how the State plans to cover these costs. The EPA is not requiring a budgetary allowance from the Legislature, but instead a projected estimate of the permit program cost.

18. *Comment 18*—The State provided in the October 3 letter a response to EPA regarding the requirements for interim authorization to clarify the ambiguity of section 122.145(e)—the "interpretation shield". The response is:

(a) Interpretations made pursuant to section 122.145(e) will be limited to whether and how a rule applies to a specific unit.

(b) The EPA has the ability to order TNRCC to reopen a permit in the event EPA guidance becomes available after a permit or revision is issued. Further, because each interpretation will be a provision of the permit, it will be subject to EPA review and veto during the EPA 45-day review period as provided by the revision section of the Texas regulation.

(c) The State will develop guidance documents to assure proper applicability determinations for each applicable requirement. All interpretations will be based on the most current information available, including guidance already received from EPA. The State will request EPA's input prior to the development of the guidance documents.

EPA Response—The EPA agrees with TNRCC's comments for interim approval issues. However, for full approval the State must revise the Texas permit regulation in accordance to the June 7, 1995, Federal Register notice.

C. Statutory Changes Enacted After the Submittal of the State Program

Significant changes to Texas laws were made by the Texas Legislature in 1995. These statutory changes raise issues of concern which the State must address before full approval for title V can be granted. The State has the obligation to address all the relevant, recently enacted laws and demonstrate how they meet title V and part 70.

This final agency action today does not waive the EPA's right to raise statutory concerns and any attendant

regulatory revisions the EPA deems necessary to the State and identify inconsistencies with those legislative changes which must be corrected for full approval. The EPA will present its position on the laws to TNRCC prior to the Texas 1997 legislative session, during TNRCC's corrective rulemaking process, and in its FRN proposing action on the State's submittal for full approval. Therefore, interested parties will have full opportunity to comment on the merits of the EPA's positions on the acceptability of the Texas 1995 laws (such as the Texas Senate Bill 14, "Takings Impact Assessment," among others) for full title V program approval. The following is a specific discussion on the new audit and standing laws.

On May 23, 1995, Texas enacted House Bill 2473, the Texas Environmental, Health, and Safety Audit Privilege Act (the Audit Privilege Act) creating an immunity from civil, administrative, and criminal penalties for environmental violations discovered through an audit as defined by the Act. The Audit Privilege Act also created a privilege for information associated with audits which prohibits their disclosure in administrative, civil, or criminal actions for violations of environmental law. The EPA has reviewed the Audit Privilege Act, in light of Clean Air Act requirements, title V delegation requirements set forth in 40 CFR Part 70, and guidelines for full title V approval issued jointly by the Office of Enforcement and Compliance Assurance and the Office of Air and Radiation dated April 5, 1996, entitled "Effect of Audit/Immunity Privilege Laws on States' Ability to Enforce Title V Requirements", referred to below as the "Guidelines". A copy of the document has been placed in the docket and is available for public review. The EPA is concerned that the Audit Privilege Act may extend penalty immunity to facilities which commit repeat violations and violations which may cause harm to human health and the environment, and makes no provision for recoupment of penalties for economic benefit. Section 113(e) of the Clean Air Act specifically enumerates these three factors (among others) for consideration in assessing civil penalties. To the extent that the Audit Privilege Act provides immunity from civil penalties that does not permit consideration of these factors, appropriate civil penalties cannot be assessed by a state. It is clear, pursuant to the Guidelines, that EPA should not approve state title V programs in states where civil penalty immunity is granted to violators without consideration of

compliance history, harm or risk of harm, and economic benefit.

The EPA is also concerned that the Audit Privilege Act may prevent the State from obtaining appropriate criminal penalties. Evidence necessary to prove that a crime has been committed may be protected by privilege which may inhibit or prevent the State from assessing appropriate criminal penalties. The State must demonstrate that it has the ability to obtain appropriate criminal penalties where an audit report reveals evidence of prior criminal conduct on the part of managers or employees. Another problematic aspect of the Audit Privilege Act is the disparity between its provisions limiting disclosure of audit report information by employees and others, and the Clean Air Act Sections 113 and 322 which specifically protect whistleblowers from retaliation and provide awards for persons who furnish information that leads to a criminal conviction or civil penalty. The Texas Audit Privilege Act does not, by its terms, create or impose special sanctions on informants, but it asserts that a "Party to a confidentiality agreement . . . who violates that agreement is liable for damages caused by the disclosure. . . ." In addition, sanctions are created with regard to government officials who disclose privileged information. Pursuant to the Guidelines, EPA is concerned that both of these provisions may have a negative impact on disclosures well beyond the intended reach of the privilege. Confidential informants are an important source of leads for state and federal enforcement programs.

The above analysis of the Audit Privilege Act is intended to be illustrative and does not preclude EPA from raising additional issues of concern. The analysis is solely limited to title V of the Act and does not relate to any other environmental program. As noted previously, all interested parties will have opportunity to comment on the acceptability of this law for full title V approval.

The Act authorizes States to implement title V Operating Permit programs in section 502(d). The statute also sets forth the minimum elements of a State permit program, including the requirement that the permitting authority have adequate authority to assure that sources comply with all applicable Act requirements, as well as authority to enforce permits, including recovering minimum civil penalties and appropriate criminal penalties, § 502(b)(5) (A) and (E). Pursuant to title V, EPA promulgated regulations specifying the minimum required

elements of State Operating Permit programs, found at 40 CFR Part 70. These regulations explicitly require States to have certain enforcement authorities, including authority to seek injunctive relief to enjoin a violation, to bring suit to restrain persons where a facility is posing an imminent and substantial endangerment to public health or welfare, and suit to recover appropriate criminal and civil penalties. Section 113(e) of the Act sets forth penalty factors for EPA or a court to consider in assessing penalties for civil or criminal violations of the Act, factors which necessarily apply to penalties for violations of title V permits. The EPA is concerned about the potential impact of some State audit privilege and immunity laws on the ability of the States to enforce Federal requirements, including those under title V of the Act. Upon review and consideration of the statutory and regulatory provisions discussed above, EPA issued guidance on April 5, 1996, entitled "Effect of Audit Immunity/Privilege Laws on States' Ability to Enforce Title V Requirements." This guidance outlines certain elements of the State audit immunity and privilege laws which, in EPA's view, may so hamper the State's ability to enforce as to render the Agency unable to delegate the title V Operating Permit program. The guidance is consistent with EPA's audit policy, "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" (60 FR 246, December 22, 1995).

Section 502(b)(6) of the Act requires an approvable State title V program to include an opportunity for judicial review in State court of the final permit action by the applicant, any person who participated in the public comment process, and any other person who could obtain judicial review under applicable law. The EPA interprets the statute to require, at a minimum, that States provide judicial review of permitting decisions to any person who would have standing under Article III of the United States Constitution. See 59 FR 31183 (June 17, 1994). In the 1993 program submittal, Texas included an Attorney General (AG) Opinion which set forth State laws and court decisions and certified that Texas State laws on standing were no narrower than the Federal ones under Article III. Since the time of the submittal in November 1993, the Texas State Legislature met in January 1995 and adopted revisions to the existing standing law (Senate Bill 1546, an Act relating to persons affected by matters in hearings before the Texas Natural Resource Conservation

Commission). The bill was enacted on June 16, 1995, and became effective September 1, 1995.

On the bill's face, it does not impact standing in a title V permitting decision. This is because the bill applies only to those State administrative actions requiring an evidentiary hearing. The bill on its face does not apply to State administrative actions subject to a legislative hearing (presentation of comments with no right to cross-examination). Title V permit decisions are only required to be subject to a legislative hearing. Nevertheless, since there had been a change which could possibly impact the judicial review of title V permit decisions, EPA required the State to provide an Attorney General Opinion setting forth all laws and court decisions issued since the 1993 Opinion and recertifying that State laws on standing were still no narrower than the Federal ones.

This Opinion was submitted on May 6, 1996. In addition, EPA required the General Counsel and the Executive Director to submit a letter committing to implementing a permitting process that provides for a standing test no narrower than the Federal one. The letter also describes in greater detail the public participation process which is outlined in sections 122.150 to 122.155 and sections 122.310 to 122.316 of Regulation XII. This letter was submitted on May 6, 1996.

The EPA received on March 18, 1996, a Petition to Reopen the Comment Period for Texas Application for Delegation of title V Programs under the CAA. The Petition was submitted on behalf of the Sierra Club, the Environmental Defense Fund, Galveston-Houston Area Smog Prevention, and Clean Water Action. The Request to Reopen was specifically on the standing issue. The Petitioners requested EPA to require that a new certification be submitted by the Texas Attorney General. The Opinion should address the legislation passed in 1995 and all court opinions issued since the 1993 Attorney General's Opinion. The EPA was urged to obtain an explanation from the Attorney General's (AG) office of its actual positions and to obtain a written commitment from the AG to take a position in future TNRC appeals that the Federal test be used. They also asked EPA to require TNRC to promulgate rules that define the term "person who may be affected" (the term used in the Texas title V regulations for a person who may request a hearing and therefore has the right to appeal a title V permit decision). They also asked that the rules explain how and when TNRC will give public notice, how and when

TNRC will respond to comments, and how and when TNRC will provide new notice and an opportunity for comments when the application or proposed permit is changed significantly because of public input.

The EPA believes that the above concerns of the Petitioners have already been addressed by EPA's requiring a revised Attorney General's Opinion and the TNRC letter. Although EPA did not request the State to address the above issues in exactly the same manner as requested by Petitioners, EPA does believe that all the concerns have been addressed satisfactorily. Therefore, it is EPA's position that the Petition to Reopen the Standing Issue has been rendered moot.

A Motion to Deny the Petition was filed April 9, 1996, on behalf of the Texas title V Planning Committee. Movants pleaded that the comment period of 120 days should be sufficient and that it has been over five months since that lengthy comment period ended. They also disagree that any of the information is new and that reopening of the comment period would be prejudicial to the commenters that prepared and submitted their comments under the October 5, 1995, deadline. Nevertheless, if EPA decides to consider the Petitioners' allegations either officially or unofficially, they ask that they be notified and provided an opportunity to respond to the merits of the Petition. The EPA again believes that the Motion to Deny the Petition has been rendered moot by EPA's earlier actions of requiring a revised AG Opinion and a TNRC letter.

Both Petitioner and Movant will have the opportunity to provide their comments on the merits of EPA's positions on the laws enacted in the 1995 legislative session during the 1997 legislative session, the TNRC's corrective rulemaking public comment period, and EPA's comment period on the corrective Texas title V program submittal.

Petitioners raised another issue of concern but did not specifically request a reopening of the comment period on it. The issue concerned TNRC's laws and procedures governing public availability of emissions data. This area will be reviewed by EPA during the State's rulemaking process, and EPA will determine if rule revisions and/or a Program Implementation Agreement specific to confidentiality are necessary for full approval.

D. Final Action

The EPA is promulgating source category-limited interim approval of the Operating Permits program submitted

by the State on September 17, 1993, and supplemental submittals on October 28, 1993, and November 12, 1993. The submittals have been reviewed for adequacy to meet the requirements of 40 CFR part 70. The results of this review are included in the updated technical support document, which will be available in the docket in the locations noted above. The submittal has adequately addressed all 11 elements required for interim approval as discussed in part 70. However, there are inconsistencies between the submittal and the part 70 regulations which have been generally discussed in this notice and are described in greater detail in the June 7, 1995, notice. These inconsistencies involve the Texas permit regulation and program implementation particularly with regard to applicability, permit application requirements, and permit issuance and revisions. It is essential that all the inconsistencies specifically identified in the June 7, 1995, notice be remedied by the State prior to EPA granting full approval of the State's Operating Permits program.

The part 70 revisions are projected to be promulgated in the fall of 1996. These revisions may in some respects be used as the criteria for granting full approval and may require the State to make regulatory and statutory changes.

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

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

section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

This interim approval, which may not be renewed, extends until July 27, 1998. During this interim approval period, the State of Texas is protected from sanctions, and EPA is not obligated to promulgate, administer, and enforce a Federal Operating Permits program in the State of Texas. Permits issued under a program with source category-limited interim approval have full standing with respect to part 70, and the one year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval. The State's transition schedule requires the State to take final action on applications for 400 sites each of the first two years, 1,000 sites the third year, and 600 sites each of the last two years.

If Texas fails to submit a complete corrective program for full approval by January 26, 1998, EPA will start an 18-month clock for mandatory sanctions. If Texas then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will apply sanctions as required by section 502(d)(2) of the Act, which will remain in effect until EPA determines that the State of Texas has corrected the deficiency by submitting a complete corrective program.

If EPA disapproves Texas' complete corrective program, EPA will apply sanctions as required by section 502(d)(2) on the date 18 months after the effective date of the disapproval, unless prior to that date Texas has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the State of Texas has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the Texas program by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer, and enforce a Federal permits program for the State of Texas upon interim approval expiration.

III. Administrative Requirements

A. Docket

Copies of the State's submittal, other information relied upon for the final source category-limited interim approval, including the 27 public comment letters received and reviewed by EPA on the proposal, and information referenced in this notice, are contained in docket number OPP-7-9-1 maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final source category-limited interim approval. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

B. Executive Order 12866

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

C. Regulatory Flexibility Act

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

D. Unfunded Mandates

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

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to

State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

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

Authority: 42 U.S.C. 7401-7671q.

Dated: June 13, 1996.

Jane N. Saginaw,

Regional Administrator (6RA).

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

PART 70—[AMENDED]

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

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

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

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

* * * * *

Texas

(a) The TNRCC submitted its Operating Permits program on September 17, 1993, and supplemental submittals on October 28, 1993, and November 12, 1993, for approval. Source category-limited interim approval is effective on July 25, 1996. Interim approval will expire July 27, 1998. The scope of the approval of the Texas part 70 program excludes all sources of air pollution over which an Indian Tribe has jurisdiction.

(b) (Reserved)

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[FR Doc. 96-16126 Filed 6-24-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 271

[FRL-5524-9]

Final Authorization of State Hazardous Waste Management Program: Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Nebraska has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act of 1976 as amended (hereinafter RCRA). Nebraska's revisions consist of provisions contained in rules promulgated between July 1, 1985 and June 30, 1990, otherwise known as Non-

HSWA Cluster II and III; and HSWA Cluster I and II. These requirements are listed in Section B of this document. The EPA has reviewed Nebraska's application and has made a decision, subject to public review and comment, that Nebraska's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, the EPA intends to approve Nebraska's hazardous waste program revisions, subject to authority retained by the EPA under the Hazardous and Solid Waste Amendments of 1984 (hereinafter HSWA). Nebraska's application for program revision is available for public review and comment.

DATES: Effective Dates: Final authorization for Nebraska shall be effective August 26, 1996, unless the EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Nebraska's program revision application must be received by the close of business July 25, 1996.

ADDRESSES: Written comments should be sent to Ms. Pat Price, Iowa RCRA & State Programs Branch, U.S. Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101, Phone (913/551-7592). Copies of the Nebraska program revision application are available for inspection and copying during normal business hours at the following addresses: Hazardous Waste Section, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922 (402/471-4217); U.S. EPA Headquarters Library, PM 211A, 401 M Street, S.W., Washington, D.C. 20460 (202/382-5926); U.S. EPA Region 7 Library, 726 Minnesota Avenue, Kansas City, Kansas 66101 (913/551-7241). A

copy of the applicable state statutes and regulations is also available at the Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Price, U.S. EPA Region 7, 726 Minnesota Avenue, Kansas City, Kansas 66101, Phone: 913/551-7592.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal hazardous waste program. The Hazardous and Solid Waste Amendments of 1984 (Public Law 98-616, November 8, 1984, hereafter HSWA) allow states to revise their programs and seek authorization for program components that are substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive interim authorization for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

In accordance with 40 CFR 271.21, revisions to state hazardous waste programs are necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, state program revisions are necessitated by changes to the EPA's regulations in 40 CFR Parts 124, 260-266, 268, 270, 273 and 279.

B. Nebraska

Nebraska initially received final authorization for its base RCRA Program effective February 7, 1985 (50 FR 3345,

January 24, 1985). Nebraska received authorization for revisions to its program effective December 3, 1988 (53 FR 38950, October 4, 1988). Nebraska submitted a draft application for additional program elements on March 1, 1990, and a final application on April 13, 1992. Nebraska is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

The EPA has reviewed Nebraska's application and has made an immediate final decision that Nebraska's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, the EPA intends to grant final authorization for the additional program modifications to Nebraska. The public may submit written comments on the EPA's immediate final decision up until July 25, 1996. Copies of Nebraska's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

Approval of the Nebraska program revision shall become effective sixty (60) days from today, unless an adverse comment pertaining to the state's revisions discussed in this document is received by the end of the comment period. If such an adverse comment is received, the EPA will publish either: (1) a withdrawal of the immediate final decision, or (2) a document containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

On August 26, 1996, Nebraska will be authorized to carry out, in lieu of the federal program, those provisions of the state's program which are analogous to the following provisions of the federal program.

Federal requirement	Analogous state authority
Checklist 26—Listing of Spent Pickle Liquor (K062), May 28, 1986, 51 FR 19320-19322, as amended on September 22, 1986, 51 FR 33612, as amended on August 3, 1987, 52 FR 28697.	Rule 15 005.
Checklist 27—Liability Coverage; Corporate Guarantee, July 11, 1986, 51 FR 25350-25356.	Rules 21 001; 16 022.02B.
Checklist 28—Standards for Hazardous Waste Storage and Treatment Tank Systems, July 14, 1986, 51 FR 25422-25486, as amended on August 15, 1986, 51 FR 29430-29431.	Rules 1 001; 1 005; 1 013; 1 018; 1 035; 1 054; 1 058; 1 064; 1 074; 1 075; 1 107; 1 122; 1 123; 1 131; 5 001.08; 19 004.01; 23 006; 21 001; 16 022.02B; 19 004.01B; 16 005.01; 16 005.03; 16 022.03E.
Checklist 29—Corrections to Listing of Commercial Chemical Products and Appendix VIII Constituents, August 6, 1986, 51 FR 28296-28310.	Rules 15 006.05; 15 007, Appendix I.
Checklist 31—Exports of Haz. Waste, August 8, 1986, 51 FR 28664-28686.	Rules 6007.03; 7001.03; 18 003.01A; 19 005; 19 007; 17 002.01; 17 003.01; 17 003.03; 17 003.05B; 17 003.06B; 17,003.07.
Checklist 34—Land Disposal Restrictions, November 7, 1986, 51 FR 40572-40654, as amended on June 4, 1987, 52 FR 21010-21018.	Rules Chapter 1; 19 002.04; 20 006; 16 022.02B; 16 002.02B; 30 001; 16 005.01; 16 011.030; 16 011.0301; 16.011.0303; 16 011.0304.
Checklist 36—Closure/Post Closure Care for Interim Status Surface Impoundments, March 19, 1987, 52 FR 8704-8709.	Rule 16 022.02B.
Checklist 37—Definition of Solid Waste: Technical Corrections, June 5, 1987, 52 FR 21306-21307.	Rules 15 006; 26 003.01A2.

Federal requirement	Analogous state authority
Checklist 38—Amendments to Part B Information Requirements for Disposal Facilities, June 22, 1987, 52 FR 23477–23450, as amended on September 9, 1987, 52 FR 33936.	Rule 16 005.01.
Checklist 39—California List Waste Restrictions, July 8, 1987, 52 FR 25760–25792, as amended on October 27, 1987, 52 FR 41295–41296.	Rules 19 007; 21 001; 16 022B.02B; 30 001; 16 001.0301; 16 001.0302; 16 001.0302(a); 16 011.0302(b); 16 011.03P; 16 011.03P1; 16 011.03P2; 16 011.03P3; 16 022.03E.
Checklist 40—List (Phase 1) of Hazardous Constituents for Ground-Water Monitoring, July 9, 1987, 52 FR 25942–25953.	Rules 21 001; 16 005.01.
Checklist 41—Identification and Listing of Hazardous Waste, July 10, 1987, 52 FR 26012.	Rule 15 006.03.
Checklist 42—Exception Reporting for Small Quantity Generators of Hazardous Waste, September 23, 1987, 52 FR 35894–35899.	Rules 18 003.02A; 18 003.02B; 18 003.02C; 23 003.07.
Checklist 43—Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee, November 18, 1987, 52 FR 44314–44321.	Rules 21 001; 16 022.02B.
Checklist 44E—Permit as a Shield Provision, December 1, 1987, 52 FR 45788–45799.	Rule 16 002.01.
Checklist 44F—Permit Conditions to Protect Human Health and the Environment, December 1, 1987, 52 FR 45788–45799.	Rules 16 008; 16 011.02M.
Checklist 44G—Post Closure Permits, December 1, 1987, 52 FR 45788–45799.	Rules 16 001; 16 001.04.
Checklist 45—Hazardous Waste Miscellaneous Units, December 10, 1987, 52 FR 46946–46965.	Rules Title 122, Chapter 6, Section 001; 1 061; 1 071; 21 001; 16 005.01; 16 003.04.
Checklist 46—Technical Corrections; Identification and Listing of Hazardous Waste, April 22, 1988, 53 FR 13382–13393.	Rules 15 006.05; 15 007, Appendix I.

The state will assume lead responsibility for issuing permits for those program areas authorized today. For those HSWA provisions for which the state is not authorized, the EPA will retain lead responsibility. For those permits which will now change to state lead from the EPA, the EPA will transfer copies of any pending applications, completed permits, or pertinent file information to the state within 30 days of the effective date of this authorization. The EPA will be responsible for enforcing the terms and conditions of previously federally issued permits while they remain in force. The EPA will also be responsible for enforcing the terms and conditions of RCRA permits regarding HSWA requirements until the state has the authority to address the HSWA requirements.

The state has agreed to review all state-issued permits and to modify or reissue them as necessary to require compliance with the currently approved state law and regulations. When the state reissues federally issued permits as state permits, the state will take the lead in enforcing such permits, with the exception of those HSWA requirements for which the state has not received authorization. Nebraska is not authorized to operate the Federal Program on Indian Lands. This authority remains with the EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that the Nebraska application for program revisions meets

all of the statutory and regulatory requirements established by RCRA and its amendments. Accordingly, following the public notice and comment period, Nebraska is hereby granted final authorization to operate its hazardous waste management program, as revised. Nebraska now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program described in its revised program application, subject to the requirements of HSWA. Nebraska also has primary enforcement responsibilities, although the EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Sections 3008, 3013 and 7003 of RCRA.

Incorporation by Reference

The EPA incorporates by reference, authorized state programs in 40 CFR Part 272, to provide notice to the public of the scope of the authorized program in each state. Incorporation by reference of the Nebraska program will be completed at a later date.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local

and tribal governments and the private sector. Under Section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “federal mandates” that may result in expenditures to state, local and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When a written statement is needed for an EPA rule, Section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows the EPA to adopt an alternative other than the least costly, most cost effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under Section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of the EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements. The EPA

has determined that this rule does not contain a federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. The EPA does not anticipate that the approval of Nebraska's hazardous waste program referenced in today's document will result in annual costs of \$100 million or more. The EPA's approval of state programs generally has a deregulatory effect on the private sector because once it is determined that a state hazardous waste program meets the requirements of RCRA Section 3006(b) and the regulations promulgated thereunder at 40 CFR Part 271, owners and operators of hazardous waste treatment, storage, or disposal facilities (TSDFs) may take advantage of the flexibility that an approved state may exercise. Such flexibility will reduce, not increase, compliance costs for the private sector. Thus, today's rule is not subject to the requirements of Sections 202 and 205 of the U.M.R.A. The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The agency recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, such small governments which own and/or operate TSDFs are already

subject to the requirements in 40 CFR Parts 264, 265 and 270. Once the EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs with increased levels of flexibility provided under the approved state program.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain federal regulations in favor of Nebraska's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the state. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This rulemaking is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

Dated: June 11, 1996.
Dennis Grams,
Regional Administrator.
[FR Doc. 96-16125 Filed 6-24-96; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 716

Health and Safety Data Reporting

CFR Correction

In title 40 of the Code of Federal Regulations, parts 700 to 789, revised as of July 1, 1995, in § 716.120(d), on pages 79 and 80, the chemical substances under the category Siloxanes should read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *
(d) * * *

Category	CAS No. (exemptions for category)	Special Exemptions	Effective Date	Sunset Date
* * *	* * *	* * *	* * *	* * *
Siloxanes:				
Cyclopolysiloxane	69430-24-6		10/12/93	10/12/03
Decamethylcyclopentasiloxane	541-02-6		10/12/93	10/12/03
Decamethyltetrasiloxane	141-62-8		10/12/93	10/12/03
Dimethyldiphenylsiloxane	68083-14-7		10/12/93	10/12/03
Dimethylhydropolysiloxane	68037-59-2		10/12/93	10/12/03
Dimethylmethyl 3,3,3-trifluoropropyl siloxane	115361-68-7		10/12/93	10/12/03
Dimethylmethylvinylsiloxane	67762-94-1		10/12/93	10/12/03
Dimethylpolysiloxanes	68037-74-1	§ 716.20(b)(2) applies	10/12/93	10/12/03
Dimethyl silicones and siloxanes	63148-62-9		10/12/93	10/12/03
Dimethyl silicones and siloxane, reaction products with silica.	67762-90-7	§ 716.20(b)(2) applies	10/12/93	10/12/03
Docosamethylcycloundecasiloxane	18766-38-6	§ 716.20(b)(2) applies	10/12/93	10/12/03
Docosamethyldecasiloxane	556-70-7	§ 716.20(b)(2) applies	10/12/93	10/12/03
Dodecamethylcyclohexasiloxane	540-97-6		10/12/93	10/12/03
Dodecamethylpentasiloxane	141-63-9		10/12/93	10/12/03
Dotetracontamethyleicosasiloxane	150027-00-2	§ 716.20(b)(2) applies	10/12/93	10/12/03
Dotriacontamethylcyclohexadecasiloxane	150026-95-2	§ 716.20(b)(2) applies	10/12/93	10/12/03
Dotriacontamethylpentadecasiloxane	2471-11-6	§ 716.20(b)(2) applies	10/12/93	10/12/03
Eicosamethylcyclodecasiloxane	18772-36-6	§ 716.20(b)(2) applies	10/12/93	10/12/03

Category	CAS No. (exemptions for category)	Special Exemptions	Effective Date	Sunset Date
Eicosamethylnonasiloxane	2652-13-3	§ 716.20(b)(2) applies	10/12/93	10/12/03
Hexacosamethylcyclotridecasiloxane	23732-94-7	§ 716.20(b)(2) applies	10/12/93	10/12/03
Hexacosamethyldodecasiloxane	2471-08-1	§ 716.20(b)(2) applies	10/12/93	10/12/03
Hexadecamethylcyclooctasiloxane	556-68-3	§ 716.20(b)(2) applies	10/12/93	10/12/03
Hexadecamethylheptasiloxane	541-01-5	§ 716.20(b)(2) applies	10/12/93	10/12/03
Hexamethylcyclotrisiloxane	541-05-9		10/12/93	10/12/03
Hexamethyldisilazane	999-97-3		10/12/93	10/12/03
Hexamethyldisiloxane	107-46-0		10/12/93	10/12/03
Hexatriacontamethylcyclooctadecasiloxane	23523-12-8	§ 716.20(b)(2) applies	10/12/93	10/12/03
Hexatriacontamethylheptadecasiloxane	18844-04-7	§ 716.20(b)(2) applies	10/12/93	10/12/03
Methylpolysiloxane	9004-73-3		10/12/93	10/12/03
Methylvinylcyclosiloxane	2554-06-5		10/12/93	10/12/03
Siloxanes and silicones, di-Me, hydroxy-terminated	70131-67-8	§ 716.20(b)(2) applies	10/12/93	10/12/03
Octacosamethylcyclotetradecasiloxane	149050-40-8	§ 716.20(b)(2) applies	10/12/93	10/12/03
Octacosamethyltridecasiloxane	2471-09-2	§ 716.20(b)(2) applies	10/12/93	10/12/03
Octadecamethylcyclononasiloxane	556-71-8	§ 716.20(b)(2) applies	10/12/93	10/12/03
Octadecamethyloctasiloxane	556-69-4	§ 716.20(b)(2) applies	10/12/93	10/12/03
Octamethyltrisiloxane	107-51-7		10/12/93	10/12/03
Octaphenylcyclotetrasiloxane	546-56-5		10/12/93	10/12/03
Octatriacontamethylcyclononadecasiloxane	150026-97-4	§ 716.20(b)(2) applies	10/12/93	10/12/03
Octatriacontamethyloctadecasiloxane	36938-52-0	§ 716.20(b)(2) applies	10/12/93	10/12/03
Polymethyloctadecylsiloxane	not available	§ 716.20(b)(2) applies	10/12/93	10/12/03
Tetracontamethylcycloeicosasiloxane	150026-98-5	§ 716.20(b)(2) applies	10/12/93	10/12/03
Tetracontamethylnonadecasiloxane	150026-99-6	§ 716.20(b)(2) applies	10/12/93	10/12/03
Tetracosamethylcyclododecasiloxane	18919-94-3	§ 716.20(b)(2) applies	10/12/93	10/12/03
Tetracosamethylundecasiloxane	107-53-9	§ 716.20(b)(2) applies	10/12/93	10/12/03
Tetradecamethylcycloheptasiloxane	107-50-6	§ 716.20(b)(2) applies	10/12/93	10/12/03
Tetradecamethylhexasiloxane	107-52-8	§ 716.20(b)(2) applies	10/12/93	10/12/03
Tetramethylcyclotetrasiloxane	2370-88-9		10/12/93	10/12/03
Tetramethyldivinylsiloxane	2627-95-4		10/12/93	10/12/03
Tetratriacontamethylcycloheptadecasiloxane	150026-96-3		10/12/93	10/12/03
Tetratriacontamethylhexadecasiloxane	36938-50-8	§ 716.20(b)(2) applies	10/12/93	10/12/03
Triacantamethylcyclopentadecasiloxane	23523-14-0	§ 716.20(b)(2) applies	10/12/93	10/12/03
Triacantamethyltetradecasiloxane	2471-10-5	§ 716.20(b)(2) applies	10/12/93	10/12/03
Trifluoropropylmethylcyclotrisiloxane	2374-14-3		10/12/93	10/12/03
* * *	* * *	*	*	*

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7643]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and

administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

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

Regulatory Flexibility Act. The Acting Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no

additional burden, but lists those communities eligible for the sale of flood insurance.

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

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CAR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

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

§ 64 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Kentucky:			
Elliott County, unincorporated areas	210372	May 8, 1996	
Frenchburg, city of, Menifee County	210373	.....do	
Montana: Fort Benton, city of Chouteau County	300013	May 17, 1996	
Texas: Live Oak County, unincorporated areas	481179	.....do	
New Hampshire: Hart's Location, town of, Carroll County.	330213	May 30, 1996	
New Eligibles—Regular Program			
Texas: Fairchilds, village of Fort Bend County ¹	481675	May 28, 1996	
Reinstatements			
New York:			
St. Armand, Town of, Essex County	361157	Aug. 10, 1984, Emerg; Feb. 5, 1986, Reg; Nov. 4, 1992, Susp; May 8, 1996, Rein.	Feb. 5, 1986.
Rodman, town of Jefferson County	360349	July 29, 1975, Emerg; July 3, 1985, Reg; Nov. 4, 1992, Susp; May 31, 1996, Rein.	July 3, 1985.
Regular Program Conversions			
Region III			
Pennsylvania: German, township of, Fayette County	421627	May 6, 1996, Suspension Withdrawn	May 6, 1996.

State/location	Community No.	Effective date of eligibility	Current effective map date
Region IV			
Georgia:			
Jasper County, unincorporated areas	130519	.....do	Do.
Telfair County, unincorporated areas	130166	.....do	do.
North Carolina: Asheville, city of, Buncombe County	370032	.....do	Do.
Region V			
Indiana: Warrick County, unincorporated areas	180418	.....do	Do.
Michigan:			
Allen Park, city of, Wayne County	260217	.....do	Do.
Dearborn, city of, Wayne County	260220	.....do	Do.
Dearborn Heights, city of, Wayne County	260221	.....do	Do.
Selma, township of, Wexford County	260757	.....do	Do.
Taylor, city of, Wayne County	260728	.....do	Do.
Region VI			
Oklahoma:			
Pauls Valley, city of, Garvin County	400246	.....do	Do.
Stillwater, city of, Payne County	405380	.....do	Do.
Region VII			
Colorado: Lafayette, city of, Boulder County	080026	.....do	Do.
Region I			
Maine: Lyman, town of, York County	230195	May 20, 1996, Suspension Withdrawn	May 20, 1996.
Region X			
Washington, King County, unincorporated areas	530071	.....do	Do.

¹ The Village of Fairchilds has adopted Fort Bend County's Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) (Panel 375) dated September 30, 1992, for floodplain management and insurance purposes. The county's CID number is 480228.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")
Issued: June 14, 1996.
Richard W. Krimm,
Acting Associate Director Mitigation Directorate.
[FR Doc. 96-16131 Filed 6-24-96; 8:45 am]
BILLING CODE 6718-05-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Parts 252 and 272

[Docket No. R-167]

RIN 2133-AB27

Operating Differential Subsidy for Bulk Cargo Vessels Engaged in Worldwide Services; Requirements and Procedures for Conducting Surveys and Administering Maintenance and Repair Subsidy; Removal of Obsolete Regulations

AGENCY: Maritime Administration, Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is removing obsolete provisions governing operating-differential subsidy for cargo vessels engaged in worldwide services.

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT: Michael P. Ferris, Director, Office of Costs and Rates, Maritime Administration, 400 Seventh St. S.W., Room 8117, Tel. (202)-366-2324.

SUPPLEMENTARY INFORMATION: 46 CFR Parts 252 and 272 prescribe regulations implementing Title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171-1176 and 1178-1181), governing operating-differential subsidy (ODS) for cargo vessels engaged in carrying bulk cargo in essential services in the foreign commerce of the United States. Part 252 addresses eligibility to receive ODS for vessel operations, calculation of subsidy rates, and subsidy payment and billing procedures. Part 272 prescribes the requirements and procedures for determining the condition of vessels receiving ODS, for reporting and substantiating maintenance and repair (M&R) expenses for those vessels that receive M&R under their ODS agreements, and for determining whether an M&R expense is subsidizable.

These regulations apply only to bulk vessels. The last of the current bulk vessel ODS contracts will expire on December 31, 2000. No new subsidy contracts for bulk vessels are anticipated.

When Part 252 was amended in 1993 (58 FR 17349, April 2, 1993), effective January 1, 1993, section 252.32(c)(1) and (c)(2) became obsolete. Paragraph (c)(1)

became obsolete because the calculation of ODS for M&R was no longer based on the specified 24-36 month period. The calculation and payment of ODS for M&R became based on a percentage rate requiring an allocation between subsidized and unsubsidized vessel days. Paragraph (c)(2) is redundant because its provision is already included in the introductory paragraph of section 252.32(c).

Furthermore, allocation of costs with respect to M&R subsidy, as required by paragraphs (e), (f) and (g) of 46 CFR 272.41, has not been applicable since the 1986 amendments to parts 252 and 382 and reference to such should have been removed from part 272 at that time. When 46 CFR 252.40 was amended in 1993, it provided that "the ratio of subsidized to unsubsidized days during the calendar year" be used to allocate M&R costs, creating a conflict with provisions in Part 272 that remained.

Accordingly, MARAD is hereby removing as obsolete 46 CFR 252.32(c)(1) and (c)(2), and 272.41(e), (f), and (g) in this final rule.

Rulemaking Analyses and Notices
Executive Order 12866 (Regulatory Planning and Review)

This rulemaking is not considered to be an economically significant regulatory action under section 3(f) of Executive Order 12866. Also, it is not a

major rule under Pub. L. 104-121, 5 U.S.C. 804, or a significant rule under the Department's Regulatory Policies and Procedures. Accordingly, it has not been reviewed by the Office of Management and Budget.

MARAD has determined that this rulemaking presents no substantive issue which it could reasonably expect to produce meaningful public comment since it is merely removing obsolete regulations. Accordingly, MARAD has determined that the notice and public comment procedure otherwise required by the Administrative Procedure Act, 5 U.S.C. 553(c), is unnecessary and good cause exists, pursuant to 5 U.S.C. 553(d)(3), to make the changes effective upon publication.

Federalism

The Maritime Administration has analyzed this rulemaking in accordance with the principles and criteria contained in Executive order 12612, and it has been determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Maritime Administration certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

The Maritime Administration has considered the environmental impact on this rulemaking and has concluded that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains no reporting requirement that is subject to OMB approval under 5 CFR Part 1320, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*)

List of Subjects in 46 CFR Parts 252 and 272

Grant programs—transportation, Maritime carriers, Reporting and recordkeeping requirements.

Accordingly, MARAD hereby amends 46 CFR Parts 252 and 272 as follows:

PART 252—[AMENDED]

1. The authority citation for Part 252 continues to read as follows:

Authority: 46 App. U.S.C. 1114(b), 1117, 1121, 1171, 1173 and 1175; 49 CFR 1.66.

2. Section 252.1 Purpose is amended in the parenthetical United States Code citation by inserting "App." between "46 and "U.S.C."

3. Section 252.32 Maintenance (upkeep) and repairs, is amended by removing paragraphs (c)(1) and (c)(2).

PART 272—[AMENDED]

1. The authority citation for Part 272 continues to read as follows:

Authority: 46 App. U.S.C. 1114(b), 1173, 1176; 49 CFR 1.66.

2. Section 272.41 Requirements for examination and allocation of M&R expenses, is amended by removing paragraphs (e), (f), and (g).

Dated: June 20, 1996.

By Order of the Maritime Administrator.
Joel C. Richard,
Secretary, Maritime Administration.
[FR Doc. 96-16099 Filed 6-24-96; 8:45 am]
BILLING CODE 4910-81-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95-161; RM-8709]

Radio Broadcasting Services; Las Vegas, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of William R. Sims, allots Channel 244A to Las Vegas, New Mexico, as the community's third local commercial FM service. See 60 FR 55821, November 3, 1995. Channel 244A can be allotted to Las Vegas in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 35-36-00 North Latitude; 105-13-00 West Longitude. With this action, this proceeding is terminated.

DATES: Effective July 29, 1996. The window period for filing applications will open on July 29, 1996, and close on August 29, 1996.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95-161, adopted April 12, 1996, and released June 14, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased

from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by adding Channel 244A at Las Vegas.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-16052 Filed 6-24-96; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 76

[CS Docket No. 96-46; FCC 96-256]

Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order waives the Commission's rules regarding the filing of oppositions to petitions for reconsideration and replies. This is necessary to provide the Commission with sufficient time to address issues raised on reconsideration and to implement Section 653 of the Communications Act. This Order establishes the date by which oppositions to petitions for reconsideration must be filed and provides that replies to oppositions will not be accepted.

DATES: This rule is effective June 25, 1996. Petitions for reconsideration are due on or before July 5, 1996, and oppositions to petitions for reconsideration are due on or before July 15, 1996.

FOR FURTHER INFORMATION, CONTACT: Meryl S. Icovie, Cable Services Bureau, (202) 418-7200.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Order in CS Docket No. 96-46, FCC 96-256, adopted June 6, 1996 and released June 7, 1996. The complete text of this Order is available

for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, N.W., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. ("ITS Inc.") at (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, DC 20017.

Synopsis of Order

1. The Telecommunications Act of 1996 added Section 653 to the Communications Act of 1934, establishing a new framework for entry into the video programming marketplace, the open video system. The 1996 Act required that the Commission, within six months after the date of enactment of the 1996 Act, "complete all actions necessary (including any reconsideration) to prescribe regulations" to govern the operation of open video systems. The Commission issued a Notice of Proposed Rulemaking on March 11, 1996. 61 FR 10496 (March 14, 1996). On May 31, 1996, the Commission adopted a Second Report and Order implementing Section 653. Pursuant to the 1996 Act, the Commission must issue an order on reconsideration by August 8, 1996.

2. The Communications Act, and the Commission's rules, require that petitions for reconsideration of a Commission order may be filed within thirty days from the date upon which public notice is given of the order. Public notice of the Second Report and Order was given on June 5, 1996, when a summary of the order was published in the Federal Register. 61 FR 28698 (June 5, 1996). Petitions for reconsideration are due, therefore, on July 5, 1996. In order to afford the Commission sufficient time to review the issues raised in the petitions and to meet its statutory requirement to issue an order on reconsideration by August 8, 1996, we believe it is in the public interest for the Commission to waive its rules regarding the filing of oppositions to petitions for reconsideration and replies to oppositions. We are waiving Section 1.429(f) to provide that oppositions must be filed by July 15, 1996. We are also waiving Section 1.429(g) and will not accept any replies to oppositions. Finally, in order to afford the fullest consideration possible to the issues raised on reconsideration, we strongly encourage parties to file pleadings in advance of the deadlines.

List of Subjects in 47 CFR Part 76

Open video systems.

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 96-16106 Filed 6-24-96; 8:45 am]
BILLING CODE 6712-01-P

47 CFR Part 76

[CS Docket No. 96-57; FCC 96-257]

Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission issues this Report and Order to implement Section 623(a)(7)(A) of the Communications Act of 1934, as amended ("Communications Act"). The Report and Order is necessary to fulfill the statutory requirement in Section 301(j) of the Telecommunications Act of 1996 ("1996 Act") that the Commission allow cable operators to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories regardless of the equipment's level of functionality. In the Report and Order, the Commission also issues final rules.

EFFECTIVE DATE: July 25, 1996.

FOR FURTHER INFORMATION CONTACT: Tim J. Bellamy, Cable Services Bureau, (202) 418-7200.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Report and Order in CS Docket No. 96-57, FCC 96-257, adopted June 6, 1996 and released June 7, 1996. The complete text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street N.W., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. ("ITS Inc.") at (202) 857-3800, 2100 M Street N.W., Suite 140, Washington, DC 20017. This Report and Order contains modified information collection requirements approved by OMB under control number 3060-0703 for use through June 30, 1999.

Synopsis of Report and Order

1. In this Report and Order, the Commission amends its rules to implement Section 301(j) of the 1996 Act which adds a new Section 623(a)(7) to the Communications Act. Section 301(j) of the 1996 Act requires the Commission to allow cable operators to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories regardless of the varying levels of functionality of the equipment within

each such broad category. That section also provides that "[s]uch aggregation shall not be permitted with respect to equipment used by subscribers who receive only a rate regulated basic tier."

Discussion

A. Equipment Aggregation

2. Section 301(j) of the 1996 Act requires the Commission to allow regulated operators to aggregate "their [customer] equipment costs into broad categories, such as converter boxes, regardless of the varying levels of functionality of the equipment within each such broad category." The Commission concludes, and amends its rules accordingly, that Congress intended to permit operators to aggregate equipment costs into broad categories, limited only by the requirement that equipment so aggregated be of the same type. The language in Sections 76.923 (f) and (g) of the Commission's rules that requires separate charges for each significantly different type of remote control device, converter box, and other customer equipment was eliminated. The "primary purpose" test, proposed in the *Notice of Proposed Rulemaking* ("NPRM"), 61 FR 13803 (March 28, 1996), for categorizing equipment will not be used, nor will it be incorporated into our rules. The term "level of functionality" is not further defined.

3. Under the rules adopted in this Report and Order, there are three types of customer equipment: converter boxes, remote controls and inside wiring. Consistent with this fact, the Commission concluded that costs of equipment used in the installation of initial and additional outlets may be aggregated into the same broad category, inside wiring. In addition, the Commission will maintain a flexible approach with respect to categorization of new technology. Operators also have the flexibility to average some equipment of the same type, but not all equipment of that type. In other words, operators may choose how broadly to categorize equipment if they choose to do so at all.

4. Though the Commission tentatively concluded otherwise in the NPRM, Section 76.923(l) of the Commission's rules, which permits cost aggregation specifically for small cable systems is not eliminated. The Commission believes eliminating that section might increase regulatory burdens on some smaller cable systems, a result Congress did not intend.

B. Organizational Levels

5. Section 76.923(c) of the Commission's rules is amended to specifically permit operators to aggregate its customer equipment costs at the organizational level of its choosing, namely, the franchise, system, regional, or company level. To the extent that current Commission rules permit cost aggregation of equipment only in a manner consistent with an operator's practices on April 3, 1993, that date restriction is eliminated. Such a restriction might have improperly prevented an operator from aggregating costs at higher organizational levels, as specifically permitted in the 1996 Act.

6. The Commission concludes that Congress intended that installation be subsumed under its general statutory reference to equipment and that the same cost aggregation rules apply to both. Cable operators are therefore permitted to aggregate installation costs at the same organizational level at which the operator aggregates its equipment costs. In addition, because Commission rules require equipment rates to be based on actual cost, those rules are amended to state that equipment and installation rates must be set at the same organizational level at which an operator chooses to aggregate its costs.

C. Basic-Only Subscriber Equipment

7. The 1996 Act prohibits "[s]uch aggregation * * * with respect to equipment used by subscribers who receive only a rate regulated basic service tier." The Commission concludes that Congress was concerned that basic-only subscribers not subsidize the costs of equipment used by subscribers taking services in addition to basic. The Commission further concludes that costs of equipment used by basic-only subscribers may not be aggregated into broad categories. An operator is permitted, however, to aggregate the costs of equipment used by basic service-only customers at the same organizational level at which the operator chooses to aggregate its other costs. Section 76.923(c) of the Commission's rules is amended accordingly. As an alternative, for purposes of establishing equipment rates for basic-only subscribers, an operator may assume that all basic-only subscribers use equipment that is the lowest level and least expensive model of equipment offered by the operator, even if some basic-only subscribers actually have higher level, more expensive equipment. Because there is not always one type of equipment which may be deemed "basic-only

equipment," the Commission shall also permit an operator to aggregate costs of types of equipment used by non-basic-only subscribers with other non-basic-only equipment when setting rates for non-basic-only subscribers, even if the same type of equipment is also used by basic-only subscribers.

D. Equipment Rates Jurisdiction and Review

8. Local franchising authorities affected by the new cost aggregation rules will continue to review the equipment and installation rates and supporting aggregated cost data as part of the review of the cable operators' rate justifications for basic rates, with the operator retaining the right to appeal the local rate order to the Commission.

E. FCC Form 1205

9. Because of the Commission's conclusions and revisions to its rules, FCC Form 1205 is modified accordingly.

Procedural Provisions

A. Final Regulatory Flexibility Analysis

10. Pursuant to Section 603 of the Regulatory Flexibility Act, the Commission has prepared the following final regulatory flexibility analysis ("FRFA") of the expected impact of these proposed policies and rules on small entities. The Commission's final regulatory flexibility analysis under the Regulatory Flexibility Act indicates that the rule changes adopted in the Report and Order will not cause a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act and that any impact will be to give operators new, less burdensome options to comply with our rules. The Commission is committed to reducing the regulatory burdens on small cable operators whenever possible, consistent with our other public interest responsibilities. The Secretary shall send a copy of this Report and Order to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. Sections 601, *et seq.* (1981).

11. The Commission issues this Report and Order to effectuate the changes needed to permit cable operators to aggregate equipment costs into broad categories and at the organizational level of their choice, as required by Section 301(j) of the 1996 Act.

12. Objective. To implement Section 301(j) of the 1996 Act.

13. Legal Basis. Action adopted in this Report and Order is contained in Section 301(j) of the 1996 Act.

14. Description, Potential Impact and Number of Small Entities Affected. The rule changes in this Report and Order will not have a significant effect on a substantial number of small entities. The rule changes provide all regulated entities with new options and do not require them to change the methodology by which they currently justify equipment rates. Thus, any economic impact of the rule changes will be positive.

15. Reporting, Recordkeeping and Other Compliance Requirements. None.

16. Federal Rules which Overlap, Duplicate or Conflict with these Rules. None

17. Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with Stated Objectives. None.

C. Paperwork Reduction Act

18. Final Paperwork Reduction Act of 1995 Analysis. This Report and Order has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to contain modified information collection requirements on the public. The information collection requirements contained herein have been approved by the Office of Management and Budget under control number 3060-0703 for use through June 30, 1999.

Ordering Clauses

19. Accordingly, it is ordered, pursuant to Sections 4(i), 4(j) and 623(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j) and 543, the rules, requirements and policies discussed in this Report and Order are adopted and Sections 76.923(a), (c), (f), (g) and (m) of the Commission's rules, 47 CFR §§ 76.923(a), (c), (f), (g) and (m), are amended as set forth below.

20. It is further ordered that the requirements and regulations established in this decision shall become effective July 25, 1996.

21. It is further ordered that the Secretary shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ *et seq.* (1981).

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Rule Changes

Part 76 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for Part 76 continues to read as follows:

Authority: 47 U.S.C. §§ 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.923 is amended by revising paragraphs (a), (c), (f), (g) and (m) to read as follows:

§ 76.923 Rates for equipment and installation used to receive the basic service tier.

(a) *Scope.* (1) The equipment regulated under this section consists of all equipment in a subscriber's home, provided and maintained by the operator, that is used to receive the basic service tier, regardless of whether such equipment is additionally used to receive other tiers of regulated programming service and/or unregulated service. Such equipment shall include, but is not limited to:

- (i) Converter boxes;
- (ii) Remote control units; and
- (iii) Inside wiring.

(2) Subscriber charges for such equipment shall not exceed charges based on actual costs in accordance with the requirements set forth in this section.

* * * * *

(c) *Equipment basket.* A cable operator shall establish an Equipment Basket, which shall include all costs associated with providing customer equipment and installation under this section. Equipment Basket costs shall be limited to the direct and indirect material and labor costs of providing, leasing, installing, repairing, and servicing customer equipment, as determined in accordance with the cost accounting and cost allocation requirements of § 76.924, except that operators do not have to aggregate costs in a manner consistent with the accounting practices of the operator on April 3, 1993. The Equipment Basket shall not include general administrative overhead including marketing expenses. The Equipment Basket shall include a reasonable profit.

(1) *Customer equipment.* Costs of customer equipment included in the

Equipment Basket may be aggregated, on a franchise, system, regional, or company level, into broad categories. Except to the extent indicated in paragraph (c)(2) of this section, such categorization may be made, provided that each category includes only equipment of the same type, regardless of the levels of functionality of the equipment within each such broad category. When submitting its equipment costs based on average charges, the cable operator must provide a general description of the averaging methodology employed and a justification that its averaging methodology produces reasonable equipment rates. Equipment rates should be set at the same organizational level at which an operator aggregates its costs.

(2) *Basic service tier only equipment.* Costs of customer equipment used by basic-only subscribers may not be aggregated with the costs of equipment used by non-basic-only subscribers. Costs of customer equipment used by basic-only subscribers may, however, be aggregated, consistent with an operator's aggregation under paragraph (c)(1) of this section, on a franchise, system, regional, or company level. The prohibition against aggregation applies to subscribers, not to a particular type of equipment. Alternatively, operators may base its basic-only subscriber cost aggregation on the assumption that all basic-only subscribers use equipment that is the lowest level and least expensive model of equipment offered by the operator, even if some basic-only subscribers actually have higher level, more expensive equipment.

(3) *Installation costs.* Installation costs, consistent with an operator's aggregation under paragraph (c)(1) of this section, may be aggregated, on a franchise, system, regional, or company level. When submitting its installation costs based on average charges, the cable operator must provide a general description of the averaging methodology employed and a justification that its averaging methodology produces reasonable equipment rates. Installation rates should be set at the same organizational level at which an operator aggregates its costs.

* * * * *

(f) *Remote charges.* Monthly charges for rental of a remote control unit shall consist of the average annual unit purchase cost of remotes leased, including acquisition price and incidental costs such as sales tax, financing and storage up to the time it is provided to the customer, added to

the product of the HSC times the average number of hours annually repairing or servicing a remote, divided by 12 to determine the monthly lease rate for a remote according to the following formula:

$$\text{Monthly Charge} = \frac{\text{UCE} + (\text{HSC} \times \text{HR})}{12}$$

Where, HR=average hours repair per year; and UCE=average annual unit cost of remote.

(g) *Other equipment charges.* The monthly charge for rental of converter boxes and other customer equipment shall be calculated in the same manner as for remote control units. Separate charges may be established for each category of other customer equipment.

* * * * *

(m) Cable operators shall set charges for equipment and installations to recover Equipment Basket costs. Such charges shall be set, consistent with the level at which Equipment Basket costs are aggregated as provided in § 76.923(c). Cable operators shall maintain adequate documentation to demonstrate that charges for the sale and lease of equipment and for installations have been developed in accordance with the rules set forth in this section.

* * * * *

[FR Doc. 96-16104 Filed 6-24-96; 8:45 am]
BILLING CODE 6712-01-P

47 CFR Part 90

[PR Docket No. 93-144; PP Docket No. 93-253; FCC 95-501]

The Future Development of SMR Systems in the 800 MHz Frequency Band; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule, which was published Friday, February 16, 1996, (61 FR 6138). The rule related to the special limitations on amendment of applications for assignment and transfer of authorizations for radio systems above 800 MHz in § 90.609 paragraphs (c) and (d).

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT: Lisa Warner, Wireless Telecommunications Bureau, at (202) 418-0620.

SUPPLEMENTARY INFORMATION:**Background**

The portion of the final rule that is the subject of this correction, supersedes paragraph six of the rules section on the effective date and affects persons who amend applications for assignment or transfer of authorizations for radio systems above 800 MHz under Part 90 of Chapter I of Title 47 of the Code of Federal Regulations.

Need for Correction

As published, the final rule contains errors which may prove misleading and need clarification.

Correction of Publication

Accordingly, the publication on February 16, 1996 of the final rule, which is the subject of FR Doc. 96-3509, is corrected as follows:

§ 90.609 (Corrected)

On page 6155, in the second column, in instruction paragraph 6., in line three, the words "introductory text" are removed.

Federal Communications Commission.

David Furth,

*Acting Chief, Commercial Wireless Division,
Wireless Telecommunications Bureau.*

[FR Doc. 96-13792 Filed 6-24-96; 8:45 am]

BILLING CODE 6712-01-P

47 CFR Part 95

[WT Docket No. 95-47; FCC 96-224]

Permitting Mobile Operation in the Interactive Video and Data Service (IVDS)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended its rules to permit IVDS licensees to provide mobile service to subscribers. This action authorizes mobile operation of response transmitter units (subscriber units) operated with an effective radiated power of 100 milliwatts or less. The Commission also eliminated the IVDS "duty cycle" requirement for operations outside of TV channel 13 Grade B contours. The Commission found that these amendments would provide additional flexibility for IVDS licensees to meet the communications needs of the public without increasing the likelihood of interference.

EFFECTIVE DATE: July 25, 1996.

FOR FURTHER INFORMATION CONTACT: Eric Malinen, Wireless Telecommunications

Bureau, telephone (202) 418-0638, e-mail at emalinen@fcc.gov

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, adopted May 16, 1996, and released May 30, 1996. The full text of this Commission action, including the rule amendments and Final Regulatory Flexibility Analysis, 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. The full text of this *Report and Order* may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D. C. 20037, telephone (202) 857-3800. Last, the full text may be obtained from the FCC's internet World Wide Web home page, <http://www.fcc.gov>

Summary of Report and Order

1. On April 13, 1995, the Commission adopted a *Notice of Proposed Rule Making*, 60 FR 25193 (May 11, 1995), proposing, *inter alia*, to allow IVDS licensees to provide mobile service to subscribers on an ancillary basis. By this *Report and Order*, and in light of the development of the industry and the views of a majority of the commenters, the Commission amends Part 95 of the rules to authorize fully mobile operation in addition to fixed operation for IVDS response transmitter units (RTUs) operated with an effective radiated power of 100 milliwatts or less. This action will enable licensees to respond more accurately to the public's preferred choices of interactive services and to offer a broader array of services.

2. Recognizing that allowing mobile operations increases the interference potential with respect to the operations of licensees in other services, the Commission concludes that the lower power limit of 100-milliwatts is appropriate. The limit applies even to mobile RTUs located both within the IVDS licensee's service area and outside a TV channel 13 predicted Grade B contour. In addition, as suggested by commenters, this 100-milliwatt limit is specified in terms of mean power. The Commission also concludes that no change to the power limit for fixed operations is necessary.

3. Given the development of IVDS and the Commission's current reexamination of the parameters of the duty cycle rule, the Commission also eliminates the duty cycle requirement for both fixed and mobile operations in IVDS service areas where no TV channel 13 predicted Grade B contour overlap exists. In such areas, TV channel 13 operations have no expectation to protection from

interference. The Commission also eliminates the duty cycle in areas where there is overlap, for fixed RTUs located within the IVDS licensee's service area, but outside the TV channel 13 predicted Grade B contour. In such areas, the interference potential is minimal, rendering the duty cycle restriction unnecessary. The duty cycle requirement is retained for mobile RTUs located within the IVDS licensee's service area, but outside the TV channel 13 predicted Grade B contour.

4. The Commission also adopts its proposal to allow indirect RTU-to-RTU operations, but will continue to prohibit direct RTU-to-RTU operations. Protecting TV channel 13 from interference is a primary concern in regulating IVDS, and direct RTU-to-RTU operation would increase the potential for such interference. Further, the Commission eliminates the requirement that RTUs operating at 100 milliwatts or less incorporate automatic power control. Finally, the Commission permits direct CTS-to-CTS communications (fixed point-to-point communications) on a primary basis, finding that such fixed operation can be designed to eliminate potential interference to TV channel 13 operations and does not present the interference potential presented by direct RTU-to-RTU operations.

5. The Commission declines to permit IVDS interconnection with the public switched network. This determination is consistent with retaining IVDS as a private, although newly mobile, radio service.

6. The amended rules are set forth below, effective July 25, 1996.

7. This *Report and Order* and the rule amendments are issued under the authority contained in 47 U.S.C. §§ 154(i), 303 (b), and 303 (r).

List of Subjects in 47 CFR Part 95

Communications equipment, Interactive Video and Data Service (IVDS), Radio.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Rule Changes

Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 95—PERSONAL RADIO SERVICES

1. The authority citation for Part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 303.

2. Section 95.803 is amended by revising paragraphs (a) and (b) to read as follows:

§ 95.803 IVDS description.

(a) An IVDS system is a point-to-multipoint, multipoint-to-point, short distance communications service for its licensees to provide information, products, or services to, and allow interactive responses from, subscribers in the licensee's service area.

(b) The components of each IVDS system are its administrative apparatus, its response transmitter units (RTUs), and one or more cell transmitter stations (CTSs). RTUs may be used in any location within the service area. Each IVDS system is authorized for a specific service area and frequency segment. There can be a maximum of two IVDS systems per service area. There are two frequency segments available for each service area.

* * * * *

3. Section 95.805 is amended by revising paragraphs (b), (c) and (e) to read as follows:

§ 95.805 Permissible communications.

* * * * *

(b) Direct CTS-to-CTS communications within the same IVDS system are permitted.

(c) Direct RTU-to-RTU communications are prohibited. No mobile RTU in an IVDS system may be interconnected with the public switched network or any commercial mobile radio service.

* * * * *

(e) An IVDS system may provide fixed and mobile service to subscribers within its service area.

* * * * *

4. Section 95.855 is amended by revising paragraph (a) to read as follows:

§ 95.855 Transmitter effective radiated power limitation.

(a) The effective radiated power (ERP) of each CTS and RTU shall be limited to the minimum necessary for successful communications. RTUs with powers in excess of 100 milliwatts must incorporate automatic power control to ensure the minimum ERP is used. No CTS may transmit with an ERP exceeding 20 watts. No fixed RTU may transmit with an ERP exceeding 20 watts. No mobile RTU may transmit with an ERP exceeding 100 milliwatts mean power.

* * * * *

5. Section 95.863 is revised to read as follows:

§ 95.863 Duty cycle.

(a) Except as provided in paragraph (b) of this section, the maximum duty cycle of each RTU, either fixed or mobile, shall not exceed 5 seconds-per-hour, or, alternatively, not exceed one percent within any 100 millisecond interval.

(b) The duty cycle limitation specified above for RTUs does not apply in the following situations:

(1) To fixed and mobile RTUs when there is no TV channel 13 predicted Grade B contour overlap in the licensed service area; or

(2) To fixed RTUs in areas where there is Grade B contour overlap and the RTU is located outside the TV channel 13 predicted Grade B contour but within the licensed service area.

[FR Doc. 96-16105 Filed 6-24-96; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 960412110-6166-02; I.D. 030596E]

RIN 0648-A193

Summer Flounder Fishery; 1996 Recreational Fishery Measures

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

ACTION: Final rule.

SUMMARY: NMFS issues the final specifications for the 1996 summer flounder recreational fishery, including no closed season, a possession limit of eight fish per person and a minimum fish size of 14 inches (35.6 cm). The intent of this document is to comply with implementing regulations for the fishery that require NMFS to publish measures for the upcoming fishing year that will prevent overfishing of the resource.

EFFECTIVE DATE: June 20, 1996.

ADDRESSES: Copies of the Environmental Assessment and supporting documents used by the Monitoring Committee are available from: Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 S. New Street, Dover, DE 19901-6790.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, (508) 281-9221.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Summer Flounder Fishery (FMP) was developed jointly by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (ASMFC), in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for the FMP is summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the Canadian border. Implementing regulations for the fishery are found at 50 CFR part 625.

Section 625.20 outlines the process for determining annual commercial and recreational catch quotas and other restrictions for the summer flounder fishery. Pursuant to § 625.20, the Director, Northeast Region, NMFS, implements measures for the fishing year to ensure achievement of the fishing mortality rate specified in the FMP. This document announces the following measures pertaining to the recreational fishery, which are unchanged from the proposed measures that were published in the Federal Register on April 22, 1996 (61 FR 17682): (1) The continued elimination of the closed season, (2) an individual possession limit of 8 fish per person, and (3) a minimum fish size of 14 inches (35.6 cm).

Comments and Responses

No comments were received during the comment period concerning the proposed measures.

Classification

This action is authorized by 50 CFR part 625.

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

When this rule was proposed, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this action would not have a significant economic impact on a substantial number of small entities. The reasons were published in the proposed rule and are not repeated here. As such, a Regulatory Flexibility Act analysis has not been prepared.

The Assistant Administrator for Fisheries, NOAA, finds that there is good cause to waive the delayed effectiveness of this rule under 5 U.S.C. 553(d)(3). As was noted in the proposed rule, these measures should become effective immediately as the season has

already started and the increase in possession limit eases a restriction. Also, the final specifications for the 1996 summer flounder recreational fishery could not be established when the final 1996 specifications were implemented because recreational catch data for 1995 were not available for the Summer Flounder Monitoring Committee to evaluate the effectiveness of the management measures in attaining the 1995 harvest limit.

List of Subjects in 50 CFR Part 625

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 19, 1996.
Gary Matlock,
Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 625 is amended to read as follows:

PART 625—SUMMER FLOUNDER FISHERY

1. The authority citation for part 625 continues to read as follows:

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

2. In § 625.25, in paragraph (a) the first sentence is revised to read as follows:

§ 625.25 Possession limit.

(a) No person shall possess more than eight summer flounder in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a moratorium permit under § 625.4. * * *

* * * * *

[FR Doc. 96-16170 Filed 6-20-96; 2:13pm]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register

Vol. 61, No. 123

Tuesday, June 25, 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 THE TREASURY

Office of Thrift Supervision

12 CFR Parts 543, 544, 545, 552, 556, 563, and 575

[No. 96-49]

RIN 1550-AA87

Corporate Governance

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: The Office of Thrift Supervision (OTS or Office) today is proposing amendments to its corporate governance regulations and policy statements to update, reorganize and substantially streamline them. This proposal follows a detailed review of each pertinent regulation and policy statement in the Code of Federal Regulations (CFR) to determine whether it is necessary, imposes the least possible burden consistent with safety and soundness and is written in a clear and straightforward manner. Today's proposal is being made pursuant to the Regulatory Reinvention Initiative of the Vice President's National Performance Review and section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

DATES: Comments must be received on or before August 26, 1996.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552, Attention Docket No. 96-49. These submissions may be hand-delivered to 1700 G Street, NW., from 9:00 A.M. to 5:00 P.M. on business days; they may be sent by facsimile transmission to FAX Number (202) 906-7755. Comments will be available for inspection at 1700 G Street, NW., from 9:00 P.M. until 4:00 P.M. on business days.

FOR FURTHER INFORMATION CONTACT: David Permut, Counsel (Banking and

Finance), Business Transactions Division, (202) 906-7505; or Mary Jo Johnson, Project Manager, Supervision Policy (202) 906-5739; or Valerie J. Lithotomos, Counsel (Banking and Finance), Regulations and Legislation Division, (202) 906-6439, Chief Counsel's Office, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background of the Proposal
- II. Objectives
 - A. Reduce Compliance Costs by Removing Unnecessary Regulations
 - B. Provide Maximum Corporate Governance Flexibility for Savings Associations
 - C. Provide Clear Regulatory Guidance for Frequently Recurring Questions
 - D. Move the Charter and Model Bylaws Into Application Processing Regulatory Handbook
- III. Historical Overview of Current Corporate Governance Regulations
- IV. Section-by-Section Analysis of the Proposal
- V. Proposed Disposition of Corporate Governance Regulations
- VI. Request for Comment
- VII. Executive Order 12866
- VIII. Regulatory Flexibility Act Analysis
- IX. Unfunded Mandates Act of 1995
- X. Paperwork Reduction Act

I. Background of the Proposal

In a comprehensive review of the agency's regulations in the spring of 1995, OTS identified numerous obsolete or redundant regulations that could quickly be repealed. On December 27, 1995, OTS published a final rule in the Federal Register repealing eight percent of its regulations.¹ As part of its review, OTS also identified several key areas in its regulations for a more intensive, systematic regulatory burden review. Certain areas—lending and investment authority, corporate governance, subsidiaries and equity investments, and conflicts of interest, corporate opportunity and hazard insurance—were chosen for intensive review because they are vital to the thrift industry, had not been developed on an interagency basis,² and had not been substantially reviewed or amended in recent years.

¹ 60 FR 66866 (December 27, 1995).

² Interagency regulations are being reviewed through the Federal Financial Institutions Examination Counsel.

Earlier this year, OTS proposed a comprehensive streamlining of its lending and investment regulations.³ Proposals regarding subsidiaries and equity investments and conflicts of interest, corporate opportunity and hazard insurance will be issued in the near future.

Today's proposal presents the results of the review of the charter and bylaw regulations (corporate governance). If adopted in final form, today's proposal will reduce the number of charter and bylaw regulations and policy statements from 33 to 24, a reduction of 27 percent. In addition, deletion of the charter and model bylaws from the CFR will remove 13.5 pages of CFR text. This information will be moved to the Application Processing Regulatory Handbook (Handbook).

This proposal was developed in consultation with those who use the regulations on a daily basis: OTS regional staff and representatives of the thrift industry. OTS sought specific comments from the thrift industry through a focus group composed of representatives of seven savings associations and an industry trade association.

II. Objectives

The overarching goal of OTS' reinvention initiative is to reduce regulatory burden on savings associations to the greatest extent possible consistent with statutory requirements and safety and soundness. In the context of corporate governance, we believe maximum burden reduction can be achieved by pursuing four specific objectives.

A. Reduce Compliance Costs by Removing Unnecessary Regulations

The first objective of the OTS proposal is to remove unnecessary, duplicative or outdated regulations affecting the corporate governance of Federal thrift institutions. As described in more detail in the Background section below, the corporate governance regulations have not been thoroughly updated for many years. By eliminating unnecessary regulations, OTS hopes to reduce regulatory compliance costs.

Examples of regulations, or subsections thereof, proposed to be removed are § 544.2(b)(4) (Mutual capital certificates), § 544.3 (Adoption of

³ 61 FR 1162 (January 17, 1996).

a new Federal charter by a Federal savings association), § 544.5(b)(17) (Emergency preparedness), § 544.8 (Old and new charters), § 544.9 (Charter B associations), § 552.1 (Definitions), § 552.2 (Corporate titles), § 552.2–5 (Conversion from Federal mutual to Federal stock), § 552.4(b)(3) (Charter amendments), § 552.6–2(a) (Requirement that the President shall be a director and CEO), and § 552.8 (Savings deposits). All of the above regulations, or portions thereof, are being removed because they are redundant, outdated or unnecessary.

Several other sections will have changes made to certain sentences or phrases within the section, such as the removal of the need for preliminary OTS approval of proposed charter amendments in §§ 544.1, Section 9; 552.3, Section 8; and 575.9, Section 8; and elimination of the need for certification by management of the legality of proposed charter and bylaw amendments in §§ 544.2(a)(2)(i), 544.5(c), 552.4(a)(2)(i), and 552.5(b)(1).

B. Provide Maximum Corporate Governance Flexibility for Savings Associations

OTS is committed to ensuring that Federal savings associations operate under state-of-the-art corporate governance procedures. Wherever possible, consistent with safety and soundness and fairness to shareholders and members, we are seeking to move toward greater flexibility. Specific amendments proposed to provide greater flexibility include:

- Amending §§ 544.5(b)(1) and 552.6(a) to provide more flexibility for the site of shareholder meetings.
- Modifying §§ 544.5(b)(5) and 552.6(f)(1) to allow proxies to be gathered telephonically or electronically.
- Expanding the list of preapproved charter amendments in §§ 544.2 and 552.4 to enable institutions to adopt supermajority voting provisions, to eliminate cumulative voting, and, for mutuals to increase the maximum permissible number of votes per member to up to 1000.
- Replacing the current requirement in §§ 544.2, 544.5(c)(2), 552.4 and 552.5(b) that institutions give OTS advance notice of their intent to adopt preapproved charter and bylaws amendments with an after-the-fact notice.
- Authorize associations to hold their annual shareholders meeting 150 days after the close of their fiscal year, instead of the current 120 days (§§ 544.5(b)(1) and 552.6(a)).

- Revising § 544.5(b)(16) to recognize the “sitting” board of directors rather than the “authorized” board of directors when determining voting requirements in certain instances.

- Exempt wholly-owned stock associations from various requirements such as staggered terms for members of their boards of directors (§ 552.6–1(b)), notice of shareholder meetings (§ 552.6(b)), and compilation of shareholder voting lists (§ 552.6(d)).
- Permit shareholder actions to be taken by unanimous written consent in lieu of a formal shareholders meeting (§ 552.6(h)).

OTS is continuing to review the laws of various states, and the corporate governance approaches followed by the other federal agencies that charter depository institutions, for additional innovative corporate governance ideas. We welcome further suggestions from commenters.

In particular, OTS requests comment on whether there are aspects of the corporate governance structure applicable to national banks that would be beneficial for Federal thrifts. The corporate governance regulations applicable to Federal thrifts tend to be more detailed than those applicable to national banks. To fill in the details, national banks are permitted to elect to follow the corporate governance laws of the state where the bank's home office is located, the laws of the state where the bank's holding company is chartered, Delaware law, or the Model Business Corporation Act. The body of law that a national bank elects to follow applies only to the extent not inconsistent with the corporate governance provisions of the National Bank Act and implementing regulations.

Federal savings associations may benefit from the detail provided in OTS's corporate governance regulations. Absence of detail in the area of corporate governance can lead to confusion, delay, and potential shareholder litigation. Accordingly, OTS's objective has been to provide savings associations with a comprehensive set of clear, modern, and flexible corporate governance rules. Institutions may apply on a case-by-case basis for permission to adopt non-standard charter and bylaw provisions.

Nevertheless, savings associations may benefit from the additional option of following state law in lieu of OTS corporate governance regulations—except for those regulations that OTS designated as vital to safety and soundness or other fundamental policy objectives. OTS requests comment on whether this type of state law election would offer benefits to savings

associations and, if so, a description of those benefits.

C. Provide Clear Regulatory Guidance for Frequently Recurring Questions

A third objective is to clarify certain issues that frequently arise regarding the corporate governance regulations. This will reduce the number of instances when institutions incur delay or expense seeking clarification of ambiguous or incomplete regulatory language. Accordingly, OTS proposes to amend:

- Section 544.5(b)(3) and (4) to indicate what rules govern adjourned shareholder meetings;
- Sections 544.5(b)(10) and 552.6–1(f) to add a cross reference to a definition indicating what constitutes “cause” for removal of a director;
- Section 544.5(b)(6) to extend privacy rights for confidential portions of an institution's books and records, now provided for Federal stock institutions at § 552.11(d), to Federal mutual associations;
- Section 544.5(b)(13) to give guidance on the procedures governing when an institution substitutes a new director nominee for a nominee that dies or becomes incapacitated; and
- Section 552.6(d) to give guidance on how stock held in the name of fiduciaries should be reflected on voting lists.

D. Move the Charters and Model Bylaws Into Application Processing Regulation Handbook

OTS is proposing to move the charters for Federal stock and mutual savings associations, found at §§ 544.1, 552.3 and 575.9, to the Handbook. We are also proposing to move the model bylaws, found in appendices to Parts 544 and 552, to the Handbook. The Office of the Comptroller of the Currency (OCC) and the National Credit Union Administration (NCUA) follow a similar practice.

Placing the savings association charters and bylaws in the Handbook may offer two advantages. First, by eliminating nonessential items from the regulations, the regulations may become easier to use. Second, OTS would have more flexibility to update and modernize the charters and bylaws from time to time, because notice and comment rulemaking would not be required to effect changes. We recognize, however, that making changes without notice and comment rulemaking could also be viewed as a disadvantage. Moreover, placing the charters and bylaws in the Handbook may make them less accessible.

Accordingly, we request specific comment on this proposed change.

III. Historical Overview of Current Corporate Governance Regulations

Before 1982, the corporate governance of Federal savings associations was primarily concerned with Federal mutual savings and loan associations, the only type of corporate charter available from the chartering authority, the Federal Home Loan Bank Board (FHLBB), predecessor to OTS. The Home Owners' Loan Act (HOLA)⁴ only permitted the chartering of Federal mutual savings and loan associations.⁵

In 1982, Congress enacted the Garn-St Germain Depository Institutions Act (DIA),⁶ which broadened the types of charters and organizational options available to Federal savings associations. The DIA authorized the creation of new Federally chartered stock institutions, either as Federal savings banks or Federal savings and loan associations, and permitted state-chartered savings banks to convert to a Federal charter without requiring them to surrender their FDIC insurance in favor of FSLIC insurance of accounts.

In response to the DIA, the FHLBB amended its corporate governance regulations (1983 Rulemaking)⁷ to create a single Federal mutual charter and a single Federal stock charter. The same basic charter was available both to savings banks and to savings and loan associations, with minor differences. Before the 1983 Rulemaking, Federally-chartered thrifts had operated under a plethora of charters, including Charter S, Charter T, Charter B, Charter B (Revised), Charter N, Charter N (Revised), Charter L and Charter K (Revised). Some Federal associations continue to operate under those charters. It is important to note that today's proposed rulemaking does not require any institution to change its current charter. After adoption of a final regulation, institutions may retain their existing charters or amend their charters to conform to the new provisions.

In 1985, the FHLBB concluded that with the new structural options available to Federal savings associations, a number of important matters regarding the corporate governance of those associations were either not adequately addressed, not covered in codified form or were distributed in a piecemeal fashion throughout the regulations. The FHLBB

conducted an extensive review of the Model Business Corporation Act, the corporate codes of Delaware, California, New York and Florida, then presented a proposal for updating the corporate governance regulations. Because the proposal was extensive, it was broken into four parts,⁸ published over a two year period, with comments sought on all sections before a final regulation was to be promulgated. Only one section, however, the proposal on revisions to Receiverships and Conservatorships, was enacted in final form before the priorities of the FHLBB and external circumstances changed. The savings and loan crisis had begun and the extensive revisions to corporate governance were set aside for future consideration.

In 1989, the FHLBB's regulatory and chartering authority was assumed by the newly established OTS. A number of the corporate governance issues were ultimately addressed in the form of legal opinions or approved amendments to charters and bylaws. These changes, however, were confined to considerably more narrow subject areas than the FHLBB proposal envisioned.

Thus, today's proposal, if adopted in final form, will be the first major update of the corporate governance regulations in over a decade.

IV. Section-by-Section Analysis of the Proposal

A. Part 544—Charter and Bylaws

Section 544.1 Federal Mutual Charter

This section contains the required charter for Federal mutual associations. As indicated above, OTS proposes to move this charter (as well as the charter for stock associations and the model bylaws for both) from the regulations to the Handbook. Thus, OTS proposes to amend § 544.1 to reference the Handbook. OTS also proposes to update the charter.

So that the reader can understand what is being proposed, we have set forth the changes proposed for the charter in the regulatory text, and discuss them below.⁹

Section 1. Corporate Title. Section 1 establishes the corporate title of the Federal association. The words "hereby chartered" will be removed as unnecessary verbiage.

Section 6. Members. This section identifies the association's members and describes their rights. OTS proposes to streamline this section by moving the

third and fourth sentences to introductory instructions in the Handbook or, if the charter is retained in § 544.1, to the introductory paragraph of the regulation. These two sentences instruct institutions that wish to adopt the charter, but are currently operating under old charters conferring membership rights on borrowers, to grandfather the membership rights of their existing borrowers.

The sixth sentence of section 6, dealing with proxies, will be removed because it already appears in the bylaws. The seventh and eighth sentences, dealing with quorums, will be moved to the bylaws because matters regarding member meetings are more fully addressed there.

Section 7. Directors. This section provides that a Federal mutual association may have from 5 to 15 directors. To further streamline the charter, bracketed references to "trustees" will be removed, and a single sentence will be added to the introductory instructions indicating that institutions may substitute the term "trustee" for the term "director" where appropriate. Similar changes will be made throughout the charter and the model bylaws for mutual associations.

The third and fifth sentences (providing that directors shall be members of the association and requiring staggered terms for directors) will be moved to the bylaw section dealing with directors. The fourth sentence (regarding vacancies on the board) will be moved to the bylaw section on resignations, removals and (newly added) vacancies. The last sentence, in brackets, will also be moved to the bylaw section on directors. This sentence authorizes state savings banks that convert to Federal mutual associations to grandfather their existing provisions for electing directors for a limited period of time. OTS believes each of these matters is more appropriately addressed in the bylaws, where related issues are already addressed. Presenting related requirements in a single place should make the charter and bylaws more user friendly.

Section 9. Amendment of charter. Section 9 describes the procedures for amending the association's charter. References to §§ 544.2 or 544.3 will be removed as unnecessary verbiage. Section 9 will also be revised to reflect the fact that "preapproved" charter amendments (§ 544.2) will now be truly preapproved. Institutions will no longer be required to submit these amendments to OTS for "preliminary" approval. (See discussion of § 544.2 below.)

⁴ 12 U.S.C. 1461-1470.

⁵ Section 5(a) of the HOLA, 12 U.S.C. 1464(a), contains the statutory authority for the OTS to issue charters for Federal thrift institutions.

⁶ Pub. L. 97-320, 96 Stat. 1469, October 15, 1982.

⁷ 48 FR 44174 (September 28, 1983).

⁸ Part I-50 FR 38832 (September 13, 1985); Part II-50 FR 52482 (December 24, 1985); and Part III and IV-52 FR 25870 (July 9, 1987).

⁹ For drafting purposes, the changes to the charter have been designated as Alternative Two in the regulatory text.

Finally, the signature blocks of the charter will be modified to include a date to clarify when a charter is effective.

Section 544.2 Charter Amendments

Paragraphs (a) and (b) describe the filing requirements for amending Federal mutual charters. OTS is proposing to remove, from paragraphs (a)(2)(i) and (ii), the requirement that institutions certify that amendments they propose are permissible under all applicable laws. This certification is unnecessary because the legality of a proposed amendment is reviewed by OTS staff as part of the application process and its deletion will also reduce regulatory burden. In addition, paragraph (b) will be revised to indicate that preapproved charter amendments will no longer require advance submissions to OTS. Instead, preapproved amendments will be deemed approved when adopted by the institution and must simply be filed with OTS within 30 days after adoption.

A new preapproved charter amendment will be added to § 544.2 that authorizes Federal mutual associations to amend their charters to raise the cap on the maximum number of votes any member can cast up to 1,000. Mutual charters generally authorize depositors to cast one vote for every \$100 of deposits, subject to a cap that has historically tracked the limit on deposit insurance. Thus, 1,000 votes is the standard cap under the current mutual charter (§ 544.1). However, many institutions operate under charters adopted before the cap was raised to 1,000. Making the 1,000 cap a preapproved amendment will enable institutions to update their cap without filing an application and paying an application fee. This is the most frequently requested amendment for Federal mutual associations.

OTS also proposes to remove from § 544.2 an obsolete preapproved amendment authorizing institutions to issue Mutual Capital Certificates (MCCs). Institutions generally no longer issue MCCs.¹⁰ Elimination of outdated matter such as this should make the regulations less confusing and easier to use.

Paragraph 544.2(c) details the procedures an institution must follow when it wants OTS to reissue its charter

to reflect amendments to the charter. The wording of this section will be conformed to the wording of the corresponding stock charter section at § 552.4(d). No substantive change will result. Paragraph (c) is also being amended to remove the delegation of authority to the Chief Counsel to execute reissued charters. This change is being proposed as part of a continuing effort to remove delegations from the regulations. Delegated authority to execute reissued charters will be preserved via an internal OTS document.

Section 544.3 Adoption of a New Federal Charter by a Federal Savings Association

This section details the procedures that a Federal mutual savings and loan association would use to amend its charter to read in the form of a Federal mutual savings bank, or vice versa. This section has become obsolete. Today, the charters for both types of institution are identical, except for a possible difference in corporate title. A simple corporate title change can be used to redesignate an institution as a "savings bank" or "savings and loan association." Thus, § 544.3 is being repealed. Corresponding changes will be made to §§ 543.1(b) and 543.14.

Section 544.5 Federal Mutual Savings Association Bylaws

This section describes the requirements for the bylaws of a Federal mutual association. A nonsubstantive change will be made to paragraph (a) to conform its language regarding procedures for bylaw amendments to similar language that appears later in § 544.5(b)(16).

Paragraph (b)(1) contains the annual meeting requirements for Federal mutual associations. This paragraph will be amended to allow meetings not only at the main office, but also at any other convenient place the board of directors may designate, and to permit the association to hold its annual meeting within 150 days of the end of the association's fiscal year. The current requirement is 120 days. Both changes will provide additional flexibility for Federal mutual associations.

Paragraph (b)(2) addresses special meetings of members. It provides, *inter alia*, that the holders of ten percent or more of a mutual association's voting capital may call a special meeting. Institutions frequently ask for clarification of the meaning of "voting capital," since the term is no longer defined by the HOLA. OTS proposes to clarify that voting capital means all

FDIC-insured deposits held by a savings association.

Paragraphs (b) (3) and (4), which discuss notice requirements for meetings of members and the fixing of the record date for determining what members are entitled to vote, respectively, will be amended to indicate the circumstances under which adjournment of a meeting of members will require the issuance of new notices and the fixing of a new record date. These are also frequently asked questions.

OTS is also proposing a new paragraph (b)(5), to be titled "Member Quorum."¹¹ This paragraph will contain certain quorum provisions currently found in the charter (as discussed above), as well as clarification of what items of business may be considered at a meeting held after adjournment. The agency believes that quorum issues are more appropriately addressed in the bylaws, where other rules governing member meetings already appear.

Current paragraph (b)(5), on voting by proxy, will become (b)(6) and will be amended to permit proxies to be given telephonically or electronically as long as the holder uses a procedure for verifying the identity of the member.¹² Telephonic and electronic proxies enable institutions to gather proxies and conduct corporate business more rapidly and have become an accepted part of corporate democracy. In addition, in response to frequent questions, OTS proposes to describe voting procedures applicable to joint accounts and accounts held by fiduciaries on behalf of others.

Current paragraph (b)(6), which references § 545.131 regarding communication with other members, will become (b)(7). In addition, the paragraph will be amended to reflect the relocation of § 545.131 to Part 544, and will extend the privacy rights now guaranteed to depositors of Federal stock institutions (§ 552.11(d)) to the depositors of Federal mutual institutions. The privacy rights of the members of mutual institutions will not prevent the internal use of member information by those institutions.

Current paragraph (b)(7), regarding the number of directors, will become (b)(8). In addition, the paragraph will be amended to clarify that the bylaws must specify the precise number of directors (rather than a range). This number is

¹⁰ An institution could still choose to issue MCCs after § 544.2 is modified, provided the institution makes any necessary amendments to its charter and bylaws (which would no longer be preapproved) and follows the procedures specified at 12 CFR 563.74. Paragraph (d) of § 563.74 will be amended to reflect removal of the preapproved amendment for MCCs.

¹¹ All subsequent paragraphs will be renumbered accordingly. However, only those paragraphs being substantively changed are discussed below.

¹² One example of a verification procedure is for the institution receiving the proxy by facsimile to compare the signature on the proxy to a signature that the institution has on file.

chosen by the institution within the range specified in the charter and may be changed by the institution from time to time by amending its bylaws.

Paragraph (b)(8) will also contain three provisions being moved from section seven of the charter. One provision requires that directors be members of their association; a second provision requires that directors serve staggered terms; and a third provision permits state savings banks that convert to Federal mutual associations to grandfather their method of electing directors for a limited time.

Current paragraph (b)(9), which addresses the duties of officers, employees and agents and their indemnification, will become (b)(10). In addition, a sentence on the removal of officers will be added to answer a frequently asked question. The sentence will state: "Any officer may be removed by the board of directors with or without cause, but such removal, other than for cause, shall be without prejudice to the contractual rights, if any, of the person so removed."

Current paragraph (b)(10), on the resignation or removal of directors, will become (b)(11). A cross reference to the definition of "cause," which appears elsewhere in the regulations, will be added in response to a frequently asked question concerning the circumstances under which shareholders can remove directors for "cause". Paragraph (b)(11) will also be expanded to authorize boards of directors to fill vacancies under the current flexible rules that now apply to stock associations.

Current paragraph (b)(13), discussing procedures for nominating directors, will become (b)(14) and will be expanded to clarify the requirement that the names of nominees be posted at least 15 days before an election, under certain circumstances. New language will confirm that this requirement does not apply to a nominee substituted as a result of death or other incapacity of another nominee. From time to time, institutions have sought clarification on this issue.

Current paragraph (b)(16), which sets forth procedures for amending the bylaws, will become (b)(17) and will be amended to make it easier for a board that fails to meet its quorum requirement solely due to vacancies on the board to amend its bylaws. The new language will specify that, in the absence of a quorum due solely to vacancies, the affirmative vote of a majority of the sitting board may amend the bylaws.

Current paragraph (b)(17), on miscellaneous topics, will become (b)(18) and will be amended to remove

the reference to provisions regarding "emergency preparedness." Emergency preparedness provisions are no longer part of the model bylaws.

Paragraphs (c)(1) and (c)(2) discuss the filing procedures for bylaw amendments. OTS proposes to remove the requirement that applications for bylaw amendments contain certifications that the proposed amendments comport with all laws. As noted above when discussing charter amendments, the certification requirement is unnecessary because the legality of proposed amendments are reviewed by OTS staff as part of the application process and its deletion will also reduce regulatory burden. In addition, consistent with the proposal to move the model bylaws out of the regulations, paragraph (c)(1) will be revised to indicate that the model bylaws can be found in the Handbook available from OTS. The current appendix to part 544, which contains the model bylaws, will be removed.

Paragraph (c)(2) will also be revised to indicate that the model bylaws, if adopted verbatim, are approved when adopted and must simply be filed with OTS within 30 days after adoption. This change is proposed because OTS has determined that over 90 percent of the bylaws applications filed in recent years are for standard provisions that do not require agency review.

Paragraph (d), which addresses the effective date of all other bylaw amendments, will be amended to comport with a similar provision for Federal stock associations. The provision is intended to clarify the circumstances under which an amendment may be rejected by OTS, by cross referencing the current standards which appear in paragraph (c)(1).

Section 544.8 References to Old and New Charters; Rules Applicable to Trustees of Federal Mutual Savings Banks

OTS proposes to remove this section, which indicates that trustees will be treated as if they are directors for purposes of the regulations. The same point will be made in the introductory instructions to the charter and model bylaws. It does not need to be repeated here.

Section 544.9 Obsolete Charter Provision for Charter B Associations.

This section provides that institutions that still operate under the old Charter B are not bound by section 10 of that charter. Section 10 of Charter B purports to limit the authority of an institution to invest in consumer loans and corporate debt securities. OTS proposes to move

§ 544.9, which affects very few institutions, from the regulations into Handbook guidance.

Section 544.8 Communication Between Members of a Federal Mutual Savings Association (Proposed)

OTS proposes to move the rules governing communications between members of Federal mutual associations, which now appear in § 545.131, to part 544. This is where users of the regulations would most likely look for guidance on such matters. Accordingly, current § 545.131 will become new § 544.8.

Appendix to Part 544

As indicated above, OTS proposes to eliminate the appendix to part 544, which contains the model bylaws. Instead, these bylaws will be moved to the Handbook, with changes being made to conform the model bylaws to the amendments to the bylaws regulations described above.

B. Part 552—Incorporation, Organization, and Conversion of Federal Stock Associations

Section 552.2 Corporate Title

OTS proposes to remove this section, which merely reminds institutions that § 543.1 regarding corporate titles for Federal associations applies to Federal stock associations. There is no need for this provision. Current § 543.1, as currently written, clearly governs corporate titles for all Federal associations.

Section 552.2-5 Conversion From Federal Mutual to Federal Stock Charter

This section authorizes Federal mutual associations to convert to Federal stock associations and provides for issuance of a stock charter upon completion of the conversion. These matters are also covered, in greater detail, by OTS conversion regulations. OTS, therefore, proposes to remove this section.

Section 552.3 Charters for Federal Stock Associations

This section contains the required charter for Federal stock associations. For the reasons indicated above in the discussion of § 544.1, OTS proposes to move the stock charter out of the regulations and into the Handbook. Section 552.3 will thus be revised to reference the charter as it appears in the Handbook. OTS proposes to update the Federal stock charter with the following changes:

Section 2. Office. This section describes the location of the home office of the Federal stock association. The

word "in" will be deleted and replaced by the word "at." This is a purely technical amendment.

Section 5. Capital stock. Section 5 describes the rules governing the capital stock of a Federal stock association, including the types of stock it may issue, the consideration to be paid, and voting rights. Several changes are proposed. First, the charter will be amended to permit the issuance of "no par" stock. The decision whether stock should have a stated par value is a matter of internal corporate governance that raises no supervisory or safety and soundness issues.

Second, the final sentence of the first paragraph will be revised to reflect more current accounting terminology. The term "retained earnings" will be substituted for "surplus," and the phrase "common stock or paid-in capital accounts" will be substituted for "stated capital."

Third, the second paragraph will be revised to clarify that Federal stock associations may issue stock to officers, directors, and controlling persons in connection with its initial organization, without a shareholder vote.

Fourth, the second sentence of the third paragraph will be revised to clarify that a Federal stock charter may be amended to eliminate cumulative voting.

Section 7. Directors. This section specifies that the number of directors of a stock association shall be fixed in the bylaws and shall not be fewer than five nor more than fifteen. However, provision is made for the Director of OTS to approve a larger or smaller board of directors. OTS proposes a technical amendment to this section that will specify that approval of a larger or smaller board can be given either by the Director "or his or her delegate."

Section 8. Amendment of charter. Section 8 describes the procedure for amending an association's charter. This section is being revised to indicate that preapproved charter amendments will be effective once they have been approved by the association's board of directors and shareholders, without any need for "preliminary approval" or any other form of approval from OTS. (See discussion below of § 552.4.) In addition, OTS proposes to elaborate on the general rule that charter amendments require approval by only a majority of the votes eligible to be cast at a shareholders' meeting. Clarifying language will be added indicating that this general rule does not apply in those instances where an association's charter specifies that a supermajority vote is required. (See discussion of § 552.4 below.)

Finally, the signature blocks of the charter will be modified to include a date to clarify when a charter is effective.

Section 552.4 Charter Amendments

Paragraphs (a) and (b) set forth the filing requirements for amendments to Federal stock charters. In paragraph (a), OTS is proposing to make the same changes regarding certification requirements as discussed above in connection with the corresponding provisions for mutual associations (§ 544.2(a)). Thus, stock associations will no longer be required to certify that proposed amendments comport with all applicable laws.

Paragraph (b) sets forth a list of preapproved charter amendments. OTS proposes to add descriptive titles to each of the preapproved amendments. The titles will correspond to the titles to similar preapproved charter provisions for Federal mutual associations. Paragraph (b) will also be revised to indicate that preapproved charter amendments are approved when adopted and must simply be filed with OTS within 30 days after adoption.

Paragraph (b)(3), which contains a preapproved amendment for institutions that wish to change from a Federal stock savings and loan association charter to a Federal stock savings bank charter, will be removed for the same reasons described above with regard to § 544.3.¹³

Current paragraph (b)(4), which permits changes to the authorized number of shares and the par or stated value of such shares, will become (b)(3). Additional nonsubstantive changes will be made to clarify the language of this provision.

Current paragraph (b)(5), which permits institutions to modify section 5 of the charter so as to authorize the issuance of preferred stock, will become (b)(4) and will include the same changes to section 5 of the charter as were discussed above. In addition, the reference to the Resolution Trust Corporation will be deleted, because that agency no longer exists.

A new preapproved charter amendment will be added, as new paragraph (b)(6), to authorize institutions to prohibit cumulative voting for directors. The standard charter for Federal stock associations provides for cumulative voting for directors. Federal associations frequently apply to amend their charters to prohibit cumulative voting, and OTS routinely approves these applications.

¹³ Subsequent paragraphs will be renumbered accordingly. However, only those paragraphs being substantively changed are discussed below.

Adding this provision to the list of preapproved amendments will save associations that wish to make this change the time and expense of an application.

Paragraph (c) states OTS policy on antitakeover provisions in charter amendments. OTS proposes to expand this provision to state the two basic standards OTS uses when reviewing proposed antitakeover amendments. First, the proposed amendment must be consistent with applicable statutes, regulations and OTS policies. Second, such amendments must be adopted by a percentage of the shareholder vote at least equal to the highest percentage that would be required to take any action under the antitakeover provision. These are not new standards; OTS already employs them when reviewing antitakeover amendments. Stating these standards in the regulations will enable institutions to present applications that conform to OTS requirements, thereby saving them time and expense.

Section 552.5 Bylaws

This section presents the requirements for the bylaws of a Federal stock association. A technical amendment will be made to paragraph (a) to confirm that shareholder votes to approve bylaw amendments must occur "at a legal meeting" of shareholders.

Paragraph (b) discusses the application and notice procedures applicable to bylaw amendments. This paragraph will be amended to remove the requirement that associations certify that bylaw amendments comport with applicable law. Revisions will also be made to indicate that the model bylaws, if adopted verbatim, are approved when adopted and must simply be filed with OTS within 30 days after adoption. Paragraph (b) will also indicate that the model bylaws are in the Handbook and are available from any Regional Office.

OTS proposes to add a new paragraph (d) confirming that the authority of a Federal stock association to engage in any transaction is determined by the association's charter and bylaws in effect at the time of the transaction. Subsequent amendments do not retroactively affect this determination. A similar regulatory provision is already in effect for Federal mutual associations (§ 544.6).

Section 552.6 Shareholders

This section contains certain corporate governance requirements regarding shareholder meetings. Paragraph (a), which contains rules regarding the time and place of shareholder meetings, will be amended in two respects. First, the requirement

that shareholder meetings be held in the state of an association's principal place of business is being removed. Instead, associations will be able to hold shareholder meetings at any convenient place the board of directors designates. Second, the time frame within which an association must hold its annual shareholder meeting will be extended from 120 to 150 days of the end of the association's fiscal year. These are the same changes being proposed for Federal mutual associations (§ 544.5(b)(1)).

Paragraph (b) states the notice requirements for shareholder meetings. This paragraph will be amended to waive the shareholder notice requirements for wholly-owned institutions.

Paragraph (d)(1), which addresses access to shareholder lists, will be revised to clarify that shareholder lists are available only to shareholders "of record" and their agents, and that the lists must contain the names of beneficial owners that are furnished to the association under the rules of the Securities and Exchange Commission. In addition, the paragraph will be amended to waive its application to wholly-owned institutions.

Paragraph (e), regarding shareholder quorum requirements, will be amended to confirm that, whenever a quorum is present, the affirmative vote of the majority of shares entitled to vote at a shareholders meeting shall constitute an act of the shareholders, absent a supermajority voting requirement.

Paragraph (f), which addresses proxies, will be amended in the same manner as the Federal mutual bylaws at § 544.5(b)(6) to allow proxies to be gathered electronically or telephonically. In addition, in response to frequent questions, paragraph (f) will be expanded to describe voting procedures applicable to stock held by fiduciaries on behalf of others and stock held jointly.

A new paragraph (h) will also be added confirming that, if an association's bylaws so provide, shareholder action may be taken by unanimous written consent in lieu of a shareholder meeting. At times, this may allow associations to obtain shareholder approval more rapidly and with less expense.

Section 552.6-1 Board of Directors

This section addresses corporate governance matters involving directors. Paragraph (a) will be amended to provide that Directors need not be stockholders unless the bylaws so require.

Paragraph (b) sets forth the number and term of directors. This paragraph will be amended to clarify that the bylaws of a Federal stock association must specify an exact number of positions on an association's board of directors, not simply a range. The number is selected by the institution within a range prescribed in the charter. OTS also proposes to amend paragraph (b) to exempt wholly-owned stock associations from the requirement that their directors be elected to staggered terms.

Paragraph (c), regarding regular meetings of the board, will be expanded to confirm that the board of directors has authority to determine the place, frequency, time, and notice procedures for its meetings. These matters need not be specified in the bylaws.

Paragraph (e), which covers director vacancies, will be amended to clarify that a director appointed to fill a vacancy may serve "only" until the next election of directors. This is not a substantive change. The word "only" is being added for emphasis and clarity.

Paragraph (f), concerning removal of directors, will be retitled "Resignation or removal of directors" to conform to the title for the same provision for Federal mutual associations. In addition, the paragraph will be amended to confirm, as is already the case, that shareholders may remove a director in the midst of his or her term "only" for cause. A cross reference to the existing regulatory definition of "cause" will also be added to answer a frequently asked question.

Paragraph (k), on age limitations for directors, will be revised to indicate that any age limitation provision must conform to applicable Federal law, rules, or regulations, such as the Age Discrimination in Employment Act.

Section 552.6-2 Officers

This section addresses corporate governance matters involving officers. Paragraph (a) will be amended to remove the requirement that the president always be a director and that either the president or the chair of the board of directors always be the chief executive officer.

In paragraph (b), which addresses removal of officers, the cross reference to OTS employment contract regulation will be updated.

Paragraph (c), on age limitations for officers, will be revised to indicate that any age limitation on service by officers must conform to applicable Federal law, rules, or regulations, such as the Age Discrimination in Employment Act.

Section 552.8 Savings Deposits

This section contains instructions to Federal stock associations regarding the types of savings deposits they may accept, preservation of those accounts when a former mutual association adopts a stock charter, rights of account holders in the event of liquidation, and forms of certificates to use for accounts. OTS proposes to remove this section from the regulations. The provisions of this section are either self evident or covered by other statutes and regulations and general contract law. Under the conversion regulations, all converting mutual institutions are required to notify their accountholders that all the rights they enjoyed as accountholders, except voting and ownership of the institution, carry over to the converting association.

Section 552.11 Books and Records

This section describes a Federal stock association's obligations with respect to books and records. Paragraph (b) will be amended to make clear that shareholders' inspection rights extend only to nonconfidential portions of an institution's books and records.

Appendix to Part 552

As indicated above, OTS proposes to move the model bylaws for Federal stock associations, which currently appear in the appendix to Part 552, into the Handbook. Changes will be made to conform the model bylaws to the amendments to the bylaws regulations described above. In addition, OTS proposes to modify the model bylaws to indicate that procedures other than Robert's Rules of Order may be used for shareholder meetings, as long as the board of directors adopts alternative written procedures.

C. Part 575—Mutual Savings and Loan Holding Companies

Section 575.9 Charters and Bylaws for Mutual Holding Companies and Their Savings Association Subsidiaries

This section describes the required charter and bylaws for Federal mutual holding companies. Paragraph (a)(1) contains the prescribed charter. This paragraph will be amended to indicate that the charter will appear in the Handbook and will be available from any Regional Office. In addition, the following changes will be made to the charter:

Section 1. Corporate Title. Section 1 contains the corporate title of the Federal mutual holding company. The words "hereby chartered" will be deleted as unnecessary verbiage.

Section 5. Members. This section identifies the mutual holding company's members and defines their rights. The sixth, seventh, and eighth sentences of this section, addressing proxies and quorums, will be removed because these matters either are covered or will be covered (once today's amendments are made) by the bylaw requirements applicable to mutual holding companies. As a result of this change, proxy and quorum issues will be addressed in a single place in the corporate documents of mutual holding companies.

Section 6. Directors. This section provides that a Federal mutual holding company may have from 5 to 15 directors. In addition to technical changes made to conform the wording of this section to the corresponding section of the charter for Federal mutual associations, OTS also proposes to remove the requirement that directors be members of the association and the requirement that the terms of directors be staggered.

Section 8. Amendment of charter. Section 8 describes the procedures for amending the mutual holding company's charter. These procedures will be streamlined to indicate that preapproved charter amendments are effective once approved by members of the mutual holding company. Other amendments will continue to require advance OTS approval.

Paragraph (a)(2) of § 575.9 provides that mutual holding companies may adopt the same preapproved charter amendments as are specified for mutual savings associations, subject to certain specified exclusions. Paragraph (a)(2) will be updated to conform to the changes being proposed for the list of preapproved charter amendments for mutual associations.

Paragraph (a)(4) specifies that Federal mutual holding companies shall be subject to the same rules regarding bylaws as apply to Federal mutual associations, with certain exceptions. This paragraph will be amended to indicate that the model bylaws may be found in the Handbook, available from OTS Regional Offices.

A technical amendment will be made to paragraph (a)(5), which requires mutual holding companies to make their charter and bylaws available to members. The cross reference to § 545.131 will be changed to reflect the proposed movement of this section to Part 544.

D. Miscellaneous Technical Changes

Section 543.1(b) Title Change

This section prescribes the rules for corporate titles for Federal savings associations. This section will be amended to delete cross references to sections being removed by this proposal.

Section 543.14 Continuity of Existence

This section, which confirms that the corporate existence of converting associations continues, notwithstanding the conversion, will be amended to delete a cross reference to a section being removed by this proposal.

Section 556.1 Directors

This section, which describes OTS policy on the number of directors necessary for a quorum and the directors' power to fill vacancies, will be removed because both subjects are thoroughly covered by the bylaws regulations.

Section 556.17 Effect of Loan Participation on Status of Borrowing Members

This section provides guidance regarding various issues that arise when determining the identity of the borrowing members of a Federal mutual savings association. For example, this section indicates that sale of a whole loan by a savings association to a third party terminates the borrower's membership rights in the association. OTS proposes to move this policy statement from the regulations into Handbook guidance.

V. Proposed Disposition of Corporate Governance Regulations

The following chart displays the changes being proposed for OTS's corporate governance regulations.

Original provision	Comment
§ 543.1(b)	Amended to delete references.
§ 543.14	Amended to delete references.
§ 544.1	Amended and moved to Handbook.
§ 544.1, Section 6	Moved portion to § 544.5 for clarification.
§ 544.1, Section 7	Moved portion to § 544.5 for clarification.
§ 544.1, Section 9	Removed need for preliminary approval.
§ 544.2(a)(2)	Eliminated need for management certification.
§ 544.2(b)	Eliminated need for prior notice requirement.
§ 544.2(b)(4)	Removed existing paragraph and added new preapproved amendment.
§ 544.2(c)	Removed delegation.
§ 544.3	Removed.
§ 544.5(a)	Revised for clarification.
§ 544.5(b) (1) and (2)	Amended for flexibility; changed annual meeting date.
§ 544.5(b) (3) and (4)	Adjournment provisions added.
§ 544.5(b) (5) through (17)	Redesignated (b) (6) to (18)
§ 544.5(b)(6)	Amended to add privacy rights.
§ 544.5(b)(10)	Amended to add guidance on vacancies.
§ 544.5(b)(13)	Amended to add guidance on nominee substitution.
§ 544.5(b)(16)	Revised for clarification.
§ 544.5(b)(17)	Removed.
§ 544.5(c)	Eliminated need for management certification.
§ 544.5(c)(1)	Eliminated need for prior notice requirement.
§ 544.5(d)	Reduced filing requirement.
§ 544.8	Removed.
§ 544.9	Removed.
Part 544 Appendix	Conformed to proposed changes and moved to Handbook.
§ 545.131	Moved to Part 544.
§ 552.1	Removed.
§ 552.2	Removed.
§ 552.2-5	Removed.
§ 552.3	Amended and moved to Handbook.

Original provision	Comment
§ 552.3 Section 8	Removed need for preliminary approval.
§ 552.4(a)(2)	Eliminated need for management certification.
§ 552.4(b)	Eliminated need for prior notice requirement.
§ 552.4(b)(3)	Removed.
§ 552.4(b) (4) through (6)	Redesignated (b) (3) to (5).
New § 552.4(b)(6)	Add new preapproved amendment.
§ 552.4(c)	Amended for clarification.
§ 552.5(b)	Eliminated need for management certification.
§ 552.5(b)(1)(ii)	Eliminated need for prior notice requirement.
§ 552.5(c)	Reduced filing requirement.
§ 552.6(a)	Amended for flexibility; changed annual meeting date.
§ 552.6(b)	Amended shareholder meeting requirements.
§ 552.6(d)	Amended to add guidance on voting lists.
§ 552.6(e)	Amended to add guidance on certain voting requirements.
§ 552.6(f)(1)	Amended for flexibility.
New § 552.6(f)(4)	Added section on shares held by others.
New § 552.6(h)	Added section on informal action.
§ 552.6-1(a)	Amended for flexibility.
§ 552.6-1(b)	Removed necessity for staggered board of directors if wholly owned. Also amended to specify number of directors.
§ 552.6-1(f)	Amended to clarify where "cause" is defined.
§ 552.6-1(k)	Amended to add guidance.
§ 552.6-2(a)	Amended to remove provision requiring president to be a director.
§ 552.8	Removed.
Part 552 Appendix	Conformed to proposed changes and moved to Handbook.
§ 556.1	Removed.
§ 556.17	Moved to Handbook.
§ 563.74(d)	Amended to conform to earlier change.
§ 575.9	Amended and moved to Handbook.
§ 575.9 Section 8	Removed need for preliminary approval.

VI. Request for Comment

OTS invites comment on all aspects of the proposal. Specific areas that OTS requests for comments are as follows:

—Whether to move the charters and model bylaws from the regulations to OTS's Handbook.

—Whether OTS should exempt associations that are wholly-owned from the requirement that the board of directors be elected in staggered elections; also whether a staggered board of directors should be required if the association is not wholly owned.

—Whether OTS should adopt a practice similar to the OCC of permitting institutions to elect to adopt, *en bloc*, the corporate governance procedures authorized by any of the following: the laws of the state where the main office of the bank is located, the laws of the state where the bank's holding company, if any, is located, Delaware General Corporation Law, or The Model Business Corporation Act. As indicated above, any such election would likely be subject to certain exclusions, as is the case for national banks, for Federal laws considered vital to safety and soundness or other important policy objectives. Commenters supporting the election option are asked to specify how the option would benefit savings associations.

VII. Executive Order 12866

The Director of OTS has determined that this proposed rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

VIII. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, OTS certifies that this proposal will not have a significant economic impact on a substantial number of small entities. The proposal does not impose any additional burdens or requirements upon small entities and lowers several paperwork and other burdens on all savings associations.

IX. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, Section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule.

As discussed in the preamble, this proposed rule reduces regulatory burden and updates, reorganizes and substantially streamlines corporate governance regulations and policy statements. OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of \$100 million or more. Accordingly, this rulemaking is not subject to section 202 of the Unfunded Mandates Act.

OTS has determined that the requirements of this proposed rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than \$100 million in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act of 1995.

X. Paperwork Reduction Act

This proposed regulation changes the timing of the submission of a notice to OTS when an institution proposes to amend its charter or bylaws with OTS preapproved amendments. Currently, this notice is required before the institution adopts the amendment. Under the proposal, the institution will file the notice after adopting the preapproved amendment. The reporting burden for this notice remains unchanged.

Comments are invited on (i) whether the existing approved collections of

information (OMB Control Nos. 1550-0017 and 1550-0018) are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility, (ii) the accuracy of the estimate of the burden of the collection of information, (iii) ways to enhance the quality of the information collected, (iv) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

List of Subjects

12 CFR Parts 543 and 544

Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic Funds transfers, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 552

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 556

Savings associations.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Flood insurance, Investments, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 575

Administrative practice and procedure, Capital, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision proposes to amend chapter V, title 12, Code of Federal Regulations, as set forth below.

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL MUTUAL ASSOCIATIONS

1. The authority citation for part 543 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

§ 543.1 [Amended]

2. Section 543.1 is amended in paragraph (b) by removing the phrase “, only pursuant to a charter change under § 544.3 or § 552.4 of this chapter”.

§ 543.14 [Amended]

3. Section 543.14 is amended by removing the phrase “or under § 544.3 of this chapter”.

PART 544—CHARTER AND BYLAWS

4. The authority citation for part 544 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

ALTERNATIVE ONE

5. Section 544.1 is revised to read as follows:

§ 544.1 Federal mutual charter.

The Federal mutual charter may be found in the Application Processing Regulatory Handbook, available from any Regional Office of OTS. (See § 516.1(b) of this chapter.) Each Federal mutual association’s charter, including any amendments thereto, constitutes conditions imposed in writing by the agency in connection with the granting of an application and a written agreement entered into with the agency within the meaning of 12 U.S.C. 1818(b).

ALTERNATIVE TWO

- 5a. Section 544.1 is amended by:
 - a. Revising the introductory text preceding the Federal Mutual Charter;
 - b. Removing in section 1 of the Federal Mutual Charter the phrase “hereby chartered”;
 - c. Transferring the third and fourth sentences of section 6 of the charter, appearing in brackets, to the end of the introductory text of § 544.1 and by removing the brackets;
 - d. Removing the last three sentences of section 6 of the charter;
 - e. Removing the third, fourth, and fifth sentences of the first paragraph, and all of the second paragraph of section 7 of the charter;
 - f. Removing the word “[Trustees]” in the heading and the words “[trustee]” and “[trustees]” where they appear in the text of section 7 of the charter; and
 - g. Revising section 9 of the charter.
- The revisions read as follows:

§ 544.1 Federal mutual charter.

A Federal mutual savings association shall have a charter in the following form, which may include any of the additional provisions set forth in § 544.2, if such provisions are specifically requested. A charter for a Federal mutual savings bank shall substitute the term “savings bank” for “association.” The term “trustees” may be substituted for the term “directors.”

* * * * *

Section 9. Amendment of charter. Adoption of any preapproved charter

amendment shall be effective after such preapproved amendment has been approved by the members at a legal meeting. Any other amendment, addition, change, or repeal of this charter must be approved by the Office prior to approval by the members at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon and approved shall be effective upon filing with the Office in accordance with regulatory procedures.

Attest: _____
Secretary of the Association

By: _____
President or Chief Executive Officer of the Association

Attest: _____
Secretary of the Office of Thrift Supervision

By: _____
Director of the Office of Thrift Supervision

Effective Date: _____

- 6. Section 544.2 is amended by:
 - a. Removing in paragraphs (a)(2)(i) and (a)(2)(ii), the phrase “along with a certification that the proposed” and by adding in lieu thereof the phrase, “provided such”;
 - b. Removing the phrase “filing with the OTS” in the third sentence of paragraph (b), and by adding in lieu thereof the phrase “adoption, if adopted without change and filed with OTS, within 30 days after adoption”;
 - c. Revising paragraph (b)(4); and
 - d. Removing the word “shall” in the second sentence of paragraph (c), and by adding in lieu thereof the phrase “should be filed in accordance with § 516.1(c) of this chapter and” and by removing the last sentence of paragraph (c).

The revisions read as follows:

§ 544.2 Charter amendments.

* * * * *

(b) * * *

(4) *Maximum number of votes.* A Federal mutual savings association may amend its charter by substituting { _____ } votes per member in section 6. [Fill in a number from 50 to 1000.]

* * * * *

§ 544.3 [Removed]

- 7. Section 544.3 is removed.
- 8. Section 544.5 is amended by:
 - a. Adding, between the words “majority” and “of” in the second sentence of paragraph (a), the phrase “of the votes cast by the members at a legal meeting or a majority”, and by adding two new sentences at the end of paragraph (a);
 - b. Removing the words “[trustee]” and “[trustees]” wherever they appear in paragraph (b);
 - c. Revising the second sentence of paragraph (b)(1);
 - d. Adding a sentence at the end of paragraph (b)(2);

- e. Adding a sentence at the end of paragraph (b)(3);
- f. Adding a sentence at the end of paragraph (b)(4);
- g. Redesignating paragraphs (b)(5) through (b)(17) as paragraphs (b)(6) through (b)(18), respectively;
- h. Adding a new paragraph (b)(5);
- i. Adding to newly designated paragraph (b)(6), a sentence between the first and second sentences, and three new sentences at the end;
- j. Revising newly designated paragraph (b)(7);
- k. Revising newly designated paragraph (b)(8);
- l. Adding after the word "treasurer" in newly designated paragraph (b)(10)(i), the words "or comptroller";
- m. Adding a sentence at the end of newly designated paragraph (b)(10)(ii);
- n. Revising newly designated paragraph (b)(11);
- o. Adding, between the words "secretary" and "and" in the second sentence of newly designated paragraph (b)(14), the phrase ", except in the case of a nominee substituted as a result of death or other incapacity,";
- p. Removing, in the first sentence of newly designated paragraph (b)(17), the phrase "pursuant to § 544.5 of the Office's regulations, as long as any such amendment", and by adding in lieu thereof the word "that", and by adding a sentence at the end of paragraph (b)(17);
- q. Removing, in newly designated paragraph (b)(18), the phrase "emergency preparedness,";
- r. Removing in paragraph (c)(1) introductory text, the phrase "along with a certification that the proposed", and by adding in lieu thereof the phrase ", provided such";
- s. Removing, in the concluding text of paragraph (c)(1), the phrase "shall be deemed to comply with the requirements of this section", and by adding in lieu thereof the phrase ", if adopted without change, and filed within 30 days after adoption, are effective upon adoption";
- t. Amending the heading of paragraph (c)(2) by removing the word "Notice", and by adding in lieu thereof the word "Filing", and by removing, in paragraph (c)(2), the phrase "together with a certification", and by adding in lieu thereof the word "provided"; and
- u. Removing, in the second sentence of paragraph (d), the phrase "raises a significant issue of law or policy", and by adding in lieu thereof the phrase "requires an application to be filed pursuant to paragraph (c)(1) of this section",.

The additions and revisions read as follows:

§ 544.5 Federal mutual savings association bylaws.

- (a) * * * The bylaws for a Federal mutual savings bank may substitute the term "savings bank" for "association." The term "trustees" may be substituted for the term "directors."
- (b) * * *
- (1) * * * Such meeting shall be held, as designated by its board of directors, at a location within the state that constitutes the principal place of business of the association, or at any other convenient place the board of directors may designate, and at a date and time within 150 days after the end of the association's fiscal year. * * *
- (2) * * * For purposes of this section, "voting capital" means FDIC-insured deposits.
- (3) * * * When any meeting is adjourned for 30 days or more, notice of the adjournment and reconvening of the meeting shall be given as in the case of the original meeting.
- (4) * * * The same determination shall apply to any adjourned meeting.
- (5) *Member quorum.* Any number of members present and voting, represented in person or by proxy, at a regular or special meeting of the members shall constitute a quorum. A majority of all votes cast at any meeting of the members shall determine any question. At any adjourned meeting any business may be transacted which might have been transacted at the meeting as originally called. Members present at a duly constituted meeting may continue to transact business until adjournment.
- (6) * * * Proxies may be given telephonically or electronically as long as the holder uses a procedure for verifying the identity of the member.
- * * * Accounts held by an administrator, executor, guardian, conservator or receiver may be voted in person or by proxy by such person. Accounts held by a trustee may be voted by such trustee either in person or by proxy, in accordance with the terms of the trust agreement, but no trustee shall be entitled to vote accounts without a transfer of such accounts into the trustee name. Joint accounts shall be entitled to no more than 1,000 votes, split as the joint owners may agree, in writing.
- (7) *Communications between members.* Provisions relating to communications between members shall be consistent with § 544.8 of the Office's regulations. No member, however, shall have the right to inspect or copy any portion of any books or records of a Federal mutual savings association containing:
- (i) A list of depositors in or borrowers from such association;
- (ii) Their addresses;

(iii) Individual deposit or loan balances or records; or

(iv) Any data from which such information could be reasonably constructed.

(8) *Number of directors, membership.* The bylaws shall set forth a specific number of directors, not a range. The number of directors shall be not fewer than five nor more than fifteen, unless a higher or lower number has been authorized by the Director of the Office or his or her designee. Each director of the association shall be a member of the association. Directors shall be elected for periods of three years and until their successors are elected and qualified, but provision shall be made for the election of approximately one-third of the board each year. [State-chartered savings banks converting to Federal savings banks may include alternative provisions for the election and term of office of directors so long as such provisions are authorized by the Office, and provide for compliance with the standard provisions of this section no later than six years after the conversion to a Federal savings association.]

* * * * *

(10) * * *

(ii) * * * Any officer may be removed by the board of directors with or without cause, but such removal, other than for cause, shall be without prejudice to the contractual rights, if any, of the person so removed.

* * * * *

(11) *Vacancies, resignation or removal of directors.* Members of the association shall elect directors by ballot: Provided, that in the event of a vacancy on the board, the board of directors may, by their affirmative vote, fill such vacancy, even if the remaining directors constitute less than a quorum. A director elected to fill a vacancy shall be elected to serve only until the next election of directors by the members. The bylaws shall set out the procedure for the resignation of a director, which shall be by written notice or by any other procedure established in the bylaws. Directors may be removed only for cause as defined in § 563.39 of this chapter, by a vote of the holders of a majority of the shares then entitled to vote at an election of directors.

* * * * *

(17) * * * When an association fails to meet its quorum requirement, solely due to vacancies on the board, the bylaws may be amended by an affirmative vote of a majority of the sitting board.

* * * * *

§§ 544.8 and 544.9 [Removed]

9. Sections 544.8 and 544.9 are removed.

ALTERNATIVE ONE

10. The Appendix to Part 544 is revised to read as follows:

Appendix to Part 544—Model Bylaws for Mutual Savings Associations

The Federal mutual bylaws may be found in the Application Processing Regulatory Handbook, available from any Regional Office of OTS (see § 516.1(b) of this chapter). Each Federal mutual association's bylaws, including any amendments thereto, constitutes conditions imposed in writing by the agency in connection with the granting of an application and a written agreement entered into with the agency within the meaning of 12 U.S.C. 1818(b).

ALTERNATIVE TWO

10a. The Appendix to Part 544 is amended by:

- a. Removing section 18;
- b. Removing the words "[trustee]", "[trustees]", and "[Trustees]" wherever they appear in the appendix;
- c. Adding introductory text between the heading of the appendix and Section 1;
- d. Amending the first sentence of Section 1 by removing the phrase "at (insert date and time within 120 days)", and by adding in lieu thereof the phrase "or at any other convenient place the board of directors may designate, at (insert date and time within 150 days)";
- e. Amending Section 2 by adding a sentence between the second and third sentences and by revising the last sentence;
- f. Amending Section 3 by removing paragraph (b) and the paragraph designation (a), by removing the word "annual" wherever it appears in Section 3, and by adding a sentence at the end of Section 3;
- g. Adding a sentence at the end of Section 4;
- h. Redesignating Sections 5 through 17 as Sections 6 through 18, respectively, and adding a new Section 5;
- i. Adding to newly designated Section 6, a sentence between the first and second sentences, and three new sentences at the end;
- j. Adding new text at the end of newly designated Section 7;
- k. Revising newly designated Section 8;
- l. Amending newly designated Section 10 by adding the phrase "or comptroller" in the first sentence of the first paragraph, between the word "treasurer" and the colon and at the end of the sentence, and by adding a sentence at the end of the first paragraph;

m. Amending newly designated Section 11 by revising the heading, adding two sentences at the beginning of the first paragraph following the heading, and adding the phrase "as defined in the regulations in § 563.39 of this chapter" after the word "cause" in the second paragraph;

n. Amending newly designated Section 14 by adding the phrase "except in the case of a nominee substituted as a result of death or other incapacity" at the end of the second and third sentences;

o. Amending newly designated Section 17 by adding a new sentence at the end of the section; and

p. Amending newly designated Section 18 by adding one sentence of introductory text preceding paragraph (a), and by removing the phrase "of at least _____ (must be in accordance with ERISA)" in paragraph (b).

The additions and revisions read as follows:

Appendix to Part 544—Model Bylaws for Mutual Savings Associations

The bylaws for a Federal mutual savings bank may substitute the term "savings bank" for "association." The term "trustees" may be substituted for the term "directors."

2. * * * For purposes of this section, "capital" means FDIC-insured deposits. Annual and special meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order or any other set of procedures agreed to by the board of directors.

3. * * * When any meeting is adjourned for 30 days or more, notice of the adjournment shall be given as in the case of the original meeting.

4. * * * The same determination shall apply to any adjourned meeting.

5. *Member quorum.* Any number of members present and voting, represented in person or by proxy, at a regular or special meeting of the members shall constitute a quorum. A majority of all votes cast at any meeting of the members shall determine any question. At any adjourned meeting any business may be transacted which might have been transacted at the meeting as originally called. Members present at a duly constituted meeting may continue to transact business until adjournment.

6. * * * Proxies may be given telephonically or electronically as long as the holder uses a procedure for verifying the identity of the member. * * * Accounts held by an administrator, executor, guardian, conservator or receiver may be voted in person or by proxy by such person. Accounts held by a trustee may be voted by such trustee either in person or by proxy, in accordance with the terms of the trust agreement, but no trustee shall be entitled to vote accounts without a transfer of such accounts into the trustee name. Joint accounts shall be entitled to no more than

1,000 votes, split as the joint owners may agree, in writing.

7. * * * No member, however, shall have the right to inspect or copy any portion of any books or records of a Federal mutual savings association containing:

- (i) A list of depositors in or borrowers from such association;
- (ii) Their addresses;
- (iii) Individual deposit or loan balances or records; or
- (iv) Any data from which such information could be reasonably constructed.

8. *Number of directors, membership.* The number of directors shall be _____ [not fewer than five nor more than fifteen], except where authorized by the Director of the Office or his or her designee. Each director of the association shall be a member of the association. Directors shall be elected for periods of three years and until their successors are elected and qualified, but provision shall be made for the election of approximately one-third of the board each year. [State-chartered savings banks converting to Federal savings banks may include alternative provisions for the election and term of office of directors so long as such provisions are authorized by the Office, and provide for compliance with the standard provisions of this section no later than six years after the conversion to a Federal savings association.]

* * * * *

10. * * * Any officer may be removed by the board of directors with or without cause, but such removal, other than for cause, shall be without prejudice to the contractual rights, if any, of the person so removed.

* * * * *

11. Vacancies, resignation, or removal of directors. Members of the association shall elect directors by ballot: Provided, that in the event of a vacancy on the board, the board of directors may, by their affirmative vote, fill such vacancy, even if the remaining directors constitute less than a quorum. A director elected to fill a vacancy shall be elected to serve only until the next election of directors by the members. * * *

* * * * *

17. * * * When an association fails to meet its quorum requirement, solely due to vacancies on the board, the bylaws may be amended by an affirmative vote of a majority of the sitting board.

18. *Age limitations.* [Bylaws on age limitations must comply with all Federal laws, such as the Age Discrimination in Employment Act and the Employee Retirement Income Security Act.] (a) * * *

* * * * *

PART 545—OPERATIONS

11. The authority citation for part 545 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

§ 545.131 [Redesignated as § 544.8]

12. Section 545.131 is redesignated as § 544.8.

PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

13. The authority citation for part 552 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

§§ 552.1 and 552.2 [Removed]

14. Sections 552.1 and 552.2 are removed.

§ 552.2-5 [Removed]

15. Section 552.2-5 is removed.

ALTERNATIVE ONE

16. Section 552.3 is revised to read as follows:

§ 552.3 Charters for Federal stock associations.

The Federal stock charter may be found in the Application Processing Regulatory Handbook, available from any Regional Office of OTS. (see § 516.1(b) of this chapter.) Each Federal stock association's charter, including any amendments thereto, constitutes conditions imposed in writing by the agency in connection with the granting of an application and a written agreement entered into with the agency within the meaning of 12 U.S.C. 1818(b).

ALTERNATIVE TWO

16a. Section 552.3 is amended in the Federal Stock Charter by:

a. Removing, in Section 2, the word "in", and by adding in lieu thereof the word "at";

b. Amending Section 5 by adding between the words "or" and "stated" appearing in brackets in the first sentence, the phrase "if no par is specified then shares shall have a", by revising the last sentence in the first paragraph;

c. Amending Section 5 by removing in the first sentence of the second paragraph the phrases "issuable in" and "common stock", and by adding in lieu thereof the phrases "issued in the initial organization of the association or" and "capital stock", respectively;

d. Amending Section 5 by adding the phrase " , unless the charter otherwise provides that there shall be no such cumulative voting" at the end of the second sentence in the third paragraph;

e. Amending Section 7 by adding the phrase " , or his or her delegate" at the end of the last sentence; and

f. Revising Section 8.

The revisions read as follows:

§ 552.3 Charters for Federal stock associations.

* * * * *

Federal Stock Charter

* * * * *

Section 5. * * * In the case of a stock dividend, that part of the retained earnings of the association that is transferred to common stock or paid-in capital accounts upon the issuance of shares as a stock dividend shall be deemed to be the consideration for their issuance.

* * * * *

Section 8. Amendment of charter. Except as provided in Section 5, no amendment, addition, alteration, change or repeal of this charter shall be made, unless such is first proposed by the board of directors of the association, then approved by the Office, provided that preapproved charter amendments shall be effective after such preapproved amendment has been approved by the board of directors and by the shareholders at a legal meeting. Amendments shall be approved by the shareholders by a majority of the votes eligible to be cast at a legal meeting, unless a higher vote is otherwise required. Any amendment, addition, alteration, change, or repeal so acted upon shall be effective upon filing with the Office in accordance with regulatory procedures.

Attest: _____
Secretary of the Association

By: _____
President or Chief Executive Officer of the Association

Attest: _____
Secretary of the Office of Thrift Supervision

By: _____
Director of the Office of Thrift Supervision

Effective Date: _____

17. Section 552.4 is amended by:

a. Removing at the end of paragraph (a)(1) the semicolon and the word "and", and by adding in lieu thereof a period;

b. Removing in paragraph (a)(2)(i) the phrase "with a certification that the proposed" and in paragraph (a)(2)(ii) the phrase " , together with a certification that the" , and by adding in both places the phrase " , provided such";

c. Removing the phrase "filing with the OTS" in the second sentence of paragraph (b) introductory text, and by adding in lieu thereof the phrase "adoption, if adopted without change and filed with OTS, within 30 days after adoption";

d. Adding headings to paragraphs (b)(1) and (b)(2);

e. Removing paragraph (b)(3);

f. Redesignating paragraph (b)(4) as paragraph (b)(3) and revising it;

g. Redesignating paragraph (b)(5) as paragraph (b)(4) and adding a paragraph heading, and revising the introductory text;

h. Amending newly redesignated paragraph (b)(4) in Section 5 by adding between the words "or" and "stated" appearing in brackets in the first sentence, the phrase "if no par value is

specified the", and by revising the last sentence in the first paragraph;

i. Amending paragraph (b)(4) in Section 5 by removing in the first sentence of the second paragraph the phrase "issuable in" and by adding in lieu thereof the phrase "issued in the initial organization of the association or";

j. Amending paragraph (b)(4) in Section 5 by adding the phrase " , unless the charter otherwise provides that there shall be no such cumulative voting" in the introductory text of the third paragraph between the words "directors:" and "Provided";

k. Amending paragraph (b)(4) in paragraph (ii) of the third paragraph of Section 5 by removing the phrase " , the Federal Deposit Insurance Corporation, or the Resolution Trust Corporation" , and by adding in lieu thereof the phrase "or the Federal Deposit Insurance Corporation";

l. Amending paragraph (b)(4) in paragraph A. of the fourth paragraph by adding the phrase " , unless the charter otherwise provides that there shall be no such cumulative voting" at the end of the second sentence;

m. Redesignating paragraph (b)(6) as paragraph (b)(5), adding a heading, and removing the phrase "Amend the charter of a Federal stock association" , and by adding in lieu thereof the phrase "A Federal stock association may amend its charter";

n. Adding a new paragraph (b)(6);

o. Adding a heading to paragraph (b)(8); and

p. Amending paragraph (c) by removing the word "preliminary" wherever it appears, and by adding a second sentence.

The additions and revisions read as follows:

§ 552.4 Charter amendments.

* * * * *

(b) * * *

(1) *Title change.* * * *

(2) *Home office.* * * *

(3) *Number of shares of stock and par value.* A Federal stock association may amend Section 5 of its charter to change the number of authorized shares of stock, the number of shares within each class of stock, and the par or stated value of such shares.

(4) *Capital stock.* A Federal stock association may amend its charter by revising Section 5 to read as follows:

Section 5. * * * In the case of a stock dividend, that part of the retained earnings of the association that is transferred to common stock or paid-in capital accounts upon the issuance of shares as a stock dividend shall be deemed to be the consideration for their issuance.

* * * * *

(5) *Limitations on subsequent issuances.* * * *

(6) *Cumulative voting.* A Federal stock association may amend its charter by substituting the following sentence for the second sentence in the third paragraph of Section 5: "Each holder of shares of common stock shall be entitled to one vote for each share held by such holder and there shall be no right to cumulate votes in an election of directors."

* * * * *

(8) *Antitakeover provisions following conversion.* * * *

(c) * * * Any such provision must be consistent with applicable statutes, regulations, and OTS policies; and Provided Further, that any such provision having the effect of rendering more difficult a change in control of the association which requires for any corporate action (other than the removal of directors) the affirmative vote of a larger percentage of shareholders than is required by this part, shall not be effective unless adopted by a percentage of shareholder vote at least equal to the highest percentage that would be required to take any action under such provision.

* * * * *

18. Section 552.5 is amended by:

a. Revising the second sentence of paragraph (a);

b. Removing, in paragraphs (b)(1) introductory text and (b)(2), the phrase "together with a certification", and by adding in lieu thereof the word "provided";

c. Removing, in the concluding text of paragraph (b)(1), the phrase "shall be deemed to comply with the requirements of this section", and by adding in lieu thereof the phrase", if adopted without change, and filed within 30 days after adoption, are effective upon adoption";

d. Amending the heading of paragraph (b)(2) by removing the word "Notice", and by adding in lieu thereof the word "Filing"; and

e. Adding paragraph (d).

The additions and revisions read as follows:

§ 552.5 Bylaws.

(a) * * * Bylaws may be adopted, amended or repealed by either a majority of the votes cast by the shareholders at a legal meeting or a majority of the board of directors. * * *

* * * * *

(d) *Effect of subsequent charter or bylaw change.* Notwithstanding any subsequent change to its charter or bylaws, the authority of a Federal stock association to engage in any transaction

shall be determined only by the association's charter or bylaws then in effect, unless otherwise provided by Federal law or regulation.

19. Section 552.6 is amended by:

a. Removing in paragraph (a) the number "120", and by adding in lieu thereof the number "150", and by adding the phrase " , or at any other convenient place the board of directors may designate" at the end of the paragraph;

b. Adding a sentence at the end of paragraph (b);

c. Revising paragraph (d)(1);

d. Adding a sentence at the end of paragraph (e);

e. Adding two sentences after the first sentence in paragraph (f)(1);

f. Adding paragraph (f)(4); and

g. Adding paragraph (h).

The additions and revisions read as follows:

§ 552.6 Shareholders.

* * * * *

(b) * * * Notwithstanding anything in this section, however, a Federal stock association that is wholly owned shall not be subject to the stockholder notice requirement.

* * * * *

(d) *Voting lists.* (1) At least 20 days before each meeting of the shareholders, the officer or agent having charge of the stock transfer books for the shares of the association shall make a complete list of the stockholders of record entitled to vote at such meeting, or any adjournments thereof, including the names of beneficial owners furnished to the association pursuant to the rules of the Securities Exchange Commission, arranged in alphabetical order, with the address and the number of shares held by each. This list of shareholders shall be kept on file at the home office of the association and shall be subject to inspection by any stockholder of record or the stockholder's agent during the entire time of the meeting. The original stock transfer book shall constitute prima facie evidence of the shareholders entitled to examine such list or transfer books or to vote at any meeting of shareholders. Notwithstanding anything in this section, however, a Federal stock association that is wholly owned shall not be subject to the voting list requirements.

* * * * *

(e) * * * If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the stockholders, unless the vote of a greater number of stockholders voting together or voting

by classes is required by law or the charter.

(f) *Shareholder voting* (1) * * * Proxies may be given telephonically or electronically as long as the holder uses a procedure for verifying the identity of the stockholder. Notwithstanding part 569 of this chapter, a proxy may designate as holder a corporation, partnership, company as defined in part 574 of this chapter, or other person.

* * *

* * * * *

(4) *Shares held by others.* Shares held by an administrator, executor, guardian, conservator or receiver may be voted in person or by proxy by such person. Stock standing in the name of a trustee may be voted by such trustee either in person or by proxy, but only in accordance with the terms of the trust agreement.

* * * * *

(h) *Informal action by stockholders.* If the bylaws of the association so provide, any action required to be taken at a meeting of the stockholders, or any other action that may be taken at a meeting of the stockholders, may be taken without a meeting if consent in writing has been given by all the stockholders entitled to vote with respect to the subject matter.

20. Section 552.6-1 is amended by:

a. Adding a sentence at the end of paragraph (a);

b. Revising paragraph (b);

c. Adding a sentence at the end of paragraph (c);

d. Adding the word "only" in paragraph (e) between the words "serve" and "until" in the second sentence;

e. Revising the heading of paragraph (f), adding the word "only" between the words "removed" and "for" and the words "as defined in § 563.39 of this chapter," after the word "cause" in the first sentence of paragraph (f)(1), and adding a sentence at the end of paragraph (f)(1); and

f. Adding a sentence at the end of paragraph (k).

The additions and revisions read as follows:

§ 552.6-1 Board of directors.

(a) * * * Directors need not be stockholders unless the bylaws so require.

(b) *Number and term.* The bylaws shall set forth a specific number of directors, not a range. The number of directors shall be not fewer than five nor more than fifteen, unless a higher or lower number has been authorized by the Director of the Office or his or her delegate. The directors shall be divided

into three classes as nearly equal in number as possible. The members of each class shall be elected for a term of three years and until their successors are elected and qualified. One class shall be elected by ballot annually, except in the case of a converting or newly chartered association where all directors shall be elected at the first election of directors for terms which shall be staggered in length from one to three years. Notwithstanding anything in this section, however, a Federal stock association that is wholly owned shall not be subject to the staggered board requirement.

(c) * * * The board of directors shall determine the place, frequency, time and procedure for notice of such meetings.

* * * * *

(f) *Removal or resignation of directors.*

(1) * * * Associations may provide for procedures regarding resignations in the bylaws.

* * * * *

(k) * * * [Bylaws on age limitations must comply with all Federal laws, such as the Age Discrimination in Employment Act and the Employee Retirement Income Security Act.]

21. Section 552.6-2 is amended by:

a. Adding in paragraph (a) the phrase "or comptroller" after the word "treasurer" in the first and fifth sentences, and by removing the third and fourth sentences; and

b. Adding a sentence at the end of paragraph (c).

The additions read as follows:

§ 552.6-2 Officers.

* * * * *

(c) * * * [Bylaws on age limitations must comply with all Federal laws, such as the Age Discrimination in Employment Act and the Employee Retirement Income Security Act.]

§ 552.8 [Removed]

22. Section 552.8 is removed.

§ 552.11 [Amended]

23. Section 552.11 is amended by adding the phrase "nonconfidential portions of" in paragraph (b) introductory text between the words "times," and "its" in the first sentence.

ALTERNATIVE ONE

24. The Appendix to part 552 is revised to read as follows:

Appendix to Part 552—Model Bylaws for Stock Associations

The Federal stock bylaws may be found in the Application Processing Regulatory Handbook, available from any Regional Office of OTS. (See § 516.1(b) of this chapter.) Each Federal stock association's bylaws,

including any amendments thereto, constitutes conditions imposed in writing by the agency in connection with the granting of an application and a written agreement entered into with the agency within the meaning of 12 U.S.C. 1818(b).

ALTERNATIVE TWO

24a. The Appendix to Part 552 is amended:

a. In Article II, Section 1, by removing the phrase "place in the State in which the principal place of business of the association is located", and by adding in lieu thereof the phrase "convenient place";

b. In Article II, Section 2, by removing the number "120" wherever it appears, and by adding in lieu thereof the number "150";

c. In Article II, Section 4, by adding at the end of the first sentence the phrase "or the board of directors adopts another procedure for the conduct of meetings";

d. In Article II, Section 5, by removing the number "10" in the first sentence, and by adding in lieu thereof the number "20";

e. In Article II, Section 7, by removing the word "shareholders" in the first sentence and adding the phrase "stockholders of record" in lieu thereof, adding at the end of the first sentence the phrase ", including the names of beneficial owners furnished pursuant to the rules of the Securities and Exchange Commission", removing in the second and third sentences the words "any shareholder" and adding in lieu thereof the phrase "any stockholders of record or the stockholder's agent", and removing in the fourth sentence the phrase "shareholders entitled" and adding in lieu thereof the phrase "stockholders of record entitled";

f. In Article II, Section 8, by adding a sentence at the end;

g. In Article II, Section 9, by adding a sentence after the first sentence;

h. In Article III, Section 3, by adding two sentences at the end;

i. In Article III, Section 11, by adding in the second sentence, the word "only" between the words "serve" and "until";

j. In Article III, Section 14, by adding in the first sentence, the word "only" between the words "removed" and "for" and the words "as defined in the regulations in § 563.39 of this chapter" after the word "cause";

k. In Article V, Section 1, by adding, in first, and fifth sentences, the phrase "or comptroller" after the word "treasurer" each place it appears, and removing the third and fourth sentences; and

l. In Article XI, by adding a sentence at the end.

The additions read as follows:

Appendix to Part 552—Model Bylaws for Stock Associations

* * * * *

Article II—Shareholders

* * * * *

Section 8. *Quorum.* * * * If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the stockholders, unless the vote of a greater number of stockholders voting together or voting by classes is required by law or the charter.

Section 9. *Proxies.* * * * Proxies may be given telephonically or electronically as long as the holder uses a procedure for verifying the identity of the stockholder. * * *

* * * * *

Article III—Board of Directors

* * * * *

Section 3. *Regular Meetings.* * * *

Directors may participate in a meeting by means of a conference telephone or similar communications device through which all persons participating can hear each other at the same time. Participation by such means shall constitute presence in person for all purposes.

* * * * *

Article XI—Amendments

* * * When an association fails to meet its quorum requirement, solely due to vacancies on the board, then the affirmative vote of a majority of the sitting board will be required to amend the bylaws.

PART 556—STATEMENTS OF POLICY

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

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1464, 1701j-3; 15 U.S.C. 1693-1693r.

§§ 556.1, 556.17 [Removed]

26. Sections 556.1 and 556.17 are removed.

PART 563—OPERATIONS

27. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1828, 3806; 42 U.S.C. 4106.

28. Section 563.74 is amended by revising paragraph (d) to read as follows:

§ 563.74 Mutual capital certificates.

* * * * *

(d) *Charter amendment.* No application for approval of the issuance of mutual capital certificates pursuant to this section may be filed unless the mutual association amends its charter to authorize issuance, or as may otherwise be required by applicable law.

* * * * *

PART 575—MUTUAL SAVINGS AND LOAN HOLDING COMPANIES

29. The authority citation for part 575 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828, 2901.

ALTERNATIVE ONE

30. Section 575.9(a)(1) is revised to read as follows:

§ 575.9 Charters and bylaws for mutual holding companies and their savings association subsidiaries.

(a) * * * (1) *Charter*. The Federal mutual holding company charter may be found in the Application Processing Regulatory Handbook, available from any Regional Office of OTS. (See § 516.1(b) of this chapter). Each Federal mutual holding company's charter, including any amendments thereto, constitutes conditions imposed in writing by the agency in connection with the granting of an application and a written agreement entered into with the agency within the meaning of 12 U.S.C. 1818(b).

* * * * *

ALTERNATIVE TWO

30a. Section 575.9 is amended by:

a. Removing, in Section 1 of the Charter in paragraph (a)(1), the phrase "hereby chartered";

b. Removing, in Section 5 of the Charter in paragraph (a)(1), the sixth, seventh, and eighth sentences in the last paragraph;

c. Removing, in Section 6 of the Charter in paragraph (a)(1), the word "OTS" in the second sentence, and by adding in lieu thereof the phrase "the Director of the Office or his or her delegate", and by removing the third, fourth and fifth sentences;

d. Revising Section 8 of the Charter in paragraph (a)(1);

e. Removing in paragraph (a)(2) the phrase "references to 'association' in the text of the mutual capital certificate charter provision in § 544.2(b)(4) shall be replaced with references to the 'Mutual Company,'" and

f. Removing the number "545.131" in paragraph (a)(5), and by adding in lieu thereof the number "544.8".

The revisions read as follows:

§ 575.9 Charters and bylaws for mutual holding companies and their savings association subsidiaries.

(a) Charters and bylaws for mutual holding companies—(1) *Charters*. * * *

CHARTER

* * * * *

Section 8. Amendment. Adoption of any preapproved charter amendment shall be effective after such preapproved amendment

has been approved by the members at a legal meeting. Any other amendment, addition, change, or repeal of this charter must be approved by the Office prior to approval by the members at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon and approved shall be effective upon filing with the Office in accordance with regulatory procedures.

Attest: _____

Secretary of the Association

By: _____

President or Chief Executive Officer of the Association

Attest: _____

Secretary of the Office of Thrift Supervision

By: _____

Director of the Office of Thrift Supervision

Effective Date: _____

* * * * *

Dated: May 31, 1996.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 96-14441 Filed 6-24-96; 8:45 am]

BILLING CODE 6720-01-P

Internal Revenue Service

26 CFR Part 1

[FI-59-94]

RIN 1545-AT08

Modifications of Bad Debts and Dealer Assignments of Notional Principal Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the Federal Register, the IRS is issuing temporary regulations relating to the allowance of a deduction for a partially worthless debt when the terms of a debt instrument have been modified. The temporary regulations provide relief to certain taxpayers that are required to recognize gain as the result of modifying a debt instrument, when a portion of the gain is in part caused by a reduction of the debt's basis attributable to a bad debt deduction claimed in a prior taxable year. The temporary regulations provide guidance to taxpayers that modify the terms of a debt instrument after deducting an amount for partial worthlessness.

In the Rules and Regulations section of this issue of the Federal Register, the IRS is also issuing temporary regulations relating to certain assignments of notional principal contracts by dealers in those contracts.

The temporary regulations provide guidance to taxpayers relating to consequences of these assignments.

The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments and requests for a public hearing must be received by September 23, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (FI-59-94), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (FI-59-94), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Craig R. Wojay, Office of Assistant Chief Counsel, Financial Institutions and Products, (202) 622-3920 (not a toll-free number) concerning the modifications of bad debts, and Thomas J. Kelly, Office of Assistant Chief Counsel, Financial Institutions and Products, (202) 622-3940 (not a toll-free number) concerning dealer assignments of notional principal contracts.

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the Federal Register amend the Income Tax Regulations (26 CFR part 1) relating to section 166. The temporary regulations contain rules relating to the requirement that a debt be charged off before a deduction on account of partial worthlessness is allowed. The rules apply to certain taxpayers who are required to recognize gain as the result of a significant modification of a debt instrument.

Temporary regulations in the Rules and Regulations section of this issue of the Federal Register amend the Income Tax Regulations (26 CFR part 1) relating to section 1001. The temporary regulations contain rules relating to certain assignments of notional principal contracts by dealers in those contracts.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has

been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

Drafting Information

The principal author of the regulations concerning the modifications of bad debts is Craig R. Wojay, Office of Assistant Chief Counsel (Financial Institutions and Products), IRS. The principal author of the regulations concerning dealer assignments of notional principal contracts is Thomas J. Kelly, Office of Assistant Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.166-3 is amended by adding paragraph (a)(3) to read as follows:

§ 1.166-3 Partial or total worthlessness.

(The text of proposed paragraph (a)(3) is the same as the text of § 1.166-

3T(a)(3) published elsewhere in this issue of the Federal Register).

Par. 3. Section 1.1001-4 is added to read as follows:

§ 1.1001-4 Modifications of notional principal contracts.

(The text of proposed section 1.1001-4 is the same as the text of § 1.1001-4T published elsewhere in this issue of the Federal Register).

Margaret Milner Richardson,

Commissioner of Internal Revenue,

[FR Doc. 96-15831 Filed 6-24-96; 8:45 am]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 59

[AD-FRL-5526-3]

National Volatile Organic Compounds Emission Standards for Architectural Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would reduce emissions of volatile organic compounds (VOC) from architectural coatings. The proposed standards implement Section 183(e) of the Clean Air Act (CAA), as amended in 1990, which requires the Administrator to control VOC emissions from certain categories of consumer and commercial products.

Exposure to ozone is associated with a wide variety of human health effects, agricultural crop loss, and damage to forests and ecosystems. As required by Section 183(e), the Administrator conducted a study to determine the potential of VOC emissions from consumer and commercial products to contribute to ozone levels that violate the National Ambient Air Quality Standards (NAAQS) for ozone and established a list of product categories to be regulated. Based on the criteria described in the study and accompanying report, the EPA determined that VOC emissions from architectural coatings should be reduced. Therefore, the EPA is proposing standards to reduce ozone-causing VOC emissions from these coatings. The proposed standards would reduce annual emissions of VOC by 106,000 tons representing a 20 percent reduction from 1990 levels.

The proposed rule is centered around requiring VOC content levels for 55 individual architectural coating

categories. When promulgated these requirements on manufacturers and importers of architectural coatings are anticipated to take effect on April 1, 1997. This rulemaking is on an expedited schedule, with a relatively short public comment period.

Following proposal of this rule, the EPA plans to participate in a joint study with the architectural coatings industry. This study will focus on the feasibility of adopting more stringent VOC requirements in the future.

DATES: Comments. Comments pertaining to the proposed rule must be received on or before August 30, 1996.

Public Hearing. A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards for architectural coatings. If anyone contacts the EPA requesting to speak at a public hearing concerning this proposed rule by July 18, 1996, a public hearing will be held on July 30, 1996, beginning at 10:00 a.m. Persons interested in attending the hearing should notify Ms. Kim Teal, (919) 541-5580 by July 18, 1996, to verify that a hearing will occur and for notification of the location of the hearing. The record for the public hearing will remain open for 30 days after completion of the hearing to provide an opportunity for the submission of rebuttal and supplementary information.

Persons wishing to present oral testimony concerning this proposed rule must contact Ms. Kim Teal at the EPA by July 18, 1996. Ms. Teal may be contacted at the following address: Coatings and Consumer Products Group (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5580, FAX number (919) 541-5689.

ADDRESSES: Comments. Comments should be submitted (in duplicate) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-92-18, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A-92-18. No Confidential Business

Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Docket. The proposed regulatory text and other materials related to this rulemaking, excepting any information claimed as CBI, are available for review in a public record. This record has been established for this rulemaking under docket number A-92-18. The docket, including paper versions of electronic comments, is available for inspection from 8:00a.m. to 5:30p.m. Monday-Friday, excluding legal holidays. The docket is located at the EPA's Air and Radiation Docket and Information Center, Room M1500, 1st Floor, 401 M St. S.W., Washington, D.C. 20460, telephone (202) 260-7548, FAX (202) 260-4400. A reasonable fee may be charged for copying.

Background Information Document. The background information document (BID) and other documents supporting the proposed standards may be obtained from the docket or from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Architectural Coatings—Background for Proposed Standards," EPA-453/R-95-009a.

FOR FURTHER INFORMATION CONTACT: For information concerning the proposed standards, contact Ms. Ellen Ducey at (919) 541-5408, Coatings and Consumer Products Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Regulated entities

Entities potentially regulated by this action are those who have the potential to supply products which emit VOC and are listed in § 183(e) of the CAA in the following regulated categories and entities:

Category	Examples of regulated entities
Manufacturer	Source that produces, packages, or repackages architectural coatings for sale or distribution in the U.S.
Importers	Source that brings architectural coatings from a location outside the U.S. into the U.S. for sale or distribution within the U.S.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by

this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 59.400 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding

FOR FURTHER INFORMATION CONTACT section of this preamble.

The regulatory text of the proposed rule is not included in this Federal Register notice, but is available in Docket No. A-92-18 (see **ADDRESSES** for information about the docket). The proposed regulatory language is also available on one of the EPA's Technology Transfer Network (TTN) electronic bulletin boards.

The TTN provides information and technology exchange in various areas of air pollution control. The TTN contains 18 electronic bulletin boards, and the following five items can be obtained through the Clean Air Act Amendments bulletin board in the section called **Recently Signed Rules:**

- (1) "FACT SHEET: Proposed Air Regulations for Architectural Coatings (1995)."
- (2) Federal Register notice for this preamble: "National Volatile Organic Compound Emission Standards for Architectural Coatings" (this document).
- (3) Regulatory text for the proposed rule.
- (4) "Architectural Coatings—Background for Proposed Standards," (EPA-453/R-95-009a).
- (5) Information Collection Request document for the proposed standards: "Reporting and Recordkeeping Requirements for National VOC Emission Standards for Architectural Coatings," November 29, 1995.

The TTN is accessible 24 hours per day, 7 days per week except Monday morning from 8:00 a.m. to 12:00 p.m. when the system is down for maintenance and back up. The service is free, except for the cost of a phone call. Dial (919) 541-5742 for up to a 14,400 bits per second (bps) modem. If more information on the TTN is needed, call the help desk at (919) 541-5384.

The information presented in this preamble is organized as follows:

- I. Background
 - A. Clean Air Act Requirements
 - B. Regulatory Background
 - C. Supporting Documentation for the Proposed Standards
- II. Summary of Proposed Standards
 - A. Applicability of the Standards
 - B. Regulated Entities
 - C. VOC Levels

- D. Compliance Requirements
- E. Labeling Requirements
- F. Recordkeeping
- G. Reporting
- H. Test Methods
- I. Variance
- III. Summary of Impacts
 - A. Environmental Impacts
 - B. Energy Impacts
 - C. Cost and Economic Impacts
 - D. Cost-Effectiveness
- IV. Rulemaking Decision Process
 - A. Legislative Authority
 - B. Regulatory Negotiation Procedure
- V. Rationale
 - A. Applicability
 - B. Regulated Entities
 - C. Selection of Best Available Controls (BAC)
 - D. Exceedance Fee Approach
 - E. Low Volume Categories/Exemption
 - F. Special Provisions
 - G. Labeling and Public Information Requirements
 - H. Selection of the Recordkeeping and Reporting Requirements
 - I. Test Methods
 - J. Alternative Regulatory Approaches
 - K. Solicitation of Comments
- VI. Future Phase Under Consideration
- VII. Administrative Requirements
 - A. Public Hearing
 - B. Executive Order 12866
 - C. Paperwork Reduction Act
 - D. Regulatory Flexibility Act
 - E. Unfunded Mandates
 - F. Enhancing the Intergovernmental Partnership under Executive Order 12875.

I. Background

A. Clean Air Act Requirements

Exposure to ground-level ozone is associated with a wide variety of human health effects, agricultural crop loss, and damage to forests and ecosystems. The most thoroughly studied health effects of exposure to ozone at elevated levels during periods of moderate to strenuous exercise are the impairment of normal functioning of the lungs, symptomatic effects, and reduction in the ability to engage in activities that require various levels of physical exertion. Typical symptoms associated with acute (one to three hour) exposure to ozone at levels of 0.12 parts per million (ppm) or higher under heavy exercise or 0.16 ppm or higher under moderate exercise include cough, chest pain, nausea, shortness of breath, and throat irritation.

Ground-level ozone, which is a major component of "smog," is formed in the atmosphere by reactions of VOC and oxides of nitrogen (NO_x) in the presence of sunlight. In order to reduce ground-level ozone concentrations, emissions of VOC and NO_x must be reduced.

Section 183(e) of the CAA addresses VOC emissions from the use of consumer and commercial products. It requires the EPA to study VOC

emissions from the use of consumer and commercial products, to report to Congress the results of the study, and to list for regulation products accounting for at least 80 percent of VOC emissions resulting from the use of such products in ozone nonattainment areas.

Accordingly, in the March 23, 1995 Federal Register (60 FR 15264), the EPA announced the availability of the "Consumer and Commercial Products Report to Congress" (EPA-453/R-94-066-A), and published the consumer and commercial products list and schedule for regulation. Architectural coatings are in the first group of products to be regulated by March 1997. This listing and prioritization are not final Agency actions, and the EPA requests comment on the placement of architectural coatings on the list and the priority assigned to these coatings.

B. Regulatory Background

Architectural coatings are included under the definition of consumer and commercial products because the definition under Section 183(e) of the CAA specifically includes paints, coatings, and solvents. Section 183(e) of the CAA requires that the first group of consumer and commercial products (i.e., those with highest priority for regulation) be regulated within two years after publication of the regulatory schedule. As mentioned previously, architectural coatings are in the first group of consumer and commercial products to be regulated and, therefore, must be regulated by March 1997.

Because preliminary information indicated that the architectural coatings category is a sizable contributor to ozone levels in nonattainment areas, it seemed probable that this category would be a high priority for regulation. In 1992, the EPA initiated a regulatory negotiation to address architectural coatings (see section IV.B for a discussion of the negotiation). Throughout this process, the EPA maintained that if the final results of the study of consumer and commercial products varied from preliminary estimates, the EPA's decision to include architectural coatings in the first group of categories to be regulated could change. The study indicated that the VOC emissions from consumer and commercial products represent approximately 28 percent of all manmade VOC emissions. The architectural coatings category is one of the largest consumer and commercial product categories, accounting for about nine percent of the emissions of VOC from all consumer and commercial products. Based on evaluation of criteria developed under Section 183(e) of the

CAA, architectural coatings were placed in the first group of products to be regulated. The criteria that contribute to the prioritization of architectural coatings in the first group of consumer and commercial products to be regulated include the availability of alternatives, the cost-effectiveness of controls, and the quantity of VOC emissions in ozone nonattainment areas. Further details about the criteria used to prioritize consumer and commercial product categories for regulation are available in the report to Congress.

Architectural coating regulations are already in place in a number of States, and many other States are in the process of developing regulations. For the companies that market architectural coatings in different States, trying to fulfill the differing requirements of State rules has created administrative, technical, and marketing problems. A Federal rule is expected to provide some degree of consistency, predictability, and administrative ease for the industry. In addition, State representatives have recommended that the EPA develop and implement Federal control measures. This is because a national rule helps reduce compliance problems associated with noncompliant coatings being transported into nonattainment areas from neighboring areas and neighboring States. Also, a national rule will enable States to obtain needed emission reductions from this sector in the near term, without having to expend their limited resources to develop similar rules in each State.

C. Supporting Documentation for the Proposed Standards

The architectural coating BID (EPA 453/R-95-009a) contains some supporting documentation for this proposal. It contains a product category description, an industry profile, a discussion of control measures, and a description of the expected emission reductions. Other supporting information for this proposed regulation includes existing State regulations, regulatory negotiation presentation material, meeting summaries, survey data, technical memoranda including the economic impact analysis, and the report to Congress on consumer and commercial products. This information is contained in the docket and is available to the public as described above.

II. Summary of Proposed Standards

The proposed standards are summarized below. The rationale for the regulatory decisions made in developing these standards is provided in section V.

A. Applicability of the Standards

The provisions of the proposed rule apply to all architectural coatings that are manufactured or imported for sale or distribution in the United States on or after April 1, 1997. An architectural coating is defined in the proposed rule as "a coating recommended for field application to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs."

Category definitions in the proposed rule, such as "exterior flats" or "industrial maintenance coatings," are a subset of architectural coatings. A coating must first meet the general definition of an architectural coating to be subject to the provisions of the proposed rule.

The proposed standards do not apply to the following architectural coatings:

- (1) Coatings manufactured exclusively for sale outside the United States;
- (2) Coatings manufactured or imported prior to April 1, 1997;
- (3) Coatings supplied in nonrefillable aerosol containers;
- (4) Coatings that are collected and redistributed at community-based paint exchanges; and
- (5) Coatings sold in containers with capacities of 1 liter or less.

B. Regulated Entities

Regulated entities in this proposal are limited to architectural coating manufacturers and importers as defined below.

Architectural coating importer (or importer) means a company, group, or individual that brings architectural coatings from a location outside the United States into the United States for sale or distribution within the United States.

Architectural coating manufacturer (or manufacturer) means a company, group, or individual that produces, packages, or repackages architectural coatings for sale or distribution in the United States. A company, group, or individual that repackages architectural coatings as part of a community-based paint exchange and does not produce, package, or repackage any other architectural coatings for sale or distribution in the United States is excluded from this definition.

C. VOC Levels

The proposed rule is centered around VOC content levels for 55 individual architectural coating categories. Manufacturers and importers must limit the VOC content of subject coatings to the VOC levels in Table 1, which are effective April 1, 1997 and thereafter.

As shown in Table 1, the categories of low solids stains and low solids wood

preservatives have different units for the VOC content level. The VOC content for these categories is expressed in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, including water and exempt compounds. This is because, unlike conventional coatings, which achieve a film-build, these stains and wood preservatives are not applied to achieve a certain thickness of solid film, but rather to affect penetration of the stain or wood preservative. For these low solids coatings, the assumption that coverage of the coating is dependent on the volume of solids in the coating is not valid. The volume of the coating (which must include at least 50 percent water in the volatile fraction) determines coverage. For this reason, the VOC content level is determined "including water and exempt compounds."

A coating is subject to the VOC content level for the category in Table 1 that describes the coating's recommended use, appearance characteristics, and/or resin type. If a coating meets the definition of an architectural coating and is subject to the proposed rule, it must be identified by the manufacturer or importer to be defined under at least one of the categories listed in Table 1. If a coating does not meet any of the other category definitions besides "flat" or "nonflat," it would be categorized in either the flat or nonflat category depending on its gloss level. These default categories generally require lower VOC content levels than other categories in Table 1. If a coating is marketed in more than one of the listed coating categories, compliance is required with the lowest applicable VOC content level except for the following:

- (1) High temperature coatings that may also be suitable for use as metallic pigmented coatings are subject only to the VOC level for high temperature coatings;
- (2) Lacquer sanding sealers that may also be suitable for use as sanding sealers in conjunction with clear lacquer topcoats are subject only to the VOC level for lacquer sanding sealers;
- (3) Metallic pigmented coatings that may also be suitable for use as roof coatings, industrial maintenance coatings, or primers are subject only to the VOC level for metallic pigmented coatings;
- (4) Shellacs that may be marketed as primers, sealers, or undercoaters are subject only to the VOC level for shellacs;
- (5) Fire-retardant/resistive coatings that may be suitable for use as any other architectural coatings are subject only to

the VOC level for fire-retardant/resistive coatings;

(6) Pretreatment wash primers that may be suitable for use as primers are subject only to the VOC level for pretreatment wash primers; and

(7) Industrial maintenance coatings that may also be primers are subject only to the VOC level for industrial maintenance coatings.

These exceptions were developed to clarify the applicable VOC level in situations where inherent overlap exists between category definitions, and the least stringent VOC level is meant to apply.

Manufacturers or importers of "recycled" architectural coatings collect, reprocess, and market coatings that contain a percentage of post-consumer coating product. Such use is environmentally beneficial because it reduces the magnitude of waste from architectural coatings. Manufacturers and importers of recycled coatings are given the option of calculating an "adjusted VOC content." The "adjusted VOC content" provides some credit for the amount of post-consumer material contained in the coating. The EPA is providing this credit to encourage recycling of unused paint. The "adjusted VOC content" is determined by multiplying the percentage of post-consumer content of the coating by the VOC content of the recycled coating, which can then be subtracted from the VOC content of the recycled coating. An explicit equation for the calculation is in the proposed rule.

D. Compliance Requirements

1. Compliance Dates

The compliance date for all manufacturers and importers is April 1, 1997. In draft versions of the proposed rule, the compliance date for small manufacturers and small importers was January 1, 1998. Small manufacturers and small importers were defined as manufacturers and importers with annual gross revenues in 1995 of less than \$10 million, and total gross revenues in 1995 from sales of all products of less than \$50 million. This extra compliance time has been eliminated from the proposed rule due to the inclusion of less stringent VOC levels for some of the largest categories of architectural coatings, and the inclusion of a variance provision described in sections II.I and V.F. These provisions are expected to provide sufficient compliance flexibility needed by small manufacturers. However, the EPA requests comment on whether the final rule should include the small manufacturer compliance extension. If

such a provision were included, the VOC reduction achieved by the proposed rule in 1997 would be reduced from 20 percent to approximately 15 percent. The EPA also requests comment on the adequacy of the compliance lead time for all affected sources. Comments supporting extra compliance time for all manufacturers and other affected sources should include supporting data providing economic and/or technological justification.

2. Compliance Methods

Compliance with the VOC content levels in the proposed rule is to be determined on a coating-by-coating basis. To determine compliance with the VOC levels in Table 1, manufacturers or importers would first be required to determine the coating category, the applicable VOC level, and the VOC content for each coating product manufactured or imported. An initial report is required for all manufacturers and importers subject to the rule. Other labeling, recordkeeping, and reporting requirements are summarized in sections II.E, II.F, and II.G, respectively. Test methods to be used to determine VOC content of the coatings are described in section II.H.

E. Labeling Requirements

With the exception of low solids stains and low solids wood preservatives, containers of all subject coatings must bear labels or lids that include the following information:

- (1) The date of manufacture or a code indicating the date of manufacture;
- (2) The maximum VOC content of the coating in the container, displayed in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds, or colorant added to tint bases; and
- (3) A statement of the manufacturer's recommendation regarding thinning with organic solvents. Containers of low solids stains and low solids wood preservatives must bear labels or lids that include the following information:
 - (1) The date of manufacture or a code indicating the date of manufacture;
 - (2) The maximum VOC content of the coating in the container, displayed in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds; and
 - (3) A statement of the manufacturer's recommendation regarding thinning with organic solvents.

Containers of industrial maintenance coatings, in addition to the labeling requirements for all subject coatings, must include on the container label or lid the phrase "NOT INTENDED FOR RESIDENTIAL USE."

Containers of recycled architectural coatings, in addition to the labeling requirements for all subject coatings, must include on the label or lid a statement of the percentage, by volume, of post-consumer coating content. This prerequisite must be met to be able to determine compliance using an "adjusted VOC content."

The EPA considered requiring the following statement on every label or lid of architectural coatings: "This architectural coating contains volatile organic compounds that will be emitted to the ambient air during use and, under certain environmental conditions, these compounds may contribute to the formation of ground-level ozone, an air pollutant and major component of urban smog." As an alternative to this requirement, the EPA is considering undertaking an educational effort directed at informing the public about the role of VOC emissions from architectural coatings in the formation of ground-level ozone. The EPA requests comment on whether an outreach effort would be as effective an approach as an educational statement on each container of architectural coating.

The EPA is aware that many architectural coating labels currently display information on the amount of coverage that the coating is expected to provide. The EPA is considering requiring this information to be displayed on the labels or lids of all architectural coating containers. Both coating coverage and VOC content information are necessary to allow a consumer to estimate and compare the expected resulting VOC emissions from application of different coatings to complete a particular job. This information on coating coverage would allow consumers to make an informed choice between coatings. The EPA requests comment on the feasibility of requiring coverage information to be displayed on the label or lid of all architectural coating containers subject to this rule.

F. Recordkeeping

Except for recycled coatings, there are no proposed recordkeeping requirements. For recycled coatings, manufacturers and importers must keep the following records for three years:

(1) The minimum percentage of post-consumer coating content for each recycled coating product;

(2) Calculation of an adjusted VOC content that accounts for the post-consumer coating content credit;

(3) The volume of coating received for recycling;

(4) The volume of coating received that was unusable;

(5) The volume of virgin materials; and

(6) The volume of the final recycled coating manufactured.

G. Reporting

Manufacturers and importers of coatings subject to the proposed standard must file an initial report. The initial report must be submitted by April 1, 1997 or within 180 days after becoming subject to the requirements of the proposed standard, whichever is later. The initial report must include the following information:

(1) Name and mailing address of the manufacturer or importer; and

(2) A list of categories from Table 1 in which coatings are manufactured or imported.

For recycled coatings, manufacturers and importers must submit an annual report by February 1 of the calendar year following the year in which the coatings are introduced into commerce that includes the following:

(1) The volume of coating received for recycling;

(2) The volume received that was unusable;

(3) The volume of virgin material used;

(4) The volume of the final recycled product; and

(5) The minimum post-consumer content of the coating.

Reporting requirements for the variance application are discussed in II.I.

In cases where a code is used to indicate the date of manufacture, all manufacturers and importers of architectural coatings must file an explanation of each date code displayed on coating containers by April 1, 1997. Explanations of new codes must be filed within 30 days after their first use.

H. Test Methods

For purposes of determining compliance with this rule, the VOC content of each coating product manufactured or imported must be determined using the EPA's Reference Method 24, "Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings," found in 40 CFR part 60, appendix A. Analysis of waterborne coating VOC content determined by Reference Method 24 must be adjusted as described in section 4.4 of Method 24.

Manufacturers and importers may use alternate methods for determining coating VOC content if it can be demonstrated to the Administrator's satisfaction that the method provides results equivalent to or more accurate than those obtained using Reference Method 24.

I. Variance

The proposed rule also allows manufacturers and importers of architectural coatings to submit a written application to the Administrator requesting a variance if, for reasons beyond their reasonable control, they cannot comply with the requirements of the proposed rule. The application must include the following information:

(1) The specific grounds for which the variance is sought;

(2) The proposed date(s) by which compliance with the provisions of the rule will be achieved; and

(3) A compliance report reasonably detailing the method(s) by which compliance will be achieved.

Upon receipt of the variance application, the Administrator will hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements of the proposed rule is necessary and will be permitted.

The Administrator may grant a variance if the following criteria are met:

(1) By complying with the proposed rule, the applicant would bear unreasonable economic hardship;

(2) The public benefit of avoiding hardship to the applicant outweighs the public interest in any increased emissions or air contaminants that would result from issuing the variance; and

(3) The proposed compliance schedule can be reasonably implemented, and compliance will be achieved as expeditiously as possible.

The approved variance order will designate a final compliance date and a condition that specifies increments of progress necessary to assure timely compliance. A variance shall end immediately upon the failure (of the party to whom the variance was granted) to comply with any term or condition of the variance.

III. Summary of Impacts

A. Environmental Impacts

This section contains a discussion of the incremental increase or decrease in air pollution, water pollution, and solid waste generation that would result from implementing the proposed standards.

1. Air Pollution Impacts

The proposed standards would reduce annual nationwide emissions of VOC from the use of architectural coatings by an estimated 96,000 megagrams (Mg) (106,000 tons) beginning in 1997. These reductions are compared to the 1990 baseline emission estimate of 480,000 Mg (530,000 tons) and represent emissions that would occur in the absence of the proposed standards.

Because the VOC emissions from architectural coatings include a large class of compounds that are expected to be associated with a wide spectrum of health effects, reductions in VOC from architectural coatings would result in a decrease in the associated health effects.

Because many regulated VOC species are also hazardous air pollutants (HAP), the proposed standards are expected to reduce some HAP emissions from the use of architectural coatings. An increase in the use of HAP in product formulation is not expected to occur as a result of the proposed standards. Data on speciated VOC content from the VOC Emissions Inventory Survey show no pattern of higher HAP concentrations in lower VOC formulations.

2. Water and Solid Waste

The major compliance method for this rule will be the use of compliant coatings. No adverse solid waste impacts are anticipated from compliance with this rule. It is not expected that the disposal of coatings as solid waste will increase as a result of this rule. In fact, because the compliant (higher solids) coatings are more concentrated, fewer containers will require disposal when the same volume of solids is applied.

Some provisions in this proposed rule have the potential to reduce the amount of coating discarded as solid waste. Recycling of coatings may be encouraged through two provisions. The rule includes a provision that allows an "adjusted VOC content" to be calculated for recycled coatings for compliance purposes. This adjustment essentially allows a higher VOC content standard for coatings that contain post-consumer coating. The rule also exempts any coatings distributed through community-based paint exchanges.

In cases where conversion from solventborne to waterborne coatings is the method used to achieve compliance, an increase in wastewater discharge may occur if waste waterborne coatings are discharged to publicly owned treatment works.

B. Energy Impacts

No adverse energy impacts are anticipated from compliance with this rule. No add-on controls are required.

C. Cost and Economic Impacts

By establishing a set of product-specific levels for VOC content, the proposed regulations have cost implications for manufacturers and consumers of the affected products. In 1997, manufacturers of architectural coatings that do not meet the VOC levels in Table 1 will be required to reformulate products or remove products from the market (or participate in an alternative compliance mechanism such as an exceedance fee). It is presumed that manufacturers will choose the option that is most advantageous to them, but each option imposes costs, some of which will be passed on to other members of society (consumers) in the form of higher prices and some of which will be borne directly by the manufacturers.

The cost for reformulating noncompliant products depends on the level of effort required to develop a new product (e.g., research and development and market testing expenditures) and how these expenditures are incurred over time. Data on level of effort were provided to the regulatory negotiation committee (see section IV.B for discussion of the negotiation) for prototype reformulations, from which an annualized cost estimate of approximately \$17,772 (in 1991 dollars) per reformulation was computed. This cost is assumed to be independent of the annual sales volume of the product. Other costs and cost savings associated with reformulation are likely, but could not be quantified. Unquantified costs include material cost changes and changes in disposal costs.

An economic impact analysis of the proposed regulatory requirements was performed. Potential cost, price, and output effects for the architectural coatings industry were examined for the proposed table of VOC levels. The economic analysis also evaluated the option of utilizing an exceedance fee, which is an alternative compliance mechanism that is discussed in detail in section V.D. However, the analysis did not consider the impact of any variances or low volume exemptions that may be granted to reduce impacts.

The cost analyses performed were based on data from the 1990 VOC Emissions Inventory Survey. These survey data represented approximately 75 percent of the total volume of architectural coating products produced in 1990. For the products in the survey

population, the estimated average annualized cost, if all products exceeding the VOC levels were reformulated to meet the standard, is \$260 per ton of VOC emissions reduction (in 1991 dollars). This value is extrapolated to the national population for the cost and economic analysis.

With exceedance fees as an option, it was estimated that manufacturers would choose to pay fees for approximately 12 percent of products instead of incurring reformulating costs or exiting the market in 1997. These products only account for about 2 percent of industry output, so the foregone emissions reduction by allowing the fee is less than 0.8 percent (2,308 tons) of estimated baseline emissions. However, the fee reduces national reformulation costs by roughly 50 percent. Thus, it is anticipated that the exceedance fee provision could allow significant cost savings while sacrificing little in the way of emissions reduction.

The estimated market effects from the proposed standards are relatively slight. In 1997, approximately one million liters of architectural coating products, accounting for less than one-tenth of one percent of industry product volume, are projected to withdraw from the market. Price effects in each market ranged from no effect to an increase of less than two cents per liter, which is still less than a one percent increase of the baseline price. Average price and quantity effects across all market segments were each less than one-tenth of one percent of baseline values.

Although relatively little product volume is projected to be withdrawn or subject to an exceedance fee, the remaining volume is subject to reformulation and bears the associated cost. The estimated cost to society of the regulation is approximately \$25.0 million per year (evaluated in 1991 dollars, excluding reporting and recordkeeping costs, and costs to the EPA). These cost estimates amount to roughly 0.4 percent of baseline revenues for the industry. With the exceedance fee alternative compliance mechanism, the estimated annual cost decreases to \$13 million, which equates to a savings of \$12 million.

Resource constraints preclude an evaluation of foreign trade impacts. However, according to a 1992 study by SRI International, importers accounted for less than one percent of total coating sales volume in 1990. Due to importers' small market presence and the lack of detailed product data on imported coatings, importers have not been included in the cost and economic impacts analysis. However, all of the

flexible compliance options that are available for manufacturers are also available for importers. The EPA solicits comment on the potential cost and economic impacts of this rule on importers.

As discussed earlier in this section, the estimated national cost for the regulation is based on information developed by industry representatives during the regulatory negotiation. The assumption in estimating these costs was that coating technologies would need to be researched and developed in the laboratories of resin manufacturers/suppliers and paint manufacturers in order to meet VOC requirements. Although the proposal is significantly less stringent than the potential requirements discussed during negotiations (which would have been implemented in three phases), the EPA has relied on these same reformulation cost estimates for calculating the national cost of the proposed rule. Given that the rule has similar VOC content requirements to State rules which have been enforced since 1990, the EPA believes the reformulation estimates used may be overstated. Since the proposed rule is implementing available resin technologies, the cost to comply for those manufacturers needing to reformulate their higher VOC coatings is expected to be partially reduced through the assistance of resin manufacturers/suppliers. Upon request, most resin suppliers are willing to share information and sample low VOC coating formulations with interested paint manufacturers, both large and small. In addition, another limitation in the cost data is that no distinction for reformulation cost is made between categories (i.e., the reformulation cost in one category is the same as the reformulation cost in any other category), or in relation to the required VOC content reduction (i.e., it does not distinguish between coatings at different VOC levels above the limit). The EPA requests comment and technical information on previous (since 1990) or potential reformulation costs. Commenters on this topic should provide detailed information specific to a given category and VOC content level change (e.g., total number of noncompliant products within each category, VOC content and sales information for each noncompliant product, the applicable category, and the estimated cost of reformulation). The EPA also requests historic information about product reformulations and reformulation costs in response to State and local architectural coating regulation. In

addition, information is requested on any changes in variable (e.g., raw material) costs or disposal costs associated with manufacturing coatings to meet the proposed VOC levels.

D. Cost-Effectiveness

The EPA often compares the relative cost of different measures for controlling a pollutant by calculating the "cost-effectiveness" of the measures. Using the EPA's traditional calculation methodology, the cost-effectiveness of a regulation that applies nationwide is based on a comparison of national costs and nationwide emission reductions. This comparison is expressed as the cost per Mg (or ton) of emissions reduced. Using social cost and emission reduction figures presented earlier in this section of the preamble, the nationwide cost-effectiveness of the proposed regulation is \$260 per Mg (\$237 per ton).

Alternative ways to calculate a measure of the "cost-effectiveness" of the regulation have been suggested by others. One alternative would be to calculate cost-effectiveness on the basis of the nationwide cost of the regulation (\$25 million for the proposed regulation) and the VOC reduction achieved in ozone nonattainment areas. The stated rationale for this approach is that cost-effectiveness measures should be designed in a way that best represents the objective of the regulatory action. In this case, for example, a major objective, though not the only objective, of these regulations is the control of ozone formation in nonattainment areas. By establishing nationwide standards, the cost of achieving emission reductions in ozone nonattainment areas during the ozone seasons requires nationwide expenditures during all seasons of the year, including expenditures year-round in areas currently in attainment with the current standard. These nationwide emission reductions—including emission reductions outside of nonattainment areas and out of the ozone season—may or may not contribute to efforts to limit ozone in nonattainment areas, depending on whether they participate in ozone transport from one area to another.

The proposed standard will achieve 42,341 Mg of VOC emission reductions in ozone nonattainment areas. Thus, the cost-effectiveness of the rule in limiting VOC emissions in nonattainment areas would be \$590/Mg (\$538/ton). It has been suggested that cost-effectiveness could also be calculated considering the seasonality of ozone formation, and the EPA requests comment on this approach.

While such an approach offers a measure of the cost of emission reductions in nonattainment areas, the EPA sees significant drawbacks to this approach. First, cost-effectiveness figures would no longer provide a consistent basis for comparison of the relative cost of different control measures or regulations considered at different points in time. Because the number and location of nonattainment areas changes frequently, the initial calculation of the cost-effectiveness of a rule would depend upon when it was issued. The EPA believes it is important that cost-effectiveness be calculated in a consistent manner that allows for valid comparisons. Also, introducing new methodology would tend to make new control measures appear superficially to be less cost-effective than measures utilized in the past, simply because of a change in well-established terminology.

Second, this alternative approach attributes all costs of the rule to emission reductions achieved in nonattainment areas and no cost to emission reductions achieved in attainment areas. By not including emission reductions in attainment areas, the methodology assumes that emission reductions in areas which attain the NAAQS for ozone have no value. In fact, attainment areas often contribute to pollution problems in nonattainment areas through the transport of emissions downwind. Also, emission reductions in attainment areas help to maintain clean air as the economy grows and new pollution sources come into existence. Furthermore, measures to reduce emissions of VOC often reduce emissions of toxic air pollutants.

Another alternative that has been suggested would be to calculate not only the emission reductions but also the cost if the requirements applied only in ozone nonattainment areas, perhaps through issuance of control techniques guidelines (CTG). A request for comment and further information on the use of a CTG is discussed in section V(J)(2) of this notice.

The EPA requests comments on the traditional and alternative methods discussed above to characterize the cost-effectiveness of this regulation.

IV. Rulemaking Decision Process

A. Legislative Authority

Section 183(e) of the CAA gives the EPA the authority to establish national standards to reduce VOC emissions from architectural coatings. According to the CAA, regulations developed under this section shall require best available controls (BAC). Best available

controls are defined in Section 183(e)(1)(A) as follows:

The term "best available controls" means the degree of emissions reduction that the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is achievable through the application of the most effective equipment, measures, processes, methods, systems, or techniques, including chemical reformulation, product or feedstock substitution, repackaging, and directions for use, consumption, storage, or disposal.

Section V.C describes the EPA's determination of BAC for the proposed regulation.

B. Regulatory Negotiation Procedure

1. Overview of the Regulatory Negotiation Process

The regulatory negotiation process is an alternative to the traditional approach to rulemaking. Negotiations are conducted through an advisory committee (hereafter "the committee") that consists of representatives of the interests significantly affected by the outcome of the regulation (e.g., industry, States, environmental groups, and consumers). In this process, the EPA works closely with the members of the committee to develop the regulation.

The goal of the committee is to attempt to reach consensus on language or issues that can be used as the basis of a proposed rule. If the committee fails to reach consensus, the EPA proceeds with its own regulatory development approach.

2. History of the Architectural Coatings Regulatory Negotiations

The EPA recognizes that there are many issues and challenges in developing, proposing, and promulgating a rule for this source category. In early 1992, the EPA held three meetings with representatives of the industry (including small and large manufacturers), trade associations, resin suppliers, States, and environmental groups to discuss the potential scope of the regulation and issues, share information, determine data collection needs, and assess whether a regulatory negotiation would be appropriate for this industry.

On July 16, 1992, the EPA solicited comments on its intent to form an advisory committee under the authority of provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. app. II 9(c), and the Negotiated Rulemaking Act (NRA), 5 U.S.C. Sections 581-590, to negotiate a proposed regulation for architectural coatings, referred to in the notice as AIM (architectural and industrial maintenance) coatings. The

EPA held a meeting in July 1992 to discuss the feasibility of conducting regulatory negotiations to develop a regulation for architectural coatings. Based on the interest of the potentially affected parties and the EPA, the EPA decided to proceed with the regulatory negotiation process. After publishing a notice of establishment of the regulatory negotiation committee in the Federal Register on October 2, 1992 (57 FR 45597), the first official regulatory negotiation meeting was held in October 1992 (57 FR 45597).

The members of the regulatory negotiation committee represented the affected industries, consumers, Federal agencies, State and local air pollution control agencies, environmental groups, and labor organizations. Regulatory negotiation meetings were held from October 1992 to February 1994. During the negotiation process, it became evident that certain groups of committee members shared similar views and interests. These groups were called "caucuses."

During the negotiations, most of the caucuses submitted proposed regulations for review by the rest of the committee. Based on elements from the caucus proposals and discussions, a number of "frameworks" for a potential regulation were prepared by the EPA and the facilitator during the more than two years of negotiation. Despite these efforts, the committee could not reach consensus on a regulatory framework. Therefore, on September 23, 1994, the negotiations facilitator notified each of the committee members that the regulatory negotiations were concluded without consensus. Following this decision, the EPA continued development of the rule. The EPA used the information obtained in the negotiations to develop the proposed rule. The proposed rule development was, therefore, assisted in part through the regulatory negotiation. Specifically, information on the volume, VOC content, and HAP content of coatings produced in 1990 was collected in the VOC Emissions Inventory Survey conducted by industry. Categories and definitions for architectural coatings were presented and discussed both in caucus meetings and meetings of the entire committee.

V. Rationale

The following sections explain the rationale for selecting the proposed standards.

A. Applicability

These proposed standards apply to all architectural coatings that are manufactured or imported for sale or

distribution in the United States on or after April 1, 1997. Architectural coatings were determined to be a significant source of VOC emissions in nonattainment areas and were designated for regulation under the authority of Section 183(e) of the CAA.

In general, architectural coatings protect the substrates to which they are applied from corrosion, abrasion, decay, ultraviolet light damage, or the penetration of water. These coatings are recommended for field application to stationary structures and their interior or exterior appurtenances, portable buildings, pavement, and curbs. The definition in the proposed regulation includes the term "field application" and specifies "stationary structures" in order to distinguish architectural coatings from those coatings applied at a coating or recoating facility or other shop or maintenance facility.

Some architectural coatings have specialized functions. Concrete form release compounds and concrete curing compounds are examples of architectural coatings that are used during construction, rather than being used for protecting or enhancing the finished structure. Fire-retardant/resistive coatings and traffic marking coatings have important public safety functions. Coatings may also increase the aesthetic value of a structure by changing the color or texture of its surface. Application of architectural coatings also decreases maintenance costs associated with stationary structure replacement or repair. Input received during negotiations from committee members was used to take these economic, protective, safety, and aesthetic benefits of architectural coatings into consideration in the development of these proposed standards.

The proposed standards do not apply to some types of coatings. There are exemptions for exported coatings, coatings manufactured or imported prior to April 1, 1997, coatings that are sold in nonrefillable aerosol containers, coatings that are collected and redistributed at community-based paint exchanges, and coatings that are sold in containers with a volume of one liter or less.

The purpose of Section 183(e) of the CAA is to control VOC emissions that contribute to ozone nonattainment in the United States. Because exported coatings do not contribute to VOC emissions in the United States, and because the EPA has no legal or factual basis to impose VOC control measures outside the United States, coatings manufactured for the explicit purpose of export and which are in fact exported

are exempt from the requirements of the proposed rule. Coatings manufactured and imported prior to April 1, 1997 are exempted because the compliance date for the proposed rule is April 1, 1997. An exemption for coatings sold in nonrefillable aerosol containers is included in the proposed rule because the EPA is addressing these coatings separately under Section 183(e) authority. The reason is because aerosol paint is considered a specialty paint product and typically involves a specialized division within a paint company. In addition, it is a complex category due to the many subcategories of aerosol paint, and the range of options to reformulate include the potential to change propellant formulations.

Community-based paint exchanges are programs in which the general public may drop off and pick up post-consumer architectural coatings (leftover paint), typically free of charge, and thereby reduce household hazardous waste. The exchanges occur between users and not manufacturers. Even though these coatings may be repackaged and the proposed regulatory definition of "manufacturer" includes repackagers, repackaging that occurs at community-based paint exchanges is specifically excluded from the definition. These programs are consistent with the EPA's pollution prevention policies and are generally considered effective in minimizing waste. Because the EPA wants to encourage this form of recycling, the EPA has excluded paints exchanged in these programs from the proposed rule.

An exemption for products sold in containers with capacities of one liter or less is included in the proposed rule as means for manufacturers and importers to keep selected products on the market. Similar exemptions are included in State regulations. Due to the increased cost of packaging products in smaller size containers, and the increased bulk of multiple containers, the EPA would not expect a marked increase in the number of products sold in small volume containers as a result of the exemption. No reporting or recordkeeping would be required for this provision.

B. Regulated Entities

In contrast to traditionally regulated stationary sources that emit VOC at a specific fixed location (e.g., a manufacturing plant), VOC from architectural coatings are emitted wherever the products are used. For this reason, regulating at the manufacturer and importer level is the most efficient and least burdensome method of

regulating the VOC content of coatings, and would ultimately impact the VOC content of architectural coatings at the distributor and end user level.

Regulated entities are defined under Section 183(e) to include processors, wholesale distributors, and those entities that supply manufacturers, processors, wholesale distributors, and importers. However, regulated entities in this proposal are limited to architectural coating manufacturers and importers.

The EPA is also considering including "processors" as a regulated entity. Processors would be defined to include individuals who add organic thinner to the coating in a commercial setting at the point of application. Commercial settings would include industrial applications of architectural coatings. This would allow the regulation to prohibit an applicator from using organic solvents to thin a coating beyond the manufacturer's recommendation. This is a concern because if an applicator exceeds the maximum recommended thinning, expected VOC reductions may not be achieved. The EPA requests comments on this approach.

C. Selection of Best Available Controls (BAC)

The primary factors considered in determining BAC were technological and economic feasibility, and environmental impacts. Other factors, such as non-air-environmental impacts (solid waste and water) and energy impacts, are expected to be minimal and therefore do not vary significantly among various VOC control levels. Health impacts are expected to parallel environmental impacts in terms of directional benefit (i.e., as the environment improves, health improves).

The process of determining BAC for architectural coatings presented a new challenge for the EPA. In the past, control levels for VOC emissions from coatings were often established based on the ability to use add-on controls. For architectural coatings, the method for achieving VOC reduction is through reformulation, which is a pollution prevention technique. Reformulation could involve minor adjustments in coating formulation or larger adjustments involving a change in resin technology.

The EPA considered many factors in evaluating economic and technological feasibility of VOC levels (i.e., degree of reformulation). These include State and local VOC requirements, VOC content and sales information, technical information, performance

considerations, cost considerations, market impacts, and stakeholder positions.

The discussion in section V.C.1 focuses on the general process used to determine categories and VOC levels that constitute BAC. The discussion in V.C.2 describes the selection of BAC. The determination of what constitutes BAC by April 1, 1997 involved consideration of what is economically and technologically feasible in light of the lead time available for compliance.

1. Process for Selection of BAC

The process of determining BAC began with the collection of information from existing State and local architectural coating requirements. The EPA focused generally on existing categories and associated VOC limits in State architectural coating rules to determine what categories and VOC levels might constitute the degree of emissions reduction that represents BAC. Since California has been regulating architectural coatings for almost two decades and generally has the most stringent VOC limits in the country, some California air quality management district regulations were gathered and the record underlying these regulations was analyzed. The EPA recognizes that what is achievable now in California cannot necessarily be used to extrapolate what is achievable nationwide in 1997. Adequate consideration must be given to lead time, and any other factors that may influence the ability to apply requirements nationwide (e.g., climate considerations).

After analyzing existing standards, the EPA reviewed the data from the Emissions Inventory Survey that was developed during the regulatory negotiation process. The regulatory negotiation committee developed the survey that was administered through an industry trade association. This survey accounted for roughly 75 percent of the volume of architectural coatings sold in 1990. The survey data included information on the volume and VOC content of coatings. Manufacturers were surveyed primarily using a system of coating categories that form the basis for existing rules in several California districts. The survey data were used to identify the minimum VOC contents needed for certain applications and/or resin types as well as to determine the feasibility of establishing lower VOC levels for various categories based on the distribution of coating sales with respect to different VOC content levels.

The EPA also relied on technical input and information received during the regulatory negotiation process to

determine BAC. The EPA considered information that was submitted to the docket by coating manufacturers and other members of the general public during the course of the regulatory negotiations, and definitions for categories found in other EPA regulations. The expertise of the EPA's engineering staff also was used to develop the appropriate definitions that would minimize overlap and specify characteristics so that manufacturers and enforcement personnel can identify the applicable category for each coating on the market.

The Emissions Inventory Survey did not provide data to answer the question as to whether coatings at a given VOC level can meet all the performance needs within a particular category. Ideally, coating performance data in addition to VOC content and sales data would have been gathered to better aid this type of determination. Collection of performance data, however, is complicated due to the subjective nature of performance requirements.

"Acceptable" performance is difficult to evaluate. In evaluating potential emissions of VOC into the environment, acceptable performance means durable coatings with qualities acceptable to the consumer that would maximize the interval between required repaintings. These acceptable qualities can vary significantly depending on the consumer and the coating category. For example, durability might be of limited value in evaluating house paint since a house paint may be painted over due to extraneous factors such as resale of the house or redecorating long before the coating begins to fail. For coatings used in an industrial setting, such as high temperature and industrial maintenance coatings, repainting is more dependent on durability considerations. A variety of performance levels within most coating categories presently exist in the marketplace and will continue to exist after regulation.

Because there is no consensus within the architectural coating industry on standards by which to evaluate acceptable coating performance, it was not obvious what performance data could be gathered to permit comparison. The EPA relied to some extent on input from the negotiation committee to determine the BAC VOC level within each coating category that would allow customer performance needs to be met. Beyond that, the EPA also relied on the survey results as support for its conclusions about the achievability of various VOC levels in light of performance needs. Although the EPA recognizes that the authority under Section 183(e) does not limit BAC

determination to coatings available in the marketplace today, availability and the fact that customers are purchasing coatings at a particular VOC content level to meet their performance needs were significant factors in the EPA's BAC determination process.

While low VOC coatings are available today which meet the proposed coating VOC limits, there continues to be debate over the performance characteristics and perceived limitations of low VOC architectural coatings. This issue was raised by some industry representatives during development of the proposed rule. Specifically, it has been argued that low VOC content levels may be counterproductive if the use of coatings with reduced VOC results in more coating applied, more thinners needed, and more frequent recoating, and consequently, more emissions. This argument has been made broadly, without detail as to the VOC content levels to which it pertains or the categories involved. The EPA is aware of numerous examples of low VOC systems which perform better than the traditional higher VOC systems and which result in less emissions. The EPA requests documentation, test results, or factual evidence which either supports or refutes claims about performance changes in coatings with VOC contents that comply with the proposed standards.

In addition, the EPA relied on the background and expertise present within the Agency to make decisions regarding category selection and corresponding VOC content levels. The EPA has developed VOC standards and guidance documents for different sectors of the paint industry since 1977. The EPA has expertise in analysis of control techniques for coatings and in developing test methods for coatings, including the test method used to determine the VOC content of coatings (Method 24).

The BAC selection process involved both selection of categories and determination of VOC content levels. These components are linked in a determination of what degree of emissions reduction represents BAC. Decisions to subdivide a given category into more specific subcategories can be a direct consequence of the VOC content levels under consideration. For example, the industrial maintenance coating category is fairly broad and encompasses many industrial coating applications. As the technological and economic feasibility of lower VOC content levels are considered for the industrial maintenance category, coatings within a particular application may not be able to meet the VOC level

under consideration. Rather than establish the VOC level high enough to allow this particular application, the category can be subdivided to create another category that would then allow the achievable VOC content for industrial maintenance to be lower. For example, the "high temperature coating" category was created to allow a more stringent VOC level for the broader category of "industrial maintenance coatings," which otherwise would have included high temperature coatings. Rather than raise the VOC content level for all the industrial maintenance coatings to ensure that high temperature coatings could achieve this level, the EPA created a separate, less stringent VOC level for high temperature coatings while maintaining the more stringent level achievable for other types of industrial maintenance coatings. Thus, it is possible to achieve lower VOC levels and greater emission reductions while still meeting the performance needs of some coating categories by further subdividing particular categories. Stains and wood preservatives have both been subdivided into clear and semitransparent, and opaque coatings. This subdivision of categories helps preserve markets while still achieving emission reductions.

During development of the proposed rule, some industry representatives provided requests for particular categories to be created and given a higher VOC level than the VOC level for the more general category in which it would otherwise be grouped. Categories for which adequate justification was presented appear in the proposed rule. However, in cases where significant overlap between the requested category and other existing categories was apparent and the overlap could be expected to undermine the degree of emission reductions achieved, the category was not included in the proposal. The categories and definitions in the proposed rule are roughly consistent with the categories and definitions presented during negotiations.

For the BAC determination, the EPA generally focused on the coating categories that contribute the largest amount of VOC to the environment.

2. Determination of BAC

A primary consideration affecting the selection of VOC content levels that EPA believes represent BAC was the need expressed by many industry and regulatory stakeholder representatives to proceed with development of these standards as quickly and expeditiously

as possible. State and local agencies and representatives of industry who market products in different States have expressed concern about the lack of Federal VOC standards for architectural coatings. For this reason, the EPA has focused on establishing VOC levels that would take effect in 1997. An expedited rulemaking process for this proposed rule is necessary to fulfill the expectations and reliance of the States and to give coating manufacturers timely notice of requirements. Therefore, EPA based the BAC determination on VOC content levels that could be achieved in a short time frame (by April 1, 1997). As discussed in section II.D.1 of this preamble, EPA requests comment on the adequacy of this compliance lead time.

The EPA attempted to gather specific information with which to determine the technological and economic feasibility of different VOC limits that would take effect in 1997. The following paragraphs discuss this information and how EPA used it to determine BAC.

Fourteen categories which appear in the proposed rule and which are found in existing State standards were included in a list of categories developed during the regulatory negotiation referred to as "low volume." These are anti-graffiti coatings, bituminous coatings and mastics, bond breakers, concrete curing compounds, fire-retardant/resistive coatings (clear/pigmented), form release compounds, graphic arts coatings (sign paints), high temperature coatings, magnesite cement coatings, mastic texture coatings, multi-color coatings, pre-treatment wash primers, sanding sealers, and swimming pool coatings. The VOC content levels in Table 1 for these categories are in the upper range of the VOC content limits found in existing State rules. The industry argued that these coatings represent unique compositions and specialized uses, and the imposition of lower VOC levels on these categories would probably result in an adverse economic impact on the manufacturers and may even have a disproportionate effect on small manufacturers. Because these coatings are used in relatively low volumes and in a limited range of circumstances, the EPA has determined that it should set VOC levels for these coatings based on the justification presented by the industry and that additional effort to collect more data is not warranted in the development of this proposal. After proposal, the EPA plans to reevaluate the feasibility of more stringent VOC levels for these categories as part of the joint study with industry that is described in section VI.

In addition to the 14 "low volume" categories discussed, the VOC Emissions Inventory Survey contains 12 categories that represent about 75 percent of the VOC emissions (industrial maintenance, interior nonflat, exterior nonflat, clear and semitransparent stains, clear waterproofing sealers and treatments, interior flat, roof coatings, primers and undercoaters, traffic markings, exterior flat, varnishes, and lacquers). For these 26 categories and an additional 15 categories contained in the survey, sales and VOC content data indicate that coatings are available that can achieve the VOC content levels listed in Table 1. The fact that the survey reveals that coatings are available that meet today's proposed standard is one factor that supports the conclusion that these coatings are economically and technologically feasible.

During regulatory negotiation discussions of potential VOC content limits, 17 additional specialty coating categories were added to the list of categories under consideration. These categories were generally offered as a result of discussion of specific VOC content levels for more general and broad categories such as industrial maintenance coatings. These specialty coating categories did not appear in any existing State architectural coating regulation and, excepting high performance architectural coatings, were not categories for which data were collected in the VOC Emissions Inventory Survey. These 17 categories include alkali-resistant primers, antenna coatings, antifouling coatings, chalkboard resurfacers, concrete protective coatings, extreme high durability coatings, floor coatings, flow coatings, heat reactive coatings, high performance architectural coatings, impacted immersion coatings, lacquer stains, nonferrous ornamental metal lacquers and surface protectants, nuclear coatings, repair and maintenance thermoplastic coatings, rust preventative coatings, and thermoplastic rubber coatings and mastics.

Fourteen of these 17 additional specialty coating categories appear in today's proposal because discussion during negotiations and/or petitions from individual companies provided support for inclusion of these categories and an associated VOC content level separate from the broader category and level to which they otherwise would have been assigned. No data were available to the EPA to conclude that lower VOC content levels for these categories would represent BAC.

Three of these 14 categories which appear in the rule, antenna coatings, antifouling coatings, and nuclear coatings, were assigned VOC content levels consistent with those found in the EPA's National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (59 FR 62681). These VOC levels were based primarily on information contained in the EPA's Alternative Control Techniques (ACT) Document: "Surface Coating Operations at Shipbuilding and Ship Repair Facilities," EPA-453/R-94-032.

Two of the three specialty categories that do not appear in the proposed rule are alkali-resistant primers and lacquer stains. Although the EPA considered inclusion of alkali-resistant primers based on requests from some manufacturers, it was excluded for two reasons. Significant overlap between alkali-resistant primers and the more general primer category is apparent, and comments were received about the ability of latex coatings (lower VOC coatings) to perform the function of alkali-resistant primers. For lacquer stains, although arguments were presented about the need for the category, the overlap between lacquer stains and the more general stain categories would allow the higher VOC lacquer stain for uses in which lower VOC stains would be acceptable substitutes. In order to attain the degree of emission reductions achievable, these categories are excluded in the proposed rule. The coatings that would have been classified into these categories would be subject to the VOC level of the more general category of either primers or stains, as applicable.

The third coating category that was surveyed in the VOC Emissions Inventory Survey, but does not appear in the proposed rule, is "high performance architectural (HPA) coatings." Several industry proposals presented to the regulatory negotiation committee contained a definition and VOC standard for HPA coatings with subcategories for concrete protective coatings, floor coatings, and rust preventative coatings. However, the information available to the EPA does not support a need for a broad HPA category. Rather than including a separate, broad category of HPA coatings, the proposal contains separate definitions and VOC levels for concrete protective, floor, and rust preventative coatings. These subcategories were specifically identified during negotiations, and arguments were presented for VOC levels and definitions. These categories have specific performance requirements such

as prevention of water and chloride ion intrusion (concrete protective coatings), abrasion resistance (floor coatings), and prevention of the corrosion of metals (rust preventative coatings).

In April 1995, architectural coating industry representatives submitted recommended VOC content limits for BAC to the EPA. These industry representatives reported that these limits were developed based on extensive negotiations within the industry to determine what is economically and technologically feasible. Today's proposed VOC requirements are consistent with those in the proposal submitted by these industry representatives.

The EPA requests comment and any supporting data on the appropriateness of inclusion or exclusion of the 17 additional specialty categories and the VOC content levels assigned to all of the categories included in the proposed rule. For comments supporting exclusion of a category, the supporting argument should include data to show why the category under consideration could be expected to meet (consistent with performance needs) the VOC levels applicable to the more general category to which it would revert back in the absence of the specific category. For comments supporting inclusion of a category, the request should be accompanied by a detailed explanation of the need for the category, and data on why lower VOC coatings would not be acceptable substitutes.

In addition, the EPA requests information on any coating category where recent progress in low VOC resin systems has resulted in new low VOC coatings being introduced into the market since 1990. The EPA requests comments on the ability of coatings with VOC content levels lower than those in Table 1 to meet the performance needs within the category.

D. Exceedance Fee Approach

An exceedance fee economic incentive approach is being considered for inclusion in the architectural coating rule. Under this approach, manufacturers and importers would have the option of paying a fee, based on the amount that VOC content levels are exceeded, instead of achieving the VOC content levels listed in Table 1.

The fee would be calculated at an initial rate of \$0.0028 per gram (\$2,500 per ton) of VOC in excess of the applicable VOC level, multiplied by the volume of coating produced. For example, if a coating is 50 grams of VOC per liter over the applicable VOC standard, the fee rate would be approximately 14 cents per liter (\$0.0028

per gram multiplied by 50 grams per liter). The fee rate is in the upper end of the range of the incremental VOC reduction cost imposed by VOC regulations for other source categories. The EPA believes this rate is appropriate because the exceedance fee rate is intended to provide compliance flexibility, but also be high enough to encourage reformulation to meet the applicable VOC level. This rate would be adjusted for inflation periodically.

For all but two categories, the volume of coating produced is determined excluding the volume of any water, exempt compounds, or colorant added to tint bases to be consistent with the units of the VOC content level. For the two "low solids" categories (low solids stains and low solids wood preservatives), the volume is determined "including water and exempt compounds" to be consistent with the units of the VOC content level for these coatings. The exceedance fee would be paid quarterly to the Administrator and would be due no later than two months after the end of the quarter in which the coating is manufactured or imported.

The fee option could be expected to provide transition time for those manufacturers that desire additional time to obtain lower VOC technologies. It could also provide a less costly compliance approach for manufacturers selling very low volume products.

Under the exceedance fee approach, manufacturers and importers would be required to keep records and submit reports detailing the following information for all coatings for which fees are paid: VOC content, excess VOC content above the standard, volume of product manufactured or imported, product quarterly fee, and the total quarterly fee for all products.

Section 183(e) specifies that fees collected must be deposited in a special fund. Specifically, under Section 183(e)(5) of the CAA, funds collected pursuant to the regulation of consumer and commercial products:

* * * shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available until expended, subject to annual appropriation Acts, solely to carry out the activities of the Administrator for which such fees, charges or collections are established and made.

The Congress, through the annual appropriations process, will determine whether and how to spend any fee revenues collected. The Administrator, however, may make recommendations to Congress concerning use of any funds collected. Therefore, the EPA today seeks comment on how the revenues

should be spent should the proposed exceedance fee option be promulgated as part of the final rule. The EPA believes that it may be possible to construe the statutory language on potential uses of the money either broadly, to authorize spending for a wide variety of activities related to reducing ozone, or more narrowly. In particular, the EPA requests comment on whether these revenues should be used for:

(1) Grants or awards to promote the development of lower VOC architectural coating technologies by private firms, or by other governmental or nongovernmental entities;

(2) Purchase by the government of VOC emission reduction credits from private firms or emission credit brokers;

(3) State and EPA administrative and enforcement costs in carrying out architectural coating rules, or other rules to reduce VOC emissions from consumer and commercial products; or

(4) Other possible uses.

In addition to comments on the use of exceedance fees, the EPA seeks comment on the exceedance fee rate, and recordkeeping and reporting associated with this option.

E. Low Volume Categories/Exemption

The EPA recognizes that there may be some low volume, specialty niche products for which it may not be cost effective for either the manufacturer or resin supplier to develop a lower VOC formulation. The Agency addressed this concern during the regulatory negotiation by developing many new specialty categories and definitions which have been subsequently included in the proposed rule. To evaluate what further steps may still be needed to accommodate niche coatings within the proposed rule, the EPA requests detailed information on the following: (1) Identification of any specialty coatings which do not comply with Table 1. (specify coating category from Table 1 in which the product would be classified) and that cannot be cost-effectively reformulated, (2) the sales volume and VOC content of each identified product, (3) detailed cost estimate for reformulation (e.g., man-years, and product testing expected to be involved) and (4) whether a lower VOC alternative product currently exists in the market which can adequately substitute for the identified specialty product.

EPA will consider developing additional categories for newly identified niche markets in the final rule. In addition, based on reformulation cost, sales volume, and VOC emissions information gathered in

response to the above request on low volume products, the EPA will evaluate the option of a categorical exemption for any new or existing low volume specialty categories. Alternatively, although no coating manufacturers have requested that EPA consider a low volume exemption, the EPA will consider establishing a low volume cut-off, under which a coating may be exempt from regulation. These approaches would allow these low volume, specialized products to remain on the market. Under the low volume exemption concept, any manufacturer or importer may request an exemption from the VOC levels in Table 1 for specialized coating products that are manufactured or imported in quantities less than a specified number of gallons per year. This exemption would require an annual report, recordkeeping, and labeling.

A major issue with this type of an exemption is where to set the cut-off. The EPA would design any low volume exemption to avoid significant loss in emission reductions. The EPA has limited data with which to evaluate an appropriate cut-off level. The EPA requests comment on a cut-off in the range between 1,000 and 5,000 gallons per year.

A manufacturer or importer applying for this type of exemption would need to submit an annual report. This report would contain a written request for the exemption, a list of the coating products for which the exemption is being requested, a statement signed by a responsible official that the sales of each product for which the exemption is being requested will not exceed the cut-off established, and documentation and a statement signed by a responsible official that each product serves a specialized use which cannot be cost-effectively replaced with another, lower VOC product. In addition, the report would contain the following information for each product for which the exemption is being requested: the name of the product, the specialized use, the sales of the product in the previous year, and the VOC content of the product. The EPA can waive this reporting requirement on a case-by-case basis if the information from each year is essentially the same. Whether or not reporting is waived, the company would be required to keep records for a three year period sufficient to demonstrate upon request that the product qualified for the exemption. A company that sold more than the cut-off amount of a product for which the exemption was claimed would be in violation of the rule and subject to the same penalties as

any company producing coatings in violation of the VOC content limits.

In addition, the following statement would need to be placed on the label or lid of each container of coating for which the exemption is being applied: "This is a specialized architectural coating produced in volumes less than X gallons per year." The labeling requirement would serve to identify these coatings to enforcement personnel.

The EPA's goal would be to set the volume cut-off for this exemption low enough such that it would not significantly impact the VOC emission reductions achieved by the rule, yet high enough such that, if needed, it could be expected to be used by a number of smaller manufacturers and importers for their low volume products.

The EPA requests comment on whether a low volume exemption would have any disadvantages. Such an exemption might create an incentive for some companies to circumvent the rule by taking a higher volume product and marketing (with or without any variations in formulation) as several separate products, each meeting the sales volume cut-off. Also, some may perceive that a low volume exemption would give competitive advantage to higher polluting, low volume products.

The EPA requests comments on whether this exemption should be included in the final rule and on the following specific aspects of this exemption: (1) What would be an appropriate cut-off level? (2) To what degree would a low volume exemption aid small manufacturers and importers in complying with the rule? (3) To what extent would the exemption be used if included in the regulation? (4) Would such an exemption be equitable? (5) Would such an exemption create incentives for circumvention of the rule?

F. Special Provisions

This section contains a description of the rationale for the recycled coating and variance provisions that are included in the proposed standard.

1. Recycled Coatings

The proposed regulation allows manufacturers and importers VOC credit for recycling post-consumer coatings. Post-consumer coating is unused coating that has been previously purchased by a consumer, and is subsequently combined with virgin materials and offered for sale as a recycled coating. The proposed credit for recycled coating content is demonstrated in the following example:

If a coating has a VOC content (calculated as prescribed in § 59.404 of the regulation) of 400 grams per liter of coating and contains 10 percent recycled coating, then 10 percent of the calculated VOC content (40 grams per liter) is subtracted or credited to give an adjusted VOC content of 360 grams per liter. Compliance is determined based on the adjusted VOC content.

The calculation of an adjusted VOC content is included in the proposed regulation to encourage recycling by providing flexibility to manufacturers of recycled coatings. Recycling these coatings eliminates the need for their disposal (some unused coatings may be considered hazardous waste) and reduces the amount of new coating that must be manufactured.

The EPA recognizes the inherent difficulties associated with enforcing the credit associated with the recycled coating provision. It is not normally possible to determine the fraction of post-consumer content by analytical means. Therefore, enforcement would be through an evaluation of reports submitted by manufacturers or importers of recycled coatings (see section II.G) and a comparison of these reports to claims of recycled content on the labels of coatings. The EPA requests comment on this VOC credit for recycled coatings and the enforcement of such a provision.

2. Compliance Variance.

The proposed rule includes a variance provision whereby manufacturers and importers of subject architectural coatings may apply to the Administrator for a temporary variance from compliance with the standards. A variance will be granted if the applicant demonstrates that compliance would result in economic hardship, and that granting the variance would better serve the public interest than would requiring continuous compliance under the conditions of economic hardship. The EPA intends for this provision to allow manufacturers and importers some flexibility in responding to unforeseen circumstances that may cause additional, unanticipated compliance burden. The EPA recognizes that certain interruptions in the availability of raw materials and or manufacturing processes may affect the manufacturer's or importer's ability to continuously comply with the standards. In particular, the EPA anticipates that this variance provision will help to mitigate impacts to small manufacturers. Within the architectural coatings industry, small manufacturers are likely to have fewer research and development

resources, and therefore, will benefit from the allowed variance.

G. Labeling and Public Information Requirements

1. Containers of All Subject Coatings

The proposed regulation requires that containers for all subject coatings display on the label or lid the date of manufacture (or a code indicating the date) and the maximum VOC content in the coating. The date of manufacture on the label or lid allows enforcement personnel to determine whether the coating was manufactured prior to April 1, 1997.

Section 183(e) of the CAA specifically authorizes the EPA to require certain labeling and informing of the public as mechanisms for control of VOC emissions from consumer and commercial products. The proposed standards include labeling requirements that not only allow the EPA to verify compliance with the VOC content levels but also to inform consumers about VOC content. Such labeling, with appropriate consumer education, might provide an incentive to consumers to purchase coatings that will emit less VOC, and to manufacturers and importers to manufacture or import lower VOC content coatings.

As described in section II.E, the EPA is considering two other labeling requirements. The EPA is considering a requirement to include on the label of each coating an educational statement about VOC emissions, and their potential contribution to ground-level ozone. The EPA requests comment on whether an outreach effort would be as effective an approach as an educational statement. Also, the EPA is considering a requirement to include coating coverage information on all architectural coating labels. Comment is requested on the feasibility of this requirement.

2. Containers of Industrial Maintenance Coatings

In addition to the general labeling requirements for all architectural coatings, containers of industrial maintenance coatings (as defined in § 59.401 of the proposed regulation) must also include on the label or lid the phrase "NOT INTENDED FOR RESIDENTIAL USE." Section 183(e) of the CAA provides authority to include in the regulation directions for use of the product. The proposed VOC levels for industrial maintenance coatings were set based on more rigorous performance specifications than those needed for residential applications. While this labeling requirement is

intended to discourage consumers from applying industrial maintenance coatings in a residential setting where a lower VOC coating with less rigorous performance specifications may be adequate, it does not prohibit the use of industrial maintenance coatings in a residential setting where extreme environmental conditions are present and for which an industrial maintenance coating would provide the most viable protection from these conditions.

3. Containers of Recycled Architectural Coatings

Containers of recycled architectural coatings, in addition to the requirements listed previously for all subject coatings, must also display a label that includes the statement "CONTAINS NOT LESS THAN X PERCENT, BY VOLUME, POST-CONSUMER COATING," where X is replaced by the percentage, by volume, of post-consumer coating. Inclusion of the recycled coating content is necessary for compliance purposes to identify coatings for which an adjusted VOC content has been calculated.

H. Selection of Recordkeeping and Reporting Requirements

The EPA evaluated what recorded and reported information would be sufficient to ensure compliance with the VOC levels. The recordkeeping and reporting requirements proposed are necessary to allow determination of compliance, and the EPA believes they do not represent an undue burden on manufacturers or importers of architectural coatings. For all but the initial report, recordkeeping and reporting are only required for manufacturers and importers who choose to take advantage of optional provisions, including the calculation of an adjusted VOC content (based on post-consumer coating content), the variance provision, or the exceedance fee approach that is under consideration.

For coatings for which the manufacturer or importer chooses to demonstrate compliance by meeting the VOC content levels in the proposed table (Table 1), enforcement personnel can compare the VOC content of the product to the VOC content statement on the label to establish compliance or noncompliance. Therefore, there are no reporting or recordkeeping provisions for the manufacturers and importers of these coatings beyond initial notification. The initial report serves to notify the EPA of the identity of the universe of all manufacturers and importers subject to the standards.

The proposed rule includes reporting and recordkeeping requirements for coatings that contain post-consumer coating and for which an adjusted VOC content is reported for compliance purposes. Manufacturers and importers must maintain the required records for these coatings for a period of three years. The required recordkeeping and initial reports are essential for the EPA to determine whether coatings are in compliance.

Manufacturers or importers that choose to apply for a variance are required to submit a variance application to the Administrator. The purpose of this application is for the applicant to provide the Administrator with sufficient information on which the decision to grant, or not to grant, the variance can be made.

The reporting and recordkeeping requirements for the exceedance fee approach and low volume exemption that is under consideration for inclusion in the final rule is discussed in section V.D., and V.E. respectively

I. Test Methods

Under the proposed provisions, compliance with the VOC content levels is based on the EPA's Reference Method 24. This is the EPA's standard test method for determining the VOC content of coatings.

A provision allowing use of alternative methods of determining VOC content subject to the Administrator's approval is also included in the proposed rule.

J. Alternative Regulatory Approaches

1. Other Systems of Regulation.

Section 183(e)(4) allows the EPA to consider "any system or systems of regulation as the Administrator may deem appropriate, including requirements for registration and labeling, self-monitoring and reporting, prohibitions, limitations, or economic incentives (including marketable permits and auctions of emission rights) concerning the manufacture, processing, distribution, use, consumption, or disposal of the product." Accordingly, the EPA requests comment on any alternative to the proposed system of regulation.

2. Regulation with the Use of CTG

Section 183(e)(3)(C) gives the EPA the flexibility to "issue control techniques guidelines under this Act in lieu of regulations required under subparagraph (A) if the Administrator determines that such guidance will be substantially as effective as regulations in reducing emissions of volatile organic

compounds which contribute to ozone levels in areas which violate the national ambient air quality standard for ozone."

In many cases, a CTG can be an effective approach to reduce emissions of VOC in nonattainment areas without imposing control costs on attainment areas. For example, a CTG may effectively reduce VOC emissions from commercial products used in industrial settings where the targeted emissions occur at a point of end use which is readily identifiable, and at a fixed location. However, a CTG may not be as effective as a regulation to reduce emissions in nonattainment areas for architectural products because these products are easily transportable and widely distributed. This is because an architectural coating CTG would prohibit the sale of noncompliant architectural coatings in nonattainment areas. A CTG would have the potential compliance problems associated with noncompliant products being transported into nonattainment areas from neighboring areas and neighboring states. In contrast, a regulation could require modification of the product itself. Since all products would be subject to the same requirements, this would help ensure effective enforcement and implementation in all areas.

It is expected that an architectural coating national rule would reduce costs of compliance for companies serving national or large regional markets by promoting consistency in VOC requirements across the country. In addition, a national rule would help reduce recordkeeping and reporting for those manufacturers who sell products in both attainment and nonattainment areas. To evaluate the benefits (i.e., reduction in cost) to manufacturers from the consistency aspect of a national rule, the EPA requests detailed information from manufacturers on the cost to comply with a variety of State standards. In particular, the EPA requests comment on the administrative cost burden (inventory tracking, distribution, labeling, and tracking of State architectural coating regulation development) expected to result from use of a CTG. In addition, to evaluate the population and product mix of manufacturers who may be excluded from regulation under a CTG approach, the EPA requests comment on the number and identity of manufacturers who sell products solely in attainment areas. To evaluate differences in the reformulation cost associated with a CTG versus a national rule, the EPA requests comment on the proportion of products which would be reformulated

if, in general, only nonattainment areas were regulated. For example, EPA requests information on whether manufacturers would tend to produce one product for attainment areas and one for nonattainment areas, only sell products in attainment areas, or reformulate all products to be compliant with applicable nonattainment area requirements.

The EPA requests comment on whether and how a CTG approach (by itself, or in combination with any other regulatory alternatives) would be as effective as a national rule in reducing VOC emissions in ozone nonattainment areas. If warranted by comments, a quantitative analysis of costs and emission reductions expected from a CTG will be completed.

K. Solicitation of Comments

The EPA invites comments concerning the proposed standards, particularly as noted in the preceding sections concerning: the inclusion of specialty product categories; the technological and economic feasibility of VOC levels listed in Table 1; the ability of coatings with VOC content levels lower than the proposed levels to meet performance needs; the inclusion of processors in the applicability of the rule; economic and other impacts on importers; the feasibility of requiring coverage information to be displayed on coating labels or lids; the effectiveness of a public outreach program versus statements on the container label to educate users about the environmental impacts of VOC in coatings; and the placement of architectural coatings on the consumer products priority list. The EPA also requests information on coating categories where recent progress in low VOC resin systems has resulted in new low VOC coatings that have been introduced since 1990.

The EPA requests comment on the inclusion of an exceedance fee option for use as a compliance alternative to meeting the VOC levels in Table 1. Specifically, the EPA requests comments on the following: the appropriate use for revenues generated from the fee; the appropriateness of the exceedance fee rate; and the appropriateness of the recordkeeping and reporting requirements associated with the fee.

The EPA requests detailed information on any specialty coatings which do not comply with proposed standards, and cannot be cost-effectively reformulated. The EPA also requests comment on the inclusion of a low volume exemption for specialty, niche products. Specifically, the EPA requests comment on the following: (1) What

would be an appropriate cut-off level?

(2) To what degree would a low volume exemption aid small manufacturers and importers in complying with the rule? (3) To what extent would the exemption be used if included in the regulation? (4) Would such an exemption be equitable? (5) Would such an exemption create incentives for circumvention of the rule?

In addition, the EPA requests comment on the inclusion of the special provision for VOC credit for recycled coatings, the variance provision, and the small container exemption. For all of these provisions, the EPA requests comment on the expected extent of their use by small manufacturers and small importers.

Comments submitted to the Administrator should contain specific proposals and supporting data to allow the EPA to fully evaluate the comments. Recommended changes to any of the VOC content levels presented in this proposal should include sufficient information for the EPA to evaluate the technological and economic feasibility associated with such changes. Applicable dates and addresses for the submission of comments are included at the beginning of this preamble.

VI. Future Phase Under Consideration

The EPA believes further VOC reductions beyond those in Table 1 may be technologically and economically feasible. A great deal of controversy surrounds the proposal of more stringent VOC levels in a future phase of regulation. To address the controversy, the EPA will participate in a joint study with industry representatives to investigate the cost and performance characteristics of coatings with VOC contents lower than the proposed levels in Table 1. The environmental and economic impacts of requiring lower VOC contents will also be assessed. In addition, the EPA will continue to meet with other stakeholders regarding the potential for a future phase for the architectural coatings rule. After analyzing comments received regarding this proposal and following completion of the joint EPA/industry study, the EPA will evaluate whether further reductions beyond the 1997 requirements are technologically and economically feasible. The result of this evaluation could be proposal of more stringent VOC levels, the proposal of economic incentive approaches, some combination of VOC levels and economic incentive approaches, or no further action beyond the 1997 requirements.

The EPA is using this proposal as an opportunity to solicit input for use in

the joint EPA/industry study. The EPA expects to focus effort in the study on evaluation of issues which will include the following: the cost and economic impact of requiring lower VOC contents than those in Table 1, identification of any performance issues associated with lower VOC content coatings, and investigation of reactivity considerations involved in reformulating architectural coatings. The EPA invites comments concerning the planned EPA/industry study, and any input on performance, cost or reactivity considerations which should be included in the study.

Because the EPA's data consists of the Emissions Inventory Survey of coatings sold in 1990 and on limits in California coatings regulations that have been in effect since the late 1980's, the EPA is requesting information on coating categories where recent progress in low VOC resin systems has resulted in new low VOC coatings being introduced into the market since 1990. The EPA requests comments on the ability of coatings with VOC content levels lower than those in Table 1 to meet the performance needs within the category. Cost information on these coatings is also requested.

VII. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to provide opportunity for interested persons to make oral presentations regarding the requirements in the proposed regulation in accordance with Section 307(d)(5) of the CAA. Persons wishing to make oral presentation on the proposed regulation for architectural coatings should contact the EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Air and Radiation Docket and Information Center at the address given in the **ADDRESSES** section of this preamble and should refer to Docket No. A-92-18.

A verbatim transcript of the hearing and written statements will be available for inspection and copying during normal business hours at the EPA's Air and Radiation Docket and Information Center in Washington, DC (see **ADDRESSES** section of the preamble).

B. Executive Order 12866

Under Executive Order 12866, the Agency must determine whether the regulatory action is "significant" and

therefore subject to Office of Management Budget (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.

Pursuant to the terms of the Executive Order, the EPA has determined that this rule is a "significant regulatory action" under criterion (4) above, based on both the long regulatory negotiation process that preceded this proposal and the novel use of economic incentives (potential exceedance fees) for this industry. Therefore, the proposed regulation presented in this notice was submitted to the OMB for review as required. Any written comments from the OMB to the EPA and any written EPA response to those comments will be included in Docket No. A-92-18, listed at the beginning of this notice under the **ADDRESSES** section of this preamble.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 1750.01) and a copy may be obtained from Sandy Farmer, Office of Policy Planning and Evaluation (OPPE) Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M Street., SW, Washington, DC 20460 or by calling (202) 260-2740. This ICR document is also available on the EPA's OAQPS TTN bulletin board under the Clean Air Act Amendments menu. See the **SUPPLEMENTARY INFORMATION** section of this preamble for information on accessing the EPA's TTN electronic bulletin board.

The information required to be collected by this proposed rule is necessary to identify the regulated entities who are subject to the rule and

to ensure their compliance with the rule. The recordkeeping and reporting requirements are mandatory and are being established under authority of Section 114 of the CAA. All information submitted as part of a report to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in title 40, Chapter 1, part 2, subpart B, "Confidentiality of Business Information" (see 40 CFR 2; 41 FR 36902, September 1, 1976, amended by 43 FR 39999, September 28, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979).

The total annual reporting and recordkeeping burden for this information collection averaged over the first three years is estimated to be 37,447 hours and \$1,279,469. This is the estimated burden for 500 respondents (i.e., architectural coating manufacturers).

The average burden, per respondent, is 75 hours per year. The total reporting, recordkeeping, and labeling burden for an individual respondent will vary depending on the compliance option chosen. Respondents choosing to meet the VOC levels will have the lowest reporting, recordkeeping, and labeling burden, whereas, manufacturers and importers that use the option of calculating an "adjusted VOC content" (for recycled coatings) will have the highest reporting, recordkeeping, and labeling burden. The proposed rule requires an initial one-time notification from each respondent. Respondents whose coatings products have a VOC content that is less than or equal to the VOC content levels have no periodic reporting requirements. Respondents choosing the recycled coatings provision must submit annual reports. Respondents choosing the variance provision must submit a one-time report requesting the variance.

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 estimate includes the time needed to: (1) Review instructions; (2) 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; (3) adjust the existing ways to comply with any previously applicable instructions and requirements; (4) train personnel to be able to respond to a collection of information; (5) search data sources; (6) complete and review the collection of

information; and (7) transmit or otherwise disclose the information.

The exceedance fee alternative compliance mechanism being considered for inclusion in the final rule would require quarterly reports of fees by the manufacturers choosing this option. In addition, these manufacturers would keep records for each coating product on which fees are paid. The average annual burden increase for each manufacturer choosing this option is 194 hours.

Comments are requested on the Agency's need for this information, 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 (2136); 401 M Street SW; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW; Washington, DC 20503; marked "Attention: Desk Officer for the 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 June 25, 1996, a comment to OMB is best assured of having its full effect if OMB receives it by July 25, 1996. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the EPA to consider potential adverse impacts of proposed regulations on small entities and to consider regulatory options that might mitigate any such impacts. It is currently the EPA's policy to perform a regulatory flexibility analysis of the potential impacts of proposed regulations on small entities whenever it is anticipated that any small entities may be adversely impacted. Because it is anticipated that some small architectural coating manufacturers could be adversely impacted from implementation of the proposed standards, a regulatory flexibility analysis was performed.

The analysis of small entity impacts focused on the potential impacts on small manufacturers producing architectural coatings. For the purpose of this analysis, small manufacturers were considered to be firms with less than \$10 million of total gross annual revenues from the sale of architectural coatings and less than \$50 million in total gross annual revenues from all

products. Using this definition, potentially 85 percent of architectural coating manufacturers are considered small manufacturers. A copy of the technical memorandum titled "Economic Impact and Regulatory Flexibility Analysis of the Proposed Architectural Coatings Rule" is included in the public docket.

Reducing VOC content generally requires a fixed investment for reformulation of each product to its respective regulatory level. Because, on average, coatings sold by small manufacturers are sold in smaller quantities than the industry average (an estimated 67,000 liters per product versus 377,000 liters per product), the cost of reformulation per unit sold may in some cases be significantly higher for small manufacturers. To meet the limitations in Table 1, the estimated ratio of annualized reformulation cost to revenues for small manufacturers equals approximately 3.5 percent as opposed to a ratio of only about 0.4 percent for the entire industry. Thus, it may be difficult for small coating manufacturers to pass control costs to consumers in product markets where competition with larger manufacturers is significant. This impact will be reduced to the extent that small manufacturers are provided reformulation technologies from larger resin suppliers. Still, the EPA has recognized a need to include special compliance provisions in the rule to avoid adverse economic impacts upon small manufacturers.

The economic impacts on small manufacturers were taken into consideration in establishing both the categories and VOC levels. Special effort was made to consider the economic feasibility of VOC levels for product categories in which small manufacturers have a disproportionate presence. The small container exemption, compliance variance, and consideration of an exceedance fee option and low volume exemption are also included in the proposed rule primarily to reduce small business impacts.

Because the per-unit costs of the economic incentive options are constant with respect to volume sold, and because the per-unit reformulation cost is higher for small-volume products than large-volume products, an economic incentive option, such as a fee, if included, is more likely to be beneficial to and adopted by small manufacturers than by large manufacturers. The results of the economic analysis suggests that the fee option is likely to provide a cost-saving alternative to reformulation for relatively low-volume products with VOC content fairly close to the

regulatory VOC levels. Estimated annual reformulation cost savings minus fee payments associated with the fee option equals approximately \$5.0 million. In addition, the fee option reduces foregone profits by roughly 0.3 million for products which otherwise would have been removed from the market. It is anticipated that most of these savings would accrue to small manufacturers.

E. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under Section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duties on any of these governmental entities. In any event, EPA has determined that this rule does not contain a Federal mandate that may

result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

F. Enhancing the Intergovernmental Partnership under Executive Order 12875

In compliance with Executive Order 12875, the EPA has involved State and local governments in the development of this rule. State and local air pollution control associations participated in the regulatory negotiation and have also provided regulatory review. State and local air pollution control representatives participated in the regulatory negotiation and have also provided input into subsequent regulatory development.

List of Subjects in 40 CFR Part 59

Environmental protection, Air pollution control, Architectural coatings, Consumer and commercial products, Incorporation by Reference, Ozone, Regulatory negotiation, Volatile organic compound.

TABLE 1.—ARCHITECTURAL COATING VOLATILE ORGANIC COMPOUND CONTENT LEVELS

[Unless otherwise specified, units are in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases.]

Coating category	Effective Apr. 1, 1997
Antenna coatings	530
Antifouling coatings	400
Anti-graffiti coatings	600
Bituminous coatings and mastics ...	500
Bond breakers	600
Chalkboard resurfacers	450
Concrete curing compounds	350
Concrete protective coatings	400
Dry fog coatings	400
Extreme high durability coatings ...	800
Fire-retardant/resistive coatings:	
Clear	850
Opaque	450
Flat coatings:	
Exterior	250
Interior	250
Floor coatings	400
Flow coatings	650
Form release compounds	450
Graphic arts coatings (sign paints)	500
Heat reactive coatings	420
High temperature coatings	650
Impacted immersion coatings	780
Industrial maintenance coatings	450
Lacquers (including lacquer sanding sealers)	680
Magnesite cement coatings	600

TABLE 1.—ARCHITECTURAL COATING VOLATILE ORGANIC COMPOUND CONTENT LEVELS—Continued

[Unless otherwise specified, units are in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases.]

Coating category	Effective Apr. 1, 1997
Mastic texture coatings	300
Metallic pigmented coatings	500
Multi-colored coatings	580
Nonferrous ornamental metal lacquers and surface protectants	870
Nonflat coatings:	
Exterior	380
Interior	380
Nuclear coatings	420
Pretreatment wash primers	780
Primers and undercoaters	350
Quick-dry coatings:	
Enamels	450
Primers, sealers, and undercoaters	450
Repair and maintenance thermoplastic coatings	650
Roof coatings	250
Rust preventative coatings	400
Sanding sealers (other than lacquer sanding sealers)	550
Sealers (including interior clear wood sealers)	400
Shellacs:	
Clear	650
Opaque	550
Stains:	
Clear and semitransparent	550
Opaque	350
Low solids	¹ 120
Swimming pool coatings	600
Thermoplastic rubber coatings and mastics	550
Traffic marking coatings	150
Varnishes	450
Waterproofing sealers and treatments:	
Clear	600
Opaque	400
Wood preservatives:	
Below ground wood preservatives	550
Clear and semitransparent	550
Opaque	350
Low solids	¹ 120

¹ Units are grams of VOC per liter of coating, including water and exempt compounds, thinned to the maximum thinning recommended by the manufacturer.

Dated: June 18, 1996.
 Carol M. Browner,
Administrator.
 [FR Doc. 96-16009 Filed 6-24-96; 8:45am]

BILLING CODE 6560-50-P

40 CFR Part 261

[SW-FRL-5525-3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant a petition to Bekaert Steel Corporation (Bekaert) of Rogers, Arkansas to exclude (or "delist"), certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32 (hereinafter all sectional references are to 40 CFR unless otherwise indicated). This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of 40 CFR Parts 260 through 266, 268 and 273, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator specific" basis from the hazardous waste lists. This proposed decision is based on an evaluation of waste-specific information provided by the petitioner. If this proposed decision is finalized, the petitioned waste will be conditionally excluded from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: The EPA is requesting public comments on this proposed decision. Comments will be accepted until August 9, 1996. Comments postmarked after the close of the comment period will be stamped "late."

Any person may request a hearing on this proposed decision by filing a request with Jane N. Saginaw, Regional Administrator, whose address appears below, by July 10, 1996. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments. Two copies should be sent to William Gallagher, Delisting Program, Multimedia Planning and Permitting Division (6PD-O), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202. A third copy should be sent to the Arkansas Department of Pollution Control and Ecology, P.O. Box 8913, 8001 National Drive, Little Rock, Arkansas 72219-8913. Identify your comments at the top with this regulatory docket number: "F-96-ARDEL-BEKAERT."

Requests for a hearing should be addressed to the Regional Administrator, Region 6, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

The RCRA regulatory docket for this proposed rule is located at the Region 6, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202 and is available for viewing in the EPA library on the 12th floor from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665-6444 for appointments. The docket may also be viewed at the Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72219-8913. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at \$0.15 per page for additional copies.

FOR FURTHER INFORMATION, CONTACT: For technical information concerning this notice, contact David Vogler, Delisting Program (6PD-O), Region 6, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665-7428.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, the EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in § 261.31 and § 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and toxicity) or meet the criteria for listing contained in § 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be hazardous. For this reason, § 260.20 and § 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See § 260.22(a) and the

background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, reactivity, corrosivity, and toxicity), and must present sufficient information for the Agency to determine whether the waste contains any of the other identified constituents at hazardous levels. See § 260.22(a), 42 U.S.C. § 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing listed hazardous wastes are also considered hazardous wastes. See §§ 261.3 (a)(2)(iv) and (c)(2)(i), referred to as the "mixture" and "derived-from" rules, respectively. Such wastes are also eligible for exclusion and remain hazardous wastes until excluded. On December 6, 1991, the U.S. Court of Appeals for the District of Columbia vacated the "mixture/derived from" rules and remanded them to the Agency on procedural grounds. See *Shell Oil Co. v. EPA*, 950 F.2d 741 (D.C. Cir. 1991). On March 3, 1992, EPA reinstated the mixture and derived-from rules, and solicited comments on other ways to regulate waste mixtures and residues (57 FR 7628). On December 21, 1995, the EPA proposed rules related to waste mixtures and residues at 60 FR 66344 and invited public comment. These references should be consulted for more information regarding mixtures and residues.

B. Approach Used To Evaluate This Petition

Bekaert's petition requests a delisting for a listed hazardous waste. In making the initial delisting determination, the EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11 (a)(2) and (a)(3). Based on this review, the EPA agreed with the petitioner that the waste is non-hazardous with respect to the original

listing criteria. (If the EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, the EPA would have proposed to deny the petition.) The EPA then evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The EPA considered whether the waste is acutely toxic, and considered the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability.

For this delisting determination, the EPA used such information to identify plausible exposure routes (*i.e.*, ground water, surface water, air) for hazardous constituents present in the petitioned waste. The EPA determined that disposal in a Subtitle D landfill is the most reasonable, worst-case disposal scenario for Bekaert's petitioned waste, and that the major exposure route of concern would be ingestion of contaminated ground water. Therefore, the EPA used a particular fate and transport model to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the disposal of Bekaert's petitioned waste on human health and the environment. Specifically, the EPA used the maximum estimated waste volume and the maximum reported extract concentrations as inputs to estimate the constituent concentrations in the ground water at a hypothetical receptor well downgradient from the disposal site. The calculated receptor well concentrations (referred to as compliance-point concentrations) were then compared directly to the current Maximum Contaminant Levels (MCLs) promulgated under the Safe Drinking Water Act (SDWA) or health-based levels derived from Verified Reference Doses (RfDs). The value used for copper is an action level for treatment of a water supply in lieu of a MCL (40 CFR § 141.80).

The EPA believes that this fate and transport model represents a reasonable worst-case scenario for disposal of the petitioned waste in a landfill, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of

RCRA Subtitle C. The use of a reasonable worst-case scenario results in conservative values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, will not pose a threat to human health or the environment. Because a delisted waste is no longer subject to hazardous waste control, the EPA is generally unable to predict and does not presently control how a waste will be managed after delisting. Therefore, the EPA does not currently consider extensive site-specific factors when applying the fate and transport model.

The EPA also considers the applicability of groundwater monitoring data during the evaluation of delisting petitions. The EPA normally requests groundwater monitoring data for wastes currently managed or have ever been managed in a land based management unit. Groundwater monitoring data provides significant additional information important to fully characterize the potential impact (if any) of the disposal of a petitioned waste on human health and the environment. In this case, the EPA determined that the groundwater monitoring data was not applicable to the evaluation of the petitioned waste. Specifically, Bekaert currently disposes of the petitioned waste generated from its filter press which is part of their wastewater treatment facility in an off-site RCRA hazardous waste landfill (which is not owned/operated by Bekaert). This landfill did not begin accepting the petitioned waste generated by the filter press until September 1991. In other words, the petitioned waste comprises a small fraction of the total waste managed in the off-site units. The Agency, therefore, believes that any ground-water monitoring data from the landfill would not be meaningful for an evaluation of the specific effect of the petitioned waste on ground water. However, the potential impact of these wastes on ground water is predicted through the application of a fate and transport model.

Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require the EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all timely public comments (including those at public hearings, if any) on today's proposal are addressed.

II. Disposition of Delisting Petition

Bekaert Steel Corporation, One Bekaert Drive, Rogers, Arkansas, 72757

A. Petition for Exclusion

Bekaert, located in Rogers, Arkansas, manufactures steel cord by reducing the diameter of steel rods followed by electroplating and further reduction. Bekaert petitioned the Agency to exclude its wastewater treatment filter cake presently listed as EPA Hazardous Waste No. F006—"Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum". The listed constituents of concern for EPA Hazardous Waste No. F006 are: cadmium, hexavalent chromium, nickel and cyanide (complexed) (see 40 CFR part 261, Appendix VII).

Bekaert petitioned the EPA to exclude its waste filter cake because it does not believe that the waste meets the criteria for which it was listed. Bekaert also believes that the waste does not contain any other constituents that would render it hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See Section 222 of HSWA, 42 U.S.C. § 6921(f), and 40 CFR § 260.22(d) (2)-(4). Today's proposal to grant this petition for delisting is the result of the EPA's evaluation of Bekaert's petition.

B. Background

On September 11, 1995, Bekaert petitioned the EPA to exclude, from the lists of hazardous wastes contained in 40 CFR § 261.31 and § 261.32, its wastewater filter cake generated from its wastewater treatment system. Bekaert subsequently provided additional information to complete its petition.

In support of its petition, Bekaert submitted: (1) Descriptions of its manufacturing and wastewater treatment processes, including schematic diagrams; (2) a list of all raw materials and Material Safety Data Sheets (MSDSs) for all trade name products used in the manufacturing and waste treatment processes; (3) results from total constituent analyses for fourteen metals including the eight Toxicity Characteristic (TC) metals listed in § 261.24 (*i.e.*, the TC metals) and antimony, beryllium, copper, nickel, thallium, and zinc from representative samples of the petitioned waste; (4) results from the Toxicity Characteristic Leaching Procedure

(TCLP, SW-846 Method 1311) for fourteen metals which include the eight TC metals, and antimony, beryllium, copper, nickel, thallium, and zinc from representative samples of the petitioned waste; (5) results from total constituent analysis for total and reactive sulfide and cyanide for representative samples of the petitioned waste; (6) results from total oil and grease analyses from representative samples of the petitioned waste; (7) test results and information regarding the hazardous characteristics of ignitability, corrosivity, and reactivity; and (8) results from total constituent analyses for certain volatile and semi-volatile organic compounds from representative samples of the petitioned waste.

Bekaert manufactures steel cord which is sold to the tire manufacturing industry for use in reinforcing tires. The steel cord is produced from steel rod which has been reduced in size and electroplated with a copper and zinc alloy.

The manufacturing processes contribute to the petitioned waste from the following sources: water from the caustic scrubbers, water from the hydrochloric acid scrubbers, water from the rinse used to remove soap from wire, water from the cooling water bath following fluidized bed heater, waste acid from the hydrochloric acid pickling, water from the rinse following the zinc plating bath, water from the cooling bath following induction heating, phosphoric acid from the phosphoric acid bath, water from the phosphoric acid rinse bath and the spent oil/water mixture (non-petroleum) used as a lubricant in the process.

Wastewaters from the manufacturing process are collected and stored in four central tanks prior to discharge to the wastewater treatment plant. The petitioned waste is generated from the wastewater treatment plant and not directly from the manufacturing process. Wastewaters are transferred from the holding tanks to a treatment tank where it is neutralized with sodium hydroxide. After neutralization, one of several methods are employed to remove solids: (1) A polymer is added to promote flocculation. This wastewater is then sent to a sludge thickening tank from which the sludge is sent to the filter press; (2) the wastewater is routed to an ultrafiltration unit to remove solids which are routed to the filter press; or (3) the wastewater is routed to a clarifier where a polymer is added to aid in solids precipitation. The solids are routed to the sludge thickening tank and then to the filter press.

The petitioned waste is dropped from the filter press at the end of the wastewater treatment process into a 18x8x5 foot hopper. The F006 filter press cake is currently sent to a permitted hazardous waste facility for disposal.

To collect representative samples, petitioners are normally requested to divide the unit into four quadrants (not exceeding 10,000 square feet per quadrant) and randomly collect five full-depth core samples from each quadrant. The five full-depth core samples are then composited (mixed) by quadrant to produce a total of four composite samples. See *Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods*, U.S. EPA, Office of Solid Waste and Emergency Response, Publication SW-846 (third edition), November 1986, and *Petitions to Delist Hazardous Wastes—A Guidance Manual*, (second edition), U.S. EPA, Office of Solid Waste, (EPA/530-R-93-007), March 1993.

Bekaert submitted analytical results from five composite filter cake samples collected from the hoppers at five different days taken at intervals during a period between May 25, 1995, and July 10, 1995. This was done to demonstrate that the waste composition did not vary with time. In order account for spatial variability, grab samples were collected from four randomly selected sample locations based on a grid pattern that divided each hopper into ten grids. The entire depth (approximately five feet) of each hopper was sampled. A composite of the four grab samples was obtained to represent that day's sample.

Bekaert developed a list of constituents of concern from comparing a list of all raw materials used in the plant that could potentially appear in the petitioned waste with those found in 40 CFR § 261, Appendix VIII, as well as the following six constituents not found in Appendix VIII: acetone, ethylbenzene, isophorone, 4-methyl-2-pentanone, styrene, and total xylenes. Based on this review, it was not anticipated that any of the Appendix VIII organic compounds or any of the six additional organic compounds would be present in the petitioned waste.

Using the list of constituents of concern, Bekaert analyzed the five composite samples for the total concentrations (*i.e.*, mass of a particular constituent per mass of waste) of the eight TCLP metals, antimony, beryllium, copper, nickel, thallium, zinc, selected volatile and semi-volatile organic constituents, and oil and grease content. These five samples were also analyzed to determine whether the waste

exhibited ignitable, corrosive, or reactive properties as defined, respectively, under § 261.21, § 261.22, and § 261.23, including analysis for total constituent concentrations of cyanide, sulfide, reactive cyanide, and reactive sulfide. These five samples were also analyzed for TCLP concentrations (*i.e.*, mass of a particular constituent per unit volume of extract) of the eight TC metals, and antimony, beryllium, copper, nickel, thallium, and zinc.

C. Agency Analysis

Bekaert used SW-846 Methods 7041, 7091, 7191, and 7196A, in respective order, to quantify the total constituent concentrations and leachable (TCLP) concentrations of antimony, beryllium, chromium, and hexavalent chromium; and SW-846 Method 6010A was used to quantify total constituent concentrations and leachable (TCLP) concentrations of arsenic, barium, cadmium, copper, lead, nickel, selenium, silver, thallium, and zinc in samples. SW-846 methods 7471 and 7470 were used to determine total and leachable (in respective order) constituent concentrations for mercury.

Using SW 846 Method 9070, Bekaert determined that the petitioned waste had a maximum oil and grease content of 5700 mg/kg.

Characteristic testing was conducted on the samples of the petitioned waste, including analysis for reactive cyanide and reactive sulfide (SW-846 Methods 7.3.3.2 and 7.3.4.1, respectively), ignitability (ASTM D-4982B), and corrosivity (SW-846 Method 9045). Bekaert used SW-846 Methods 9012 and 4500 to quantify concentrations of the total and complexed cyanide, respectively, in the samples. Bekaert used Method 9030A to quantify the total constituent concentrations of sulfide in the samples.

Table 1 presents the maximum total constituent and leachate concentrations for the eight TC metals, antimony, beryllium, copper, nickel, thallium, and zinc for the composite samples of the petitioned waste. Table 1 also presents maximum reactive cyanide and reactive sulfide concentrations.

The detection limits presented in Table 1 represent the lowest concentrations quantifiable by Bekaert when using the appropriate SW-846 or Agency-approved analytical methods to analyze its waste. (Detection limits may vary according to the waste and waste matrix being analyzed, *i.e.*, the "cleanliness" waste matrices varies and "dirty" waste matrices may cause interferences, thus raising the detection limits).

Bekaert used SW-846 Methods 8240 and 8270 to quantify the total

constituent concentrations of 30 volatile and 71 semi-volatile organic compounds, respectively, in the waste samples. This suite of constituents included all of the organic constituents listed in § 261.24 as well as other organic compounds commonly analyzed for in hazardous waste samples. Bekaert used SW-846 Methods 8240, 8270, 8150A, 3510A, and 8080 to quantify the leachable concentrations of 11 volatile, 13 semi-volatile, 2 chlorinated herbicides, and 7 pesticides (all organic compounds), respectively, in the waste samples, following extraction by SW-846 Method 1311 (TCLP). This suite of constituents included all of the organic constituents listed in § 261.24. Table 2 presents the maximum total and leachate concentrations of all detected organic constituents in Bekaert's waste and waste extract samples. Lastly, on the basis of explanations and analytical data provided by Bekaert, none of the analyzed samples exhibited the characteristics of ignitability, corrosivity, or reactivity. See § 261.21, § 261.22 and § 261.23.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS (PPM)¹ FILTER PRESS WASTE

Inorganic constituents	Total constituent analyses (mg/kg)	TCLP leachate analyses (mg/l)
Antimony	< 0.50	0.34
Arsenic	< 5.00	< 0.05
Barium	2.5	1.3
Beryllium	< 0.10	< 0.05
Cadmium	3.1	< 0.05
Chromium	68	< 0.05
Chromium (hexavalent)	< 5.0	< 0.05
Copper	580	12
Lead	< 5.0	< 0.10
Mercury	< 0.125	< 0.005
Nickel	43	1.1
Selenium	6.4	0.091
Silver	1.2	0.2
Thallium	< 10	< 0.10
Zinc	16000	470
Cyanide (complexed) (total)	0.31	0.030
Cyanide (soluble)	< 0.13	NA
Cyanide (reactive)	< 0.050	NA
Sulfide (reactive)	<10	NA

< Denotes that the constituent was not detected at the detection limit specified in the table.

¹ These levels represent the highest concentration of each constituent found in any one sample. These levels do not represent the specific levels found in one sample.

NA Denotes that the constituent was not analyzed.

TABLE 2.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS (PPM)¹ FILTER PRESS SLUDGE

Organic constituents	Total constituent analyses (mg/kg)	TCLP leachate analyses (mg/l)
Methyl Ethyl Ketone	0.120	< 0.100
Dichloromethane	0.008	NA
4-Methylphenol	<1.0	0.067

< Denotes that the constituent was not detected at the detection limit specified in the table.

¹ These levels represent the highest concentration of each constituent found in any one sample. These levels do not represent the specific levels found in one sample.

NA Denotes that the constituent was not analyzed.

Bekaert submitted a signed certification stating that the maximum volume of filter cake generated on an annual basis is 1,022 cubic yards of waste. The EPA reviews a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate estimated waste volume. The EPA accepted Bekaert's certified estimate of 1,022 cubic yards of annual generated waste. The petition was evaluated at a waste volume of 1,250 cubic yards of annual generated which is a more conservative approach and also allows for future fluctuations in waste output.

The EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The EPA, however, has maintained a spot-check sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions. A spot-check visit to a selected facility may be initiated before finalizing a delisting petition or after granting a final exclusion.

D. Agency Evaluation

The EPA considered the appropriateness of alternative waste management scenarios for Bekaert's petitioned waste and decided, based on the information provided in the petition, that disposal in a municipal solid waste landfill is the most reasonable, worst-case scenario for this waste. Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. The EPA, therefore, evaluated Bekaert's petitioned waste using the modified EPACML which predicts the potential for groundwater

contamination from wastes that are landfilled. See 56 FR 32993 (July 18, 1991), 56 FR 67197 (December 30, 1991), and the RCRA public docket for these notices for a detailed description of the EPACML model, the disposal assumptions, and the modifications made for delisting. This model, which includes both unsaturated and saturated zone transport modules, was used to predict reasonable worst-case contaminant levels in groundwater at a compliance point (*i.e.*, a receptor well serving as a drinking water supply). Specifically, the model estimated the dilution/attenuation factor (DAF) resulting from subsurface processes such as three-dimensional dispersion and dilution from groundwater recharge for a specific volume of waste. The EPA requests comments on the use of the EPACML as applied to the evaluation of Bekaert's petitioned waste.

For the evaluation of Bekaert's petitioned waste, the EPA used the EPACML to evaluate the mobility of the hazardous inorganic constituents detected in the extract of samples of Bekaert's petitioned waste. The EPA intends to evaluate petitions for generated wastes on a case-by-case basis. The DAFs are currently calculated assuming an ongoing process generates wastes for 20 years. EPA's evaluation, using a DAF of 96, maximum annual waste volume estimate of 1,250 cubic yards and the maximum reported TCLP leachate concentrations (see Table 1), yielded compliance-point concentrations (see Table 3) that are below the current health-based levels used in delisting decision-making.

The maximum reported or calculated leachate concentrations of antimony, barium, copper, nickel, selenium, silver, and zinc in the petitioned waste yielded compliance point concentrations below the health-based levels used in delisting decision-making. The EPA did not evaluate the mobility of the remaining inorganic constituents (*i.e.*, arsenic, beryllium, cadmium, chromium, lead, mercury, and thallium) in Bekaert's waste because they were not detected in the leachate using the appropriate analytical test methods (see Table 1). The EPA believes that it is inappropriate to evaluate nondetectable concentrations of a constituent of concern in its modeling efforts if the nondetectable value was obtained using the appropriate analytical method. If a constituent cannot be detected (when using the appropriate analytical method with an adequate detection limit), the EPA assumes that the constituent is not present and therefore does not present a threat to human health or the environment.

TABLE 3.—EPACML: CALCULATED COMPLIANCE-POINT CONCENTRATIONS (PPM) PETITIONED WASTE

Inorganic constituents	Compliance point concentrations ¹ (mg/l)	Levels of regulatory concern ² (mg/l)
Antimony	0.0036	0.006
Barium	0.014	2.0
Copper	0.13	1.3
Nickel	0.012	0.1
Selenium	0.00096	0.05
Silver	0.002	0.2
Zinc	4.90	10.

¹ Using the maximum TCLP leachate level and based on a DAF of 96 calculated using the EPACML for an annual volume of 1,250 cubic yards.

² See *Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions*, December 1994 located in the RCRA public docket for today's notice.

The EPA also evaluated the potential hazard of methyl ethyl ketone, 4-methylphenol (p-cresol), and dichloromethane, the only organic constituents detected in the total concentrations or TCLP extract of samples of Bekaert's petitioned waste. Process information submitted by Bekaert demonstrates that organic constituents are unlikely to be present in the waste. Furthermore, the organic analysis submitted indicated only trace levels of these three constituents. In any case, the Agency notes that if the total levels (0.120, < 1.00, 0.008 mg/kg, in respective order) of these trace constituents were evaluated using the EPACML (conservatively assuming the total concentration of the constituents would leach), the compliance levels (.00125, < 0.0104, 0.0000842 mg/l) at the theoretical compliance point would still be well below health-based levels (20, 2, 0.005 mg/l, in respective order).

As reported in Table 1, reactive cyanide and reactive sulfide were not detected in Bekaert's petitioned waste. The detection limits are less than 0.050 mg/kg and less than 10 mg/kg, respectively. These detection limit concentrations are below the EPA's interim standards of 250 and 500 ppm, respectively. See *Interim Agency Thresholds for Toxic Gas Generation*, July 12, 1985, internal Agency Memorandum in the RCRA public docket. Therefore, reactive cyanide and reactive sulfide levels are not of concern.

Complexed cyanide was identified in one of the five samples analyzed at a total concentration of 0.31 mg/kg and at a leachable (TCLP extract) concentration of 0.030 mg/l. The leachable amount found in the one sample of waste is below the appropriate health-base

number of 0.2 mg/1 (see docket) even without considering the dilution effects of the fate and transport of the constituent. Therefore, since Bekaert does not use cyanide in any of their processes and the complexed cyanide was identified in only one sample at concentrations below the health-based concentration, complexed cyanide is not considered of concern.

The EPA concluded, after reviewing Bekaert's processes, that no other hazardous constituents of concern, other than those tested for, are likely to be present or formed as reaction products or by-products in Bekaert's waste proposed for exclusion. In addition, on the basis of explanations and analytical data provided by Bekaert, pursuant to § 260.22, the EPA concludes that the waste does not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See § 261.21, § 261.22, and § 261.23, respectively.

During the evaluation of Bekaert's petition, the EPA also considered the potential impact of the petitioned waste via non-ground water routes (*i.e.*, air emission and surface runoff). With regard to airborne dispersion in particular, the EPA believes that exposure to airborne contaminants from Bekaert's petitioned waste is unlikely. The EPA evaluated the potential hazards resulting from the unlikely scenario of airborne exposure to hazardous constituents released from Bekaert's waste in an open landfill. The results of this worst-case analysis indicated that there is no substantial present or potential hazard to human health from airborne exposure to constituents from Bekaert's petitioned waste. A description of the EPA's assessment of the potential impact of Bekaert's waste, with regard to airborne dispersion of waste contaminants, is presented in the RCRA public docket for today's proposed rule.

The EPA also considered the potential impact of the petitioned waste via a surface water route. The EPA believes that containment structures at municipal solid waste landfills can effectively control surface water run-off. Subtitle D regulations (see 56 FR 50978, October 9, 1991) prohibit pollutant discharges into surface waters. Furthermore, the concentrations of any hazardous constituents dissolved in the runoff will tend to be lower than the levels in the TCLP leachate analyses reported in today's notice, due to the aggressive acid medium used for extraction in the TCLP test. The EPA believes that, in general, leachate derived from the waste is unlikely to enter a surface water body directly without first travelling through the

saturated subsurface zone where further dilution and attenuation of hazardous constituents will also occur. Leachable concentrations provide a direct measure of the solubility of a toxic constituent in water, and are indicative of the fraction of the constituent that may be mobilized in surface water, as well as ground water. The reported TCLP extraction data shows that the metals that might be released from Bekaert's waste to surface water would be likely to remain undissolved or leach in concentrations that would be below health-based levels of concern. Finally, any transported constituents would be further diluted in the receiving surface water body.

Based on the reasons discussed above, the EPA believes that contamination of surface water through run-off from the waste disposal area is very unlikely. Nevertheless, the EPA evaluated potential impacts on surface water if Bekaert's waste were released from a municipal solid waste landfill through run-off and erosion. See, the RCRA public docket for today's proposed rule. The estimated levels of the hazardous constituents of concern in surface water would be well below health-based levels for human health, as well as below the EPA Chronic Water Quality Criteria for aquatic organisms (USEPA, OWRS, 1987). The EPA, therefore, concluded that Bekaert's petitioned waste is not a substantial present or potential hazard to human health and the environment via the surface water exposure pathway.

E. Conclusion

The EPA has reviewed the sampling procedures used by Bekaert and has determined that they satisfy the EPA criteria for collecting representative samples. The data submitted in support of the petition demonstrates, after careful evaluation, that constituents in Bekaert's waste are present at the compliance point below the health-based levels used in the delisting decision-making. The EPA believes that Bekaert has successfully demonstrated that the petitioned waste is non-hazardous.

The EPA, therefore, proposes to grant an exclusion to Bekaert Steel Corporation, located in Rogers, Arkansas, for the petitioned waste described in its petition as EPA Hazardous Waste No. F006. The EPA's decision to exclude this waste is based on descriptions of the process from which the petitioned waste is derived, descriptions of Bekaert's wastewater treatment process, and characterization of the petitioned waste. If the proposed rule is finalized, the petitioned waste will no longer be subject to regulation

under Parts 262 through 268 and the permitting standards of Part 270.

If made final, the proposed exclusion will apply only to 1,250 cubic yards of petitioned waste generated annually, on a calendar year basis, through operation of Bekaert's wastewater treatment filter press. The facility would be required to obtain a new exclusion if either its manufacturing or treatment processes are significantly altered such that an adverse change in waste composition (for example, significantly higher levels of hazardous constituents) or increase in volume occur. Accordingly, the facility would be required to file a new petition for the altered waste. Additionally, the facility must treat waste generated either in excess of 1,250 cubic yards per year or generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition would be removed from Subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

F. Annual Testing

If a final exclusion is granted, the petitioner will be required to demonstrate, on an annual basis, that the characteristics of the petitioned waste remain as originally described. In order to confirm that the characteristics of the waste do not change significantly, the facility must, on an annual basis, analyze a representative composite sample for the constituents listed in § 261.24 as well as antimony, copper, nickel and zinc using the method specified therein. Sampling and analysis must be completed by July 1 of each year. Each year's analytical results (including quality control information) must be compiled, certified according to 260.22(i)(12), maintained on-site for a minimum of five years, and made available for inspection upon request by any employee or representative of EPA or the State of Arkansas. Failure to maintain the required records on site will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA.

The purpose of this testing requirement is to ensure that the quality of the petitioned waste remains as originally described by the petitioner. The Agency believes that the data obtained will assist EPA or the State in determining whether the petitioner's manufacturing processes have been significantly altered, or if the waste is more variable than originally described by the petitioner. The Agency also believes that the annual retesting of the petitioned waste is not overly burdensome to the facility and notes that these data will assist the facility in complying with § 262.11(c) which requires generators to determine whether their wastes are hazardous, as defined by the Toxicity Characteristic (see 40 CFR 261.24).

III. Limited Effect of Federal Exclusion

This proposed exclusion, if promulgated, would be issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Since a petitioner's waste may be regulated under a dual system (both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authorities to determine the current status of their wastes under State law.

Furthermore, some States are authorized to administer a delisting program in lieu of the Federal program, i.e., to make their own delisting decisions. Therefore, this proposed exclusion, if promulgated, would not apply in those authorized States. If the petitioned waste will be transported to any State with delisting authorization, Bekaert must obtain delisting authorization from that State before the waste may be managed as nonhazardous in that State.

IV. Effective Date

This rule, if made final, will become effective immediately upon final publication. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six-months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this

petitioner by an effective date six months after publication and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, the EPA believes that this exclusion should be effective immediately upon final publication. These reasons also provide a basis for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. § 553(d).

V. Regulatory Impact

Under Executive Order 12866, the EPA must conduct an "assessment of the potential costs and benefits" for all "significant" regulatory actions. This proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of the EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from the EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous. There is no additional impact due to today's rule. Therefore, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under Section (6) of Executive Order 12866.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601-612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on any small entities.

This rule, if promulgated, will not have any adverse economic impact on any small entities since its effect would be to reduce the overall costs of the EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. § 3501 *et seq.*) and have been assigned OMB Control Number 2050-0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, which was signed into law on March 22, 1995, the EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA, the EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before the 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 plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements. 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. The EPA finds that today's proposed delisting decision is deregulatory in nature and does not impose any enforceable duty upon state, local or tribal governments or the private sector. In addition, the proposed delisting does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: June 11, 1996.

Jane N. Saginaw,
Regional Administrator.

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 2 of Appendix IX of Part 261 it is proposed to add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under § 260.20 and § 260.22

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
* Bekaert Steel Corpora- tion.	* Rogers, Arkansas	* Wastewater treatment sludge (EPA Hazardous Waste No. F006) generated from electroplating operations (at a maximum annual rate of 1,250 cubic yards to be measured on a calendar year basis) after [insert publication date of the final rule]. In order to confirm that the characteristics of the waste do not change significantly, the facility must, on an annual basis, before July 1 of each year, analyze a representative composite sample for the constituents listed in 261.24 as well as antimony, copper, nickel, and zinc using the method specified therein. The annual analytical results, including quality control information, must be compiled, certified according to § 260.22(i)(12) of this chapter, maintained on site for a minimum of five years, and made available for inspection upon request of any employee or representative of EPA or the State of Arkansas. Failure to maintain the required documents on site will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. <i>Notification Requirements:</i> Bekaert Steel Corporation must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activities. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision.

[FR Doc. 96-15884 Filed 6-24-96; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 261

[SW-FRL-5525-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant a petition to the Texas Eastman Division of Eastman Chemical Company (Texas Eastman) to exclude (or "delist"), certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.24, 261.31, 261.32 and 261.33 (hereinafter all sectional references are to 40 CFR unless otherwise indicated). This petition was submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of 40 CFR Parts 260 through 266, 268 and 273, and under 40 CFR 260.22, which specifically provides generators the opportunity to

petition the Administrator to exclude a waste on a "generator specific" basis from the hazardous waste lists. This proposed decision is based on an evaluation of waste-specific information provided by the petitioner. If this proposed decision is finalized, the petitioned waste will be conditionally excluded from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: The EPA is requesting public comments on this proposed decision. Comments will be accepted until August 9, 1996. Comments postmarked after the close of the comment period will be stamped "late."

Any person may request a hearing on this proposed decision by filing a request with Jane N. Saginaw, Regional Administrator, whose address appears below, by July 10, 1996. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments. Two copies should be sent to William Gallagher, Delisting Program, Multimedia Planning and Permitting Division (6PD-O), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202. A third copy should be sent to the Texas

Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78753. Identify your comments at the top with this regulatory docket number: "F-96-TXDEL-TXEASTMAN."

Requests for a hearing should be addressed to the Regional Administrator, Region 6, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

The RCRA regulatory docket for this proposed rule is located at the Region 6, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202 and is available for viewing in the EPA library on the 12th floor from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665-6444 for appointments. The docket may also be viewed at the Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78753. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at \$0.15 per page for additional copies.

FOR FURTHER INFORMATION, CONTACT: For technical information concerning this notice, contact Michelle Peace, Delisting Program (6PD-O), Region 6, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665-7430.

SUPPLEMENTARY INFORMATION:**I. Background****A. Authority**

On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, the EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in § 261.24, § 261.31, § 261.32 and § 261.33. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of Part 261 (i.e., ignitability, corrosivity, reactivity, and toxicity) or meet the criteria for listing contained in § 261.11(a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be hazardous. Therefore, § 260.20 and § 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See, § 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the EPA to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (i.e., ignitability, reactivity, corrosivity, and toxicity), and must present sufficient information for the EPA to determine whether the waste contains any of the other identified constituents at hazardous levels. See, § 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes that are "delisted" have been evaluated to decide whether they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether their waste remains non-hazardous based on the hazardous waste characteristics.

In addition, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing listed hazardous wastes are also considered hazardous wastes. See, §§ 261.3(a)(2)(iv) and (c)(2)(I), referred to as the "mixture" and "derived-from" rules, respectively. Such wastes are also eligible for exclusion and remain hazardous wastes until excluded. On December 6, 1991, the U.S. Court of Appeals for the District of Columbia vacated the "mixture/derived from" rules and remanded them to the EPA on procedural grounds. See, *Shell Oil Co. v. EPA*, 950 F.2d 741 (D.C. Cir. 1991). On March 3, 1992, EPA reinstated the mixture and derived-from rules, and solicited comments on other ways to regulate waste mixtures and residues (57 FR 7628). On December 21, 1995, the EPA proposed rules related to waste mixtures and residues at 60 FR 66344 and invited public comment. These references should be consulted for more information regarding mixtures and residues.

B. Approach Used to Evaluate This Petition

Texas Eastman's petition requests a delisting for a listed hazardous waste. In making the initial delisting determination, the EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (a)(3). Based on this review, the EPA agreed with the petitioner that the waste is non-hazardous with respect to the original listing criteria. (If the EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, the EPA would have proposed to deny the petition.) The EPA then evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The EPA considered whether the waste is acutely toxic, and considered the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability.

For this delisting determination, the EPA used such information to identify plausible exposure routes (i.e., ground water, surface water, air) for hazardous constituents present in the petitioned waste. The EPA determined that disposal in a Subtitle D landfill is the

most reasonable, worst-case disposal scenario for Texas Eastman's petitioned waste, and that the major exposure route of concern would be ingestion of contaminated ground water. Therefore, the EPA is proposing to use a particular fate and transport model, the EPA Composite Model for Landfills (EPACML), to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the disposal of Texas Eastman's petitioned waste on human health and the environment. Specifically, the EPA used the maximum estimated waste volume and the maximum reported extract concentrations as inputs to estimate the constituent concentrations in the ground water at a hypothetical receptor well downgradient from the disposal site. The calculated receptor well concentrations (referred to as compliance-point concentrations) were then compared directly to the current health-based levels used in delisting decision-making for the hazardous constituents of concern.

The EPA believes that this fate and transport model represents a reasonable worst-case scenario for disposal of the petitioned waste in a landfill, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C. The use of a reasonable worst-case scenario results in conservative values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, will not pose a threat to human health or the environment. Because a delisted waste is no longer subject to hazardous waste control, the EPA is generally unable to predict and does not presently control how a waste will be managed after delisting. Therefore, the EPA does not currently consider extensive site-specific factors when applying the fate and transport model. The EPA also considers the applicability of groundwater monitoring data during the evaluation of delisting petitions. The EPA normally requests groundwater monitoring data for wastes managed on-site to determine whether hazardous constituents have migrated to the underlying groundwater. Groundwater monitoring data provides significant additional information important to fully characterize the potential impact (if any) of the disposal of a petitioned waste on human health and the environment. In this case, the EPA determined that the groundwater

monitoring data was applicable to the evaluation of the petitioned waste. Texas Eastman's petitioned waste is transported to an on-site hazardous waste landfill that has been designed to meet the RCRA minimum technology requirements and has groundwater monitoring wells to monitor the landfill. The EPA believes that data collected from Texas Eastman's groundwater monitoring system provides a clear measure of whether the landfill has adversely impacted groundwater quality at the Texas Eastman site. The data provided from the groundwater monitoring system and the landfill leachate seem to indicate that no adverse impact on the groundwater has occurred and that the leachate collected from the system is currently below health based limits. The potential impact of these wastes on the groundwater will also be predicted

through the application of the EPACML, fate and transport model. Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require the EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all timely public comments (including those at public hearings, if any) on today's proposal are addressed.

II. Disposition of Delisting Petition

Eastman Chemical Company—Texas Eastman Division, Longview, Texas, 75607.

A. Petition for Exclusion

Eastman Chemical Company —Texas Eastman Division (Texas Eastman), located in Longview, Texas is involved in the manufacturing of organic chemicals and plastics. Texas Eastman petitioned the EPA for a conditional

exclusion of approximately 7,000 cubic yards of Fluidized Bed Incinerator (FBI) ash generated per calendar year. The FBI ash, presently disposed of in an on-site hazardous waste landfill, is generated from the incineration of sludges from its wastewater treatment plant. The FBI ash is listed for 56 EPA Hazardous Waste Numbers due to the "derived-from" and mixture rules. The waste is listed as D001, D003, D018, D019, D021, D022, D027, D028, D029, D030, D032, D033, D034, D035, D036, D038, D039, D040, F001, F003, F005, K009, K010, U001, U002, U003, U019, U028, U031, U037, U044, U056, U069, U070, U107, U108, U112, U113, U115, U117, U122, U140, U147, U151, U154, U159, U161, U169, U190, U196, U211, U213, U226, U239, and U359. The listed constituents of concern for these EPA Hazardous Waste Numbers are shown in Table 1 (See, Part 261, Appendix VII).

TABLE 1.—HAZARDOUS WASTE CODES ASSOCIATED WITH WASTEWATER STREAMS

Waste code	Basis for characteristic/listing
D001	Ignitability.
D003	Reactivity.
D018	Benzene.
D019	Carbon Tetrachloride.
D021	Chlorobenzene.
D022	Chloroform.
D027	1,4-Dichlorobenzene.
D028	1,2-Dichloroethane.
D029	1,1-Dichloroethylene.
D030	2,4-Dinitrotoluene.
D032	Hexachlorobenzene.
D033	Hexachlorobutadiene.
D034	Hexachloroethane.
D035	Methyl ethyl ketone.
D036	Nitrobenzene.
D038	Pyridine.
D039	Tetrachloroethylene.
D040	Trichloroethylene
F001	Tetrachloroethylene, methylene chloride, Trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons.
F002	Tetrachloroethylene, methylene chloride, Trichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2 trichlorofluoroethane, ortho-dichlorobenzene, trichlorofluoromethane.
F005	Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, 2-ethoxyethanol, benzene, 2-nitropropane.
K009	Chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid.
K010	Chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid, chloroacetaldehyde.
U001	Acetaldehyde.
U002	Acetone.
U003	Acetonitrile.
U019	Benzene.
U028	Benzenetrichloride.
U031	n-Butyl alcohol.
U037	Chlorobenzene.
U044	Chloroform.
U056	Cyclohexane.
U069	Dibutyl phthlate.
U070	o-Dichlorobenzene.
U107	Di-n-octyl-phthlate.
U108	1,4-Diethyleneoxide.
U112	Ethyl acetate.
U113	Ethyl acrylate.
U115	Ethylene oxide.
U117	Ethyl ether.

TABLE 1.—HAZARDOUS WASTE CODES ASSOCIATED WITH WASTEWATER STREAMS—Continued

Waste code	Basis for characteristic/listing
U122	Formaldehyde.
U140	Isobutyl alcohol.
U147	Maleic anhydride.
U151	Mercury.
U154	Methanol.
U159	Methyl ethyl ketone.
U161	Methyl isobutyl ketone.
U169	Nitrobenzene.
U190	Phthalic anhydride.
U196	Pyridine.
U211	Carbon Tetrachloride.
U213	Tetrahydrofuran
U226	1,1,1-Trichloroethane (methyl chloroform).
U239	Xylene.
U359	Ethylene glycol monoethyl ether.

Texas Eastman petitioned the EPA to exclude this annual volume of FBI ash because it does not believe that the waste meets the criteria for which it was listed. Texas Eastman also believes that the waste does not contain any other constituents that would render it hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the HSWA of 1984. See, Section 222 of HSWA, 42 U.S.C. § 6921(f), and 40 CFR § 260.22(d)(2)–(4). Today's proposal to grant this petition for delisting is the result of the EPA's evaluation of Texas Eastman's petition.

B. Background

On December 29, 1994, Texas Eastman petitioned the EPA to exclude, from the lists of hazardous wastes contained in 40 CFR § 261.31 and § 261.32, an annual volume of incinerator ash generated from incineration of sludge from its wastewater treatment plant. Specifically, in its petition, Texas Eastman requested that the EPA grant a standard exclusion for 7,000 cubic yards of incinerator ash generated per calendar year.

In support of its petition, Texas Eastman submitted: (1) descriptions of its wastewater treatment processes and the incineration activities associated with the petitioned waste; (2) results from total constituent analyses for the Toxicity Characteristic (TC) metals listed in § 261.24 (i.e., the TC metals) antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, nickel, selenium, silver, thallium, tin, vanadium, and zinc from representative samples of the waste; (3) results from the Toxicity Characteristic Leaching Procedure (TCLP), (SW-846 Method 1311) for the TC metals antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper,

lead, mercury, nickel, selenium, silver, thallium, tin, vanadium, and zinc from representative samples of the waste; (4) results from the Multiple Extraction Procedure (MEP), (SW-846 Method 1330) for antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, nickel, selenium, silver, thallium, tin, vanadium, and zinc from representative samples of the waste; (5) test results from the total constituent analyses for dioxins/furans from representative samples of the waste; (6) results from total oil and grease analyses from representative samples of the waste; (7) test results and information regarding the hazardous characteristics of ignitability, corrosivity, and reactivity; (8) results from total constituent and TCLP analyses for 40 CFR Part 264 Appendix IX volatile and semi-volatile organic compounds from representative samples of the waste; and (9) results from the Land Disposal Restriction Analysis performed on the untreated ash. Texas Eastman also provided total constituent analyses and for the biological treatment sludge, scrubber water blowdown, influent waste water and waste liquid fuel associated with the generation of the FBI ash. To meet the Land Disposal Restriction's interim treatment standard for nickel, Texas Eastman had to stabilize the nickel in the FBI ash by adding a polymer. Since the universal treatment standards were finalized in 1995, and designated the TCLP treatment standard for nickel as 5.0 mg/l, Texas Eastman no longer has to add the polymer to the ash.

Texas Eastman is an active organic chemical and plastics manufacturing plant. Current facility operations, including wastewater treatment, are not significantly different from the operations occurring at this facility for the last 10 years. There are two major raw materials (propane and ethane)

used at the Texas Eastman facility. Most of the products from this facility are in similar product groupings, therefore the wastewater resulting from the manufacturing of these products is fairly well defined. Texas Eastman believes that several factors dampen the spatial and temporal variability that may occur in the wastewater: (1) the majority of wastewater volume generated at the Texas Eastman facility is from low strength sources and the high strength sources generated are from a few low volume sources; (2) the daily volume of wastewater flow is such that very large mass loading is necessary to influence the concentrations of a constituent reaching the wastewater treatment plant (WWTP); (3) the hydraulic retention time of 17 days within the WWTP is very high as well as the corresponding sludge age which minimizes the chance of a shock load influencing the resulting feed to the incinerator; (4) the collection system for the WWTP is equipped with "shock" load sensors and a monitoring system which prevent large mass loadings from being introduced into the WWTP; (5) the WWTP is equipped with emergency storage tanks capable of holding approximately 20 hours of influent; and (6) the liquid fuels used as supplemental fuels in the incinerator are relatively uniform in characteristics and constituents.

During the various production processes, wastewaters are generated and flow into a centralized collection system. All wastewaters are routed to the wastewater treatment plant for treatment, via biological degradation, and subsequent discharge into receiving waters. To facilitate growth of new microorganisms, a portion of the biological mass (i.e., sludge) is removed from the wastewater treatment system. The biological sludge is routed to a storage tank and then to the FBI for thermal treatment. The FBI is a

permitted incinerator operated at a temperature of 1550°F. The total heat content of all feeds introduced into the FBI, including the waste feeds and auxiliary fuels are not permitted to exceed 42 million BTU/hr. After incineration, the flue gases are routed through a heat exchanger and a venturi scrubber. A mixture of ash solids and scrubber water is sent to the ash thickener. This mixture is dewatered by passing it through a rotary vacuum filter. After being scraped from the filter, the ash drops into a dumpster where it is stored prior to disposal. The resulting FBI ash generated annually is the subject of Texas Eastman's delisting petition.

Texas Eastman developed a list of constituents of concern from comparing a list of the wastes generated at the plant with the list of constituents that appear in 40 CFR § 261, Appendix VIII, as well as the following six constituents not found in Appendix VIII: acetone, ethylbenzene, isophorone, 4-methyl-2-pentanone, styrene, and total xylenes. It was decided due to the availability of test methods and process knowledge, that Texas Eastman would analyze its waste for those constituents found in 40 CFR § 264, Appendix IX, except for pesticides, herbicides, and polychlorinated biphenyls (PCBs).

The sampling and analysis of the FBI ash took place in April and May 1994. The sampling program consisted of two individual test runs which together spanned 42 days. During the two test runs, two extreme FBI operating conditions (high sludge and high liquids) were represented in addition to normal operations. During one worst case test condition, biological treatment sludge was fed to the FBI at approximately 12,000 pounds per hour (lbs/hr), and waste liquid fuels were fed to the FBI at approximately 540 lbs/hr. During the other worst case test condition, waste liquid fuels were fed to the FBI at approximately the maximum feed rate of 684 lbs/hr and biological treatment sludge was fed at approximately 8,000 lbs/hr. Each test condition consisted of one run. The tests for extreme conditions (high sludge or high liquids) lasted two days due to the limited availability to produce sufficient sludge volume for a longer duration test. The tests for normal operations lasted five days. The FBI was operated continuously at the designated test condition throughout the test period. This allowed for the collection

of samples of FBI ash during each test, yielding a total of 10 sets of FBI ash data from the eight tests: 8 from the individual test conditions, 1 duplicate, and 1 from the untreated ash. Samples of four streams (the treated and untreated FBI ash, biological treatment sludge, and waste liquid fuels) were collected at 6-hour intervals during each of the eight tests. With the exception of VOA vials collected for volatiles analysis, the 6-hour interval samples of each stream collected during each run were composited at the Texas Eastman facility and shipped to the analytical laboratories. The composite samples were analyzed for the total concentrations (i.e., mass of a particular constituent per mass of waste) of the eight TCLP metals, antimony, beryllium, cobalt, copper, nickel, thallium, tin, vanadium, and zinc, selected volatile and semi-volatile organic constituents, dioxins/furans, and oil and grease content. The samples were also analyzed to determine whether the waste exhibited the reactive properties, including analysis for total constituent concentrations of cyanide, sulfide, reactive cyanide, and reactive sulfide. These samples were also analyzed for TCLP concentrations (i.e., mass of a particular constituent per unit volume of extract) of the eight TC metals, antimony, beryllium, cobalt, copper, nickel, thallium, tin, vanadium, zinc, and selected volatile and semi-volatile organic constituents.

Texas Eastman has also collected samples of the treated and untreated ash to maintain compliance with the Land Disposal Restrictions. For compliance with LDR, the untreated ash is analyzed for total constituents concentrations of a select group of volatile and semivolatile organics expected to be present in the ash and the eight TCLP metals, nickel and vanadium. LDR leachate results for the treated ash were provided in the 1994 petition. Since, treatment of the ash is no longer necessary, results from four samples of the untreated ash have been provided to support this petition. The four samples were collected for four consecutive months from December 1995–March 1996.

C. Agency Analysis

Texas Eastman used SW-846 Methods 7041, 7060, 7421, 7471, 7740, and 7841 to quantify the total constituent concentrations of antimony, arsenic, lead, mercury, selenium, and thallium; and SW-846 Method 6010 to quantify

total constituent concentrations of barium, beryllium, cadmium, chromium, nickel, silver, vanadium, and zinc in the samples of FBI ash (treated and untreated), sludge, and liquid fuels. Texas Eastman used SW-846 Methods 9010 to quantify the total constituent concentrations of cyanide for these samples. Texas Eastman used 9030 to quantify the total constituent concentrations of sulfide.

Using method M-413.2 from the "Methods for Chemical Analysis of Water and Wastes", EPA-600/4-79-020, March 1983, Texas Eastman determined that oil and grease content was not detected in the untreated ash.

Texas Eastman used SW-846 Method 1311 (TCLP)/Method 6010 to quantify the leachable concentrations of the eight TC metals, antimony, beryllium, copper, cobalt, nickel, vanadium, and zinc in the ash samples. SW-846 Method 7471 was used for mercury analyses of the extracts from the samples. Texas Eastman used SW-846 Method 1311 /Method 9010 to quantify leachable cyanide concentrations in the samples. The samples taken for the LDR program used SW-846 Method 1311 (TCLP)/Method 6010 to quantify the TC metals present in the untreated ash. Method 8290 was used to quantify the total concentrations of dioxin and furans.

The analyses for reactive cyanide and reactive sulfide (SW-846 Methods 7.3.3.2 and 7.3.4.2, respectively) were provided to verify that the untreated ash was not characteristic. The ash does not meet the definitions of ignitability and corrosivity provided in 40 CFR § 261.21 (a)(2) and § 261.22.

Table 1 presents the maximum total constituent and leachate concentrations for the eight TC metals, antimony, beryllium, cyanide, nickel, vanadium, and zinc for the composite samples of the petitioned waste. Table 1 also presents the maximum reactive cyanide and reactive sulfide concentrations.

The detection limits presented in Table 1 represent the lowest concentrations quantifiable by Texas Eastman when using the appropriate SW-846 or Agency-approved analytical methods to analyze the untreated ash. (Detection limits may vary according to the waste and waste matrix being analyzed, i.e., the "cleanliness" waste matrices varies and "dirty" waste matrices may cause interferences, thus raising the detection limits).

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS (PPM) ¹ UNTREATED FBI ASH

Inorganic constituents	Total constituent analyses	Leachate analyses	
		TCLP	MEP
Antimony	12.5	0.0217	0.0092
Arsenic	1.49	<0.000647	0.0138
Barium	302	0.346	0.025
Beryllium	0.4203	<0.00051	<0.00051
Cadmium	1.23	<0.00386	0.0140
Chromium (total)	45.4	<0.00524	0.0171
Cobalt	46.7	0.0350	0.0141
Copper	198	0.0783	0.00989
Lead	41.3	<0.0022	<0.0022
Mercury	< 0.0125	0.0002	<0.00003
Nickel	837	0.411	0.176
Selenium	1.30	<0.00708	0.00399
Silver	10.4	0.00601	<0.00519
Thallium	< 0.273	<0.00173	<0.00185
Tin	4.16	<0.0145	0.0161
Vanadium	63.1	0.0397	0.0687
Zinc	1930	0.568	0.345
Hydrogen Cyanide	< 0.25		
Hydrogen Sulfide	< 24.8		
Oil and Grease	<126		

< Denotes that the constituent was not detected at the detection limit specified in the table.

¹ These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

Texas Eastman used SW-846 Methods 8240 and 8270 to quantify the total constituent concentrations of 50 volatile and 115 semivolatile organic compounds, respectively, in the ash. This suite of constituents included all of the nonpesticide organic constituents listed in § 261.24. Also, Texas Eastman used SW-846 Methods 8240 and 8270 to quantify the leachable concentrations of 50 volatile and 115 semi-volatile organic compounds, respectively, in the untreated ash samples, following

extraction by SW-846 Method 1311 (TCLP). This suite of constituents included all of the organic constituents listed in § 261.24.

In addition to analyzing the FBI ash for TC metals, samples of the ash were analyzed for metals using the modified multiple extraction procedure (MEP) (SW-846, Method 1330). The MEP simulates the long-term effects of leaching in a landfill and is used to determine the overall effectiveness of a stabilization process. During the sampling program, a sample of

untreated ash was analyzed using the MEP test to determine the long-term leachability of metals. Table 2 presents the maximum total and leachate concentrations of all detected organic constituents in Texas Eastman's waste and waste extract samples. Lastly, on the basis of explanations and analytical data provided by Texas Eastman, none of the analyzed samples exhibited the characteristics of ignitability, corrosivity, or reactivity. See, § 261.21, § 261.22 and § 261.23.

TABLE 2.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS (PPM) ¹ UNTREATED FBI ASH

Organic constituents	Total constituent analyses	TCLP leachate analyses
Acetone	0.021	0.059
Benzo(a)pyrene	0.0217	< 0.00441
Carbon Disulfide	0.0526	0.0151
Benzo(g,h,i) perylene	0.0444	< 0.00626
Indeno (1,2,3-cd) pyrene	0.0188	< 0.0049
Methylene Chloride	0.077	< 0.0185

< Denotes that the constituent was not detected at the detection limit specified in the table.

¹ These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

Texas Eastman submitted a signed certification stating that the maximum annual generation rate of the FBI ash will be 7,000 cubic yards of waste. The EPA reviews a petitioner's estimates and, on occasion, has requested a petitioner to reevaluate estimated waste volume. The EPA accepted Texas

Eastman's certified estimate of 7,000 cubic yards of FBI ash.

The EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The EPA, however, has maintained a spot-check sampling and

analysis program to verify the representative nature of the data for some percentage of the submitted petitions. A spot-check visit to a selected facility may be initiated before finalizing a delisting petition or after granting a final exclusion.

D. Agency Evaluation

The EPA considered the appropriateness of alternative waste management scenarios for Texas Eastman's FBI ash and decided, based on the information provided in the petition, that disposal in a municipal solid waste landfill is the most reasonable, worst-case scenario for this waste. Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. The EPA, therefore, evaluated Texas Eastman's petitioned waste using the modified EPA Composite Model for Landfills (EPACML) which predicts the potential for groundwater contamination from wastes that are landfilled. See, 56 *FR* 32993 (July 18, 1991), 56 *FR* 67197

(December 30, 1991), and the RCRA public docket for these notices for a detailed description of the EPACML model, the disposal assumptions, and the modifications made for delisting. This model, which includes both unsaturated and saturated zone transport modules, was used to predict reasonable worst-case contaminant levels in groundwater at a compliance point (i.e., a receptor well serving as a drinking water supply). Specifically, the model estimated the dilution/attenuation factor (DAF) resulting from subsurface processes such as three-dimensional dispersion and dilution from groundwater recharge for a specific volume of waste. The EPA requests comments on the use of the EPACML as applied to the evaluation of Texas Eastman's petitioned waste (FBI untreated ash).

For the evaluation of Texas Eastman's petitioned waste, the EPA used the EPACML to evaluate the mobility of the hazardous inorganic constituents detected in the extract of samples of Texas Eastman's FBI untreated ash. DAFs are currently calculated assuming an ongoing process generates wastes for 20 years. The DAF for the waste volume of 7,000 cubic yards/year assuming 20 years of generation is 45. The EPA's evaluation, using a DAF of 45, maximum waste volume estimate of 7,000 cubic yards and the maximum reported TCLP or MEP leachate concentrations (See, Table 1), yielded compliance-point concentrations (See, Table 3) that are below the current health-based levels used in delisting decision-making.

TABLE 3.—EPACML: CALCULATED COMPLIANCE-POINT CONCENTRATIONS (PPM) UNTREATED FBI ASH

Inorganic constituents	Compliance point concentrations ¹ (mg/l)	Levels of regulatory concern ² (mg/l)
Antimony	0.00048	0.006
Arsenic	0.00031	0.05
Barium	0.00769	2.0
Cadmium	0.00031	0.005
Chromium	0.00038	0.1
Cobalt	0.00078	2.1
Copper	0.00174	1.3
Mercury	0.0002	0.001
Nickel	0.00913	0.1
Selenium	0.00009	0.20
Silver	0.00013	0.2
Tin	0.00036	21.0
Vanadium	0.00153	0.3
Zinc	0.01262	10.0

¹ Using the maximum TCLP leachate level and based on a DAF of 45 calculated using the EPACML for a maximum volume generated annually of 7,000 cubic yards.

² See, "Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions," May 1996 located in the RCRA public docket for today's notice.

The maximum reported or calculated leachate concentrations of arsenic, antimony, barium, cadmium, chromium, copper, nickel, mercury, selenium, silver, vanadium, and zinc in the FBI ash yielded compliance point concentrations well below the health-based levels used in delisting decision-making. The EPA did not evaluate the mobility of the remaining inorganic constituents (i.e., beryllium, lead, and thallium) from Texas Eastman's waste because they were not detected in the leachate using the appropriate analytical test methods (See, Table 1). The EPA believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. If a

constituent cannot be detected (when using the appropriate analytical method with an adequate detection limit), the EPA assumes that the constituent is not present and therefore does not present a threat to human health or the environment.

The EPA also evaluated the potential hazards of acetone and carbon disulfide, the organic constituents detected in the TCLP extract of samples of Texas Eastman's FBI ash. In particular, were these leachate concentrations evaluated using the EPACML, the calculated compliance-point concentration would be 0.00131 ppm and 0.00034 ppm respectively; these values are significantly below the respective health based values of 4.

As reported in Table 1, the concentrations of reactive cyanide and

sulfide were not detected in Texas Eastman's untreated FBI ash. These concentrations are below the EPA's interim standards of 250 and 500 ppm, respectively. See, "Interim Agency Thresholds for Toxic Gas Generation," July 12, 1985, internal Agency Memorandum in the RCRA public docket. Therefore, reactive cyanide and sulfide levels are not of concern.

The EPA concluded, after reviewing Texas Eastman's processes, that no other hazardous constituents of concern, other than those tested for, are likely to be present or formed as reaction products or by-products in Texas Eastman's waste. In addition, on the basis of explanations and analytical data provided by Texas Eastman, pursuant to § 260.22, the EPA concludes that the waste does not exhibit any of the

characteristics of ignitability, corrosivity, or reactivity. See, § 261.21, § 261.22, and § 261.23, respectively.

During the evaluation of Texas Eastman's petition, the EPA also considered the potential impact of the petitioned waste via non-ground water routes (i.e., air emission and surface runoff). With regard to airborne dispersion in particular, the EPA believes that exposure to airborne contaminants from Texas Eastman's petitioned waste is unlikely. The EPA evaluated the potential hazards resulting from the unlikely scenario of airborne exposure to hazardous constituents released from Texas Eastman's waste in an open landfill. The results of this worst-case analysis indicated that there is no substantial present or potential hazard to human health from airborne exposure to constituents from Texas Eastman's FBI ash. A description of the EPA's assessment of the potential impact of Texas Eastman's waste, with regard to airborne dispersion of waste contaminants, is presented in the RCRA public docket for today's proposed rule.

The EPA also considered the potential impact of the petitioned waste via a surface water route. The EPA believes that containment structures at municipal solid waste landfills can effectively control surface water run-off, as the Subtitle D regulations (See, 56 FR 50978, October 9, 1991) prohibit pollutant discharges into surface waters. Furthermore, the concentrations of any hazardous constituents dissolved in the runoff will tend to be lower than the levels in the TCLP or MEP leachate analyses reported in today's notice, due to the aggressive acid medium used for extraction in the TCLP and MEP tests. The EPA believes that, in general, leachate derived from the waste is unlikely to enter a surface water body directly without first traveling through the saturated subsurface zone where further dilution and attenuation of hazardous constituents will also occur. Leachable concentrations provide a direct measure of the solubility of a toxic constituent in water, and are indicative of the fraction of the constituent that may be mobilized in surface water, as well as ground water. The reported TCLP and MEP extraction data show that the metals in Texas Eastman's FBI ash that might be released from Texas Eastman's waste to surface water would be likely to remain undissolved or leach in concentrations that would be below the health-based levels of concern. Finally, any transported constituents would be further diluted in the receiving surface water body.

Based on the reasons discussed above, EPA believes that contamination of surface water through run-off from the waste disposal area is very unlikely. Nevertheless, the EPA evaluated potential impacts on surface water if Texas Eastman's waste were released from a municipal solid waste landfill through run-off and erosion. See, the RCRA public docket for today's proposed rule. The estimated levels of the hazardous constituents of concern in surface water would be well below health-based levels for human health, as well as below the EPA Chronic Water Quality Criteria for aquatic organisms (USEPA, OWRS, 1987). The EPA, therefore, concluded that Texas Eastman's untreated FBI ash is not a substantial present or potential hazard to human health and the environment via the surface water exposure pathway.

E. Conclusion

The EPA believes that the descriptions of the Texas Eastman incineration process and analytical characterizations, in conjunction with the proposed verification testing requirements (as discussed later in this notice), provide a reasonable basis to grant Texas Eastman's petition for a conditional exclusion of the untreated FBI ash. The EPA believes that the lack of variability between the treated and untreated ash samples collected from the characterization of the ash in 1994 and the LDR data for the untreated ash adequately represent the variations in the raw materials and processing. The EPA believes that the data submitted in support of the petition show that Texas Eastman's incineration process can render the sludge from the waste water treatment system non-hazardous. The EPA has reviewed the sampling procedures used by Texas Eastman and has determined that they satisfy EPA criteria for collecting representative samples of the variations in constituent concentrations of the FBI ash. The data submitted in support of the petition show that constituents in Texas Eastman's waste are presently below the health-based levels used in the delisting decision-making. The EPA believes that Texas Eastman has successfully demonstrated that the untreated FBI ash is non-hazardous.

The EPA, therefore, proposes to grant a conditional exclusion to Texas Eastman, located in Longview, Texas, for the untreated FBI ash described in its petition. The EPA's decision to exclude this waste is based on descriptions of the incineration activities associated with the petitioned waste and characterization of the FBI ash. If the proposed rule is finalized, the

petitioned waste will no longer be subject to regulation under Parts 262 through 268 and the permitting standards of Part 270.

F. Verification Testing Conditions

1. *Delisting Levels:* All leachable concentrations for those metals must not exceed the following levels (ppm). Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24.

(A) Inorganic Constituents

Antimony—0.27; Arsenic—2.25; Barium—90.0; Beryllium—0.0009; Cadmium—0.225; Chromium—4.5; Cobalt—94.5; Copper—58.5; Lead—0.675; Mercury—0.045; Nickel—4.5; Selenium—1.0; Silver—5.0; Thallium—0.135; Tin—945.0; Vanadium—13.5; Zinc—450.0

(B) Organic Constituents

Acenaphthene—90.0
Acetone—180.0
Benzene—0.135
Benzo(a)anthracene—0.00347
Benzo(a)pyrene—0.00045
Benzo(b) fluoranthene—0.00320
Bis(2 ethylhexyl) phthalate—0.27
Butylbenzyl phthalate—315.0
Chloroform—0.45
Chlorobenzene—31.5
Carbon Disulfide—180.0
Chrysene—0.1215
1,2-Dichlorobenzene—135.0
1,4-Dichlorobenzene—0.18
Di-n-butyl phthalate—180.0
Di-n-octyl phthalate—35.0
1,4 Dioxane—0.36
Ethyl Acetate—1350.0
Ethyl Ether—315.0
Ethylbenzene—180.0
Flouranthene—45.0
Fluorene—45.0
1-Butanol—180.0
Methyl Ethyl Ketone—200.0
Methylene Chloride—0.45
Methyl Isobutyl Ketone—90.0
Naphthalene—45.0
Pyrene—45.0
Toluene—315.0
Xylenes—3150.0

This paragraph provides the levels of constituents for which Texas Eastman must test the leachate from the FBI ash, below which the ash would be considered non-hazardous. The EPA selected the set of inorganic constituents specified after reviewing information about the composition of the waste, descriptions of Texas Eastman's treatment process, previous test data provided for the untreated ash and the health-based levels used in delisting decision-making.

The EPA established the proposed delisting levels for this paragraph by

back-calculating the maximum allowable leachate concentrations (MALs) from the health-based levels (HBLs) for the constituents of concern using the EPACML chemical-specific DAFs of 45 (See, previous discussions in Section D—*Agency Evaluation*), i.e., $MAL = HBL \times DAF$. These delisting levels correspond to the allowable levels measured in the TCLP extract of the waste.

2. *Waste Holding and Handling:* Texas Eastman must store in accordance with its RCRA permit, or continue to dispose of as hazardous all FBI ash generated until the Initial and Subsequent Verification Testing described in Paragraph 4 and 5 below is completed and valid analyses demonstrate that all Verification Testing Conditions are satisfied. After completion of Initial and Subsequent Verification Testing, if the levels of constituents measured in the samples of the FBI ash do not exceed the levels set forth in Paragraph 1 above, and written notification is given by EPA, then the waste is non-hazardous and may be managed and disposed of in accordance with all applicable solid waste regulations.

The purpose of this paragraph is to ensure that ash which contains hazardous levels of inorganic and organic constituents are managed and disposed of in accordance with Subtitle C of RCRA. Holding the waste until characterization is complete will protect against improper handling of hazardous material. If the EPA determines that the data collected under this condition do not support the data provided for the petition, the exclusion will not cover the generated incinerator ash.

3. *Verification Testing Requirements:* Sample collection and analyses, including quality control procedures, must be performed according to SW-846 methodologies. If EPA judges the incineration process to be effective under the operating conditions used during the initial verification testing described in Paragraph 4 below, Texas Eastman may replace the testing required in Paragraph 4 with the testing required in Paragraph 5 below. Texas Eastman must, however, continue to test as specified in Paragraph 4 until notified by EPA in writing that testing in Paragraph 4 may be replaced by the testing described in Paragraph 5.

4. *Initial Verification Testing:* During the first 40 operating days of the FBI incinerator after the final exclusion is granted, Texas Eastman must collect and analyze daily composites of the FBI ash. Daily composites must be composed of representative grab samples collected every 6 hours during each 24-hour FBI operating cycle. The FBI ash must be analyzed, prior to disposal of the ash, for all constituents listed in Paragraph 1. Texas Eastman must report the operational and analytical test data, including quality control information, obtained during this initial period no later than 90 days after the incineration of the wastewater treatment sludge.

The EPA believes that an initial period of 40 days is sufficient for a facility to collect sufficient data to verify that the data provided for the untreated ash in the 1994 petition and LDR information is representative of the ash to be delisted.

5. *Subsequent Verification Testing:* Following the completion of the Initial Verification Testing, Texas Eastman may request to monitor operating conditions and analyze samples representative of each quarter of operation during the first year of ash generation. The samples must represent the untreated ash generated over one quarter. Following written notification from EPA, Texas Eastman may begin the quarterly testing described in this Paragraph.

The EPA believes that the concentrations of the constituents of concern in the FBI ash may vary somewhat over time. As a result, in order to ensure that Texas Eastman's treatment process can effectively handle any variation in constituent concentrations in the incinerator ash, the EPA is proposing a subsequent verification testing condition. The proposed subsequent testing would verify that the FBI is operated in a manner similar to its operation during the initial verification testing and that the untreated incinerator ash does not exhibit unacceptable levels of toxic constituents. Therefore, the EPA is proposing to require Texas Eastman to analyze representative samples of the incinerator ash on a quarterly basis during the first year of waste generation. If the EPA determines that the data from the initial verification period demonstrates that the incineration process is effective, Texas Eastman may request that EPA allow it to perform verification testing on a quarterly basis. If approved in writing by EPA, then Texas Eastman may begin verification testing quarterly.

6. *Termination of Organic Testing:* Texas Eastman must continue testing as required under Paragraph 5 for organic constituents specified in Paragraph 1 until the analyses submitted under Paragraph 5 show a minimum of two consecutive quarterly samples below the delisting levels in Paragraph 1. Texas Eastman may then request that quarterly organic testing be terminated. After EPA notifies Texas Eastman in writing it may terminate quarterly organic testing.

7. *Annual Testing:* Following termination of quarterly testing under either Paragraphs 5 or 6, Texas Eastman must continue to test a representative composite sample for all constituents listed in Paragraph 1 (including organics) on an annual basis (no later than twelve months after the date that the final exclusion is effective).

The EPA is proposing to terminate the subsequent testing conditions for organics as allowed in Paragraph 6 after

Texas Eastman has demonstrated the delisting levels for the untreated ash are consistently met. In order to confirm that the characteristics of the waste do not change significantly over time, Texas Eastman must continue to analyze a representative sample of the untreated FBI ash for organic constituents on an annual basis (no later than twelve months after the date that the final exclusion is effective). The Fluidized Bed Incinerator as described in the petition has demonstrated its effectiveness in removing organic constituents from solid matrices, but not inorganic constituents. Therefore, Paragraph 1 (A), which requires Texas Eastman to test for the specified inorganic constituents of concern that may not be treated by this process, is not subject to the termination provision in Paragraph 6.

8. *Changes in Operating Conditions:* If Texas Eastman significantly changes the incineration process described in its petition or implements any new manufacturing or production process(es) which generate(s) the ash and which may or could affect the composition or type of waste generated established under Paragraph 3 (by illustration {but not limitation}, use of stabilization reagents or operating conditions of the fluidized bed incinerator), Texas Eastman must notify the EPA in writing and may no longer handle the wastes generated from the new process as non-hazardous until the wastes meet the delisting levels set in Paragraph 1 and it has received written approval to do so from EPA.

Paragraph 8 would allow Texas Eastman the flexibility of modifying its processes (e.g., use of new treatment reagents or change in operating conditions) to improve its treatment process. However, Texas Eastman must demonstrate the effectiveness of the modified process and request approval from the EPA. Wastes generated during the new process demonstration must be managed as a hazardous waste until written approval has been obtained and Paragraph 1 is satisfied. If Texas Eastman changes operating conditions as described in Paragraph 8, then Texas Eastman must reinstate all testing in Paragraph 3, pending a new demonstration under this condition for termination.

9. *Data Submittals:* The data obtained through Paragraph 3 must be submitted to Mr. William Gallagher, Chief, Region 6 Delisting Program, U.S. EPA, 1445 Ross Avenue, Dallas, Texas 75202-2733, Mail Code, (6PD-O) within the time period specified. Records of operating conditions and analytical data from Paragraph 3 must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by EPA, or the State of Texas, and

made available for inspection. Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:

Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 USC § 1001 and 42 USC § 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.

As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.

To provide appropriate documentation that Texas Eastman's facility is properly treating the waste, all analytical data obtained through Paragraph 3, including quality control information, must be compiled, summarized, and maintained on site for a minimum of five years. Paragraph 9 requires that these data be furnished upon request and made available for inspection by any employee or representative of EPA or the State where the treatment facility is located.

If made final, the proposed exclusion will apply only to the 7,000 cubic yards generated annually of FBI ash generated during the treatment of its wastewater sludge in the Texas Eastman fluidized bed incinerator after successful verification testing. Except as described in Paragraph 8, the facility would be required to submit a new exclusion if the treatment process specified for the FBI incinerator or the WWTP is significantly altered. Texas Eastman would be required to file a new petition for any new manufacturing or production process(es), or significant changes from the current process(es) described in its petition which generates the ash or which may or could affect the composition or type of waste generated. The facility must treat any FBI ash in excess of the original 7,000 cubic yards

as hazardous unless a new exclusion is granted.

Although management of the waste covered by this petition would be removed from Subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Effective Date

This rule, if made final, will become effective immediately upon final publication. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after publication and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon final publication. These reasons also provide a basis for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. § 553(d).

IV. Regulatory Impact

Under Executive Order 12866, EPA must conduct an "assessment of the potential costs and benefits" for all "significant" regulatory actions. This proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous. There is no additional impact due to today's rule. Therefore, this proposal would not be a significant regulation, and no cost/benefit

assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under Section (6) of Executive Order 12866.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601-612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on any small entities.

This rule, if promulgated, will not have any adverse economic impact on any small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. § 3501 *et seq.*) and have been assigned OMB Control Number 2050-0053.

VII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("UMRA"), Public Law 104-4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. 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 plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements. 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. EPA finds that today's proposed delisting decision is deregulatory in

nature and does not impose any enforceable duty upon state, local or tribal governments or the private sector. In addition, the proposed delisting does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: June 11, 1996.
Jane N. Saginaw,
Regional Administrator.

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Tables 1, 2, and 3 of Appendix IX of Part 261 it is proposed to add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under § 260.20 and 260.22.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* Texas Eastman	* Longview, Texas ...	* Incinerator ash (at a maximum generation of 7,000 cubic yards per calendar year) generated from the incineration of sludge from the wastewater treatment plant (EPA Hazardous Waste No.D001, D003, D018, D019, D021, D022, D027, D028, D029, D030, D032, D033, D034, D035, D036, D038, D039, D040, F001, F002, F003, F005, after [insert publication date of the final rule]. Texas Eastman must implement a testing program that meets the following conditions for the petition to be valid: 1. <i>Delisting Levels:</i> All leachable concentrations for those metals must not exceed the following levels (ppm). Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (A) Inorganic Constituents Antimony—0.27; Arsenic—2.25; Barium—90.0; Beryllium—0.0009; Cadmium—0.225; Chromium—4.5; Cobalt—94.5; Copper—58.5; Lead—0.675; Mercury—0.045; Nickel—4.5; Selenium—1.0; Silver—5.0; Thallium—0.135; Tin—945.0; Vanadium—13.5; Zinc—450.0. (B) Organic Constituents Acenaphthene—90.0; Acetone—180.0; Benzene—0.135; Benzo(a)anthracene—0.00347; Benzo(a)pyrene—0.00045; Benzo(b) fluoranthene—0.00320; Bis(2 ethylhexyl) phthalate—0.27; Butylbenzyl phthalate—315.0; Chloroform—0.45; Chlorobenzene—31.5; Carbon Disulfide—180.0; Chrysene—0.1215; 1,2-Dichlorobenzene—135.0; 1,4-Dichlorobenzene—0.18; Di-n-butyl phthalate—180.0; Di-n-octyl phthalate—35.0; 1,4 Dioxane—0.36; Ethyl Acetate—1350.0; Ethyl Ether—315.0; Ethylbenzene—180.0; Flouranthene—45.0; Fluorene—45.0; 1-Butanol—180.0; Methyl Ethyl Ketone—200.0; Methylene Chloride—0.45; Methyl Isobutyl Ketone—90.0; Naphthalene—45.0; Pyrene—45.0; Toluene—315.0; Xylenes—3150.0. 2. <i>Waste Holding and Handling:</i> Texas Eastman must store in accordance with its RCRA permit, or continue to dispose of as hazardous all FBI ash generated until the Initial and Subsequent Verification Testing described in Paragraph 4 and 5 below is completed and valid analyses demonstrate that all Verification Testing Conditions are satisfied. After completion of Initial and Subsequent Verification Testing, if the levels of constituents measured in the samples of the FBI ash do not exceed the levels set forth in Paragraph 1 above, and written notification is given by EPA, then the waste is non-hazardous and may be managed and disposed of in accordance with all applicable solid waste regulations. 3. <i>Verification Testing Requirements:</i> Sample collection and analyses, including quality control procedures, must be performed according to SW-846 methodologies. If EPA judges the incineration process to be effective under the operating conditions used during the initial verification testing described in Paragraph 4 below, Texas Eastman may replace the testing required in Paragraph 4 with the testing required in Paragraph 5 below. Texas Eastman must, however, continue to test as specified in Paragraph 4 until notified by EPA in writing that testing in Paragraph 4 may be replaced by the testing described in Paragraph 5. 4. <i>Initial Verification Testing:</i> During the first 40 operating days of the FBI incinerator after the final exclusion is granted, Texas Eastman must collect and analyze daily composites of the FBI ash. Daily composites must be composed of representative grab samples collected every 6 hours during each 24-hour FBI operating cycle. The FBI ash must be analyzed, prior to disposal of the ash, for all constituents listed in Paragraph 1. Texas Eastman must report the operational and analytical test data, including quality control information, obtained during this initial period no later than 90 days after the incineration of the wastewater treatment sludge.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		<p>5. <i>Subsequent Verification Testing:</i> Following the completion of the Initial Verification Testing, Texas Eastman may request to monitor operating conditions and analyze samples representative of each quarter of operation during the first year of ash generation. The samples must represent the untreated ash generated over one quarter. Following written notification from EPA, Texas Eastman may begin the quarterly testing described in this Paragraph.</p> <p>6. <i>Termination of Organic Testing:</i> Texas Eastman must continue testing as required under Paragraph 5 for organic constituents specified in Paragraph 1 until the analyses submitted under Paragraph 5 show a minimum of two consecutive quarterly samples below the delisting levels in Paragraph 1. Texas Eastman may then request that quarterly organic testing be terminated. After EPA notifies Texas Eastman in writing it may terminate quarterly organic testing.</p> <p>7. <i>Annual Testing:</i> Following termination of quarterly testing under either Paragraphs 5 or 6, Texas Eastman must continue to test a representative composite sample for all constituents listed in Paragraph 1 (including organics) on an annual basis (no later than twelve months after the date that the final exclusion is effective).</p> <p>8. <i>Changes in Operating Conditions:</i> If Texas Eastman significantly changes the incineration process described in its petition or implements any new manufacturing or production process(es) which generate(s) the ash and which may or could affect the composition or type of waste generated established under Paragraph 3 (by illustration {but not limitation}, use of stabilization reagents or operating conditions of the fluidized bed incinerator), Texas Eastman must notify the EPA in writing and may no longer handle the wastes generated from the new process as non-hazardous until the wastes meet the delisting levels set in Paragraph 1 and it has received written approval to do so from EPA.</p> <p>9. <i>Data Submittals:</i> The data obtained through Paragraph 3 must be submitted to Mr. William Gallagher, Chief, Region 6 Delisting Program, U.S. EPA, 1445 Ross Avenue, Dallas, Texas 75202–2733, Mail Code, (6PD–O) within the time period specified. Records of operating conditions and analytical data from Paragraph 3 must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by EPA, or the State of Texas, and made available for inspection. Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:</p> <p>Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 USC § 1001 and 42 USC § 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.</p> <p>As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.</p> <p>In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.</p> <p>10. <i>Notification Requirements:</i> Texas Eastman must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activities. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision.</p>

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
Texas Eastman	Longview, Texas ...	<p>Incinerator ash (at a maximum generation of 7,000 cubic yards per calendar year) generated from the incineration of sludge from the wastewater treatment plant (EPA Hazardous Waste No. K009 and K010, after [insert publication date of the final rule]. Texas Eastman must implement a testing program that meets conditions found in Table 1. Wastes Excluded From Non-Specific Sources for the petition to be valid.</p>

notice, and a concurrent notice in the local newspaper in the vicinity of the site, announce the initiation of a 30-day comment period. The public is asked to comment on U.S. EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate U.S. EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, if necessary, the U.S. EPA Regional Office will prepare a Responsiveness Summary to evaluate and address comments that were received. The public is welcome to contact the U.S. EPA Region V Office to obtain a copy of this responsiveness summary, if one is prepared. If U.S. EPA then determines the deletion from the NPL is appropriate, final notice of deletion will be published in the Federal Register.

IV. Basis for Intended Site Deletion

The Omega Hills North Landfill is located in the Village of Germantown in Washington County, Wisconsin. The Omega Hills North Landfill is a former hazardous and solid waste disposal site. The landfill is closed. A clay cover was completed October 1, 1989.

Contaminants at the site include benzene, vinyl chloride, trichloroethylene, and cis 1,1-dichloroethylene. Contamination from the site extends to bedrock and sand seams located beneath the site to an approximate depth of 95 feet. Groundwater contamination (chiefly trichloroethylene) has been detected in private wells near the site. Residents in the area now use municipal water. The site has undergone remediation in the form of installing treatment systems that address groundwater, leachate, gas and surface water runoff contamination. The potential for continuing migration of contaminants due to groundwater movement is a public health concern and is addressed with regular monitoring of wells in the area of the site.

The Omega Hills North Landfill is an 83-acre site that is part of a two-site complex. The Omega Hills North Landfill, which is now closed, operated as a municipal and industrial waste disposal site that was licensed to accept hazardous waste from 1977 to 1982. One of the largest landfills in the state, the Omega Hills complex is located in the extreme southeastern corner of Washington County near metropolitan Milwaukee. The site was proposed for the NPL in September 1983. The listing was finalized in September 21, 1984, Federal Register number 49, volume

number 185 and page number 37070-37090.

Soils at the site are generally fine grained, but there are major sand layers that extend vertically to the bedrock and serve as recharge zones. An ineffective leachate collection system and large amounts of liquid waste allowed very high leachate head levels to develop. Wells in the area draw from the underlying Niagara dolomite.

The sand and underlying dolomite serve as conduits for contaminant migration. Hydrogeologic investigations conducted during 1981 through 1983 detected a groundwater divide that exists within the bedrock aquifer along the northwest side of the landfill. A stream to the west of the site also inhibits groundwater flow to the west.

After becoming saturated, layers of sand that intersect the bottom and sides of the landfill serve as conduits for transmitting liquid wastes and leachate to surrounding groundwater. Data from monitoring wells around the landfill indicates that groundwater is contaminated. Some nearby wells rely on the same aquifer for water.

A medical waste incinerator and a methane gas power plant are located on the site.

Remediation activities began at this site in the early 1980's and a significant portion of the environmental cleanup has been completed. All of this work has been implemented under state solid hazardous waste authority and it is EPA's intent to continue using existing state environmental regulations to require the on-going long-term care activities such as environmental monitoring, leachate extraction and treatment, routine maintenance, as well as additional remediation work as necessary.

The majority of the cleanup has been completed. Federal CERCLA authorities have not been used to compel any cleanup actions at this site. Instead, cleanup activities at the site were initiated using the State's authority under RCRA. The State will also require long-term operation and maintenance of the site using these RCRA authorities. Any future cleanup activities will be addressed using State RCRA authorities. As a result, the site should be removed from the NPL.

EPA, with concurrence from the State of Wisconsin, has determined that all appropriate Fund-financed responses under CERCLA at the Omega Hills North Landfill Superfund Site have been completed, and no further CERCLA response is appropriate in order to provide protection of human health and the environment. Therefore,

EPA proposes to delete the site from the NPL.

Dated: June 11, 1996.

Valdas V. Adamkus,

Regional Administrator, U.S. EPA, Region V.

[FR Doc. 96-15882 Filed 6-24-96; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[DA 96-1007]

Implementation of the Local Competition Provisions of 1996 Telecommunications Act

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; establishing comment date.

SUMMARY: This document establishes an additional Comment opportunity in CC Docket 96-98 [61 FR 18311, April 25, 1996] in order to allow parties to that proceeding to comment on a staff-prepared working copy of an industry demand and supply simulation model. The model, using publicly-available, industry-wide information, allows users to simulate the relative impact of particular changes in the industry.

DATES: Comments are due on or before July 1, 1996. (No reply comments allowed).

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., 20554.

FOR FURTHER INFORMATION CONTACT: Jim Lande at (202) 418-0498 or Doron Fertig at (202) 418-1869.

SUPPLEMENTARY INFORMATION:

Supplemental Comment Period Designated for Local Competition Proceeding, CC Docket 96-98

[DA 96-1007; IAD 96-175]

Released June 20, 1996.

1. On June 17, 1996, the FCC's Industry Analysis Division, Common Carrier Bureau, and the Competition Division, Office of General Counsel, released a staff model of the telecommunications industry which allows model users to calculate a variety of outputs from nearly 200 specifications (News Release, "FCC Staff Releases Working Copy of an Industry Demand & Supply Simulation Model," released June 17, 1996.) The model allows the user to specify growth rates, pricing trends, demand elasticities and cost relationships to simulate effects in traditional industry segments. The

model, using publicly-available, industry-wide information, allows the user to simulate the relative impact of particular changes in the industry.

2. A copy of the model has been placed in the public file in CC Docket No. 96-98, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996. Parties who wish to use the model, create variations of the model, or file models of their own, in that proceeding are requested to file Comments no later than Monday, July 1, 1996. There will be no Reply Comment filing opportunity. Commenters should file an original and four copies with the Office of the Secretary, two copies with Ms. Wanda Harris, Room 518, Competitive Pricing Division, Common Carrier Bureau, one copy with the Chief, Industry Analysis Division, Common Carrier Bureau, and one copy with the Chief, Competition Division, Office of the General Counsel. Comments are limited to fifty (50) pages, inclusive of attachments.

3. Copies of the model may be purchased by calling International Transcription Services, Inc. (ITS) at (202) 857-3800. The model also can be downloaded from the Common Carrier Bureau's home page on the World Wide Web. The home page can be accessed directly (<http://www.fcc.gov/ccb.html>) or through a direct link from the main FCC home page (<http://www.fcc.gov>). The model also can be downloaded from the FCC-State Link computer bulletin board at (202) 418-0241 [BBS file name: MODELV30.ZIP].

4. For further information about the model, contact Jim Lande at (202) 418-0498 (e-mail: jlande@fcc.gov) or Doron Fertig at (202) 418-1869 (e-mail: dfertig@fcc.gov).

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 96-16296 Filed 6-24-96; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 676

[Docket No. 960612171-6171-01; I.D. 060496A]

RIN 0648-A157

Limited Access Management of Federal Fisheries In and Off of Alaska; Quota Shares and Individual Fishing Quota on Smaller Vessels

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to implement Amendment 42 to the Fishery Management Plan (FMP) for the Bering Sea/Aleutian Islands Groundfish, Amendment 42 to the FMP for the Gulf of Alaska Groundfish Fishery, and a regulatory amendment to the Individual Fishing Quota (IFQ) Program for fixed gear Pacific halibut and sablefish fisheries in and off of Alaska. The proposed rule would allow quota shares (QS) and IFQ assigned to vessels in larger size categories to be used on smaller vessels. The North Pacific Fishery Management Council (Council) recommended this action to increase the flexibility of QS use and transfer while maintaining the management goals of the IFQ Program and to provide small boat fishermen with more opportunities to improve the profitability of their operations.

DATES: Comments on the proposed rule and supporting documents must be received by August 5, 1996.

ADDRESSES: Send comments to Ronald J. Berg, Chief, Fisheries Management Division, Attn: Lori Gravel, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802.

Copies of the proposed Amendments, and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for this action may be obtained from the North Pacific Fishery Management Council, Suite 306, 605 West 4th Avenue, Anchorage, AK 99501-2252.

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

SUPPLEMENTARY INFORMATION:

Background

The Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA) groundfish FMPs and their implementing regulations govern the sablefish fisheries in Federal waters off Alaska. The FMPs were prepared by the Council under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The Northern Pacific Halibut Act of 1982 (Halibut Act) authorizes the Council to develop and NMFS to implement regulations to allocate halibut fishing privileges among U.S. fishermen.

Under these authorities, the Council developed the IFQ Program, a limited access system to manage the fixed gear Pacific halibut and sablefish fisheries. NMFS approved the IFQ Program in November 1993, and fully implemented it beginning in March 1995. The Magnuson Act and the Halibut Act authorize amendments to the IFQ Program as necessary to conserve and manage these fisheries. The proposed amendments to the FMPs and the IFQ Program would increase flexibility of QS use—a change that is analyzed along with the status quo alternative in the draft EA/RIR/IRFA prepared by the Council in February 1996.

Increased Flexibility of QS Use

The IFQ Program assigns QS to vessel categories specified by length overall (LOA) and authorization to process IFQ species (freezer vessels) or not (catcher vessels): Category A—freezer vessels of any length; Category B—catcher vessels greater than 60 ft (18.3 m) LOA; Category C—for sablefish, catcher vessels less than or equal to 60 ft (18.3 m) LOA, and for halibut, catcher vessels less than or equal to 60 ft (18.3 m) but greater than 35 ft (10.7 m) LOA; or Category D—for halibut, catcher vessels less than or equal to 35 ft (10.7 m) LOA. Current regulations at § 676.22(a) require that IFQ be fished only on vessels in the category to which the pertinent QS have been assigned. An exception to this rule allows category B, C, or D IFQ to be fished on a category A freezer vessel provided its LOA is consistent with the vessel category of the IFQ being fished and it neither processes any species of fish nor fishes category A IFQ concurrently with the use of category B, C, or D IFQ (§ 676.22(i)(3)). NMFS has published a proposed rule that would amend the regulations to allow IFQ fishermen to process groundfish on board their vessels under certain circumstances (61 FR 14547, April 2, 1996).

The Council prohibited QS transfer across vessel categories to preserve the

social and cultural character of the small boat fisheries prior to limited access. Public discussions leading up to IFQ Program implementation elicited substantial concern that harvesting privileges might ultimately transfer to owners of large vessels and disenfranchise owners of small vessels. The Council responded to these concerns in part by establishing vessel categories and prohibiting transfer and use of QS and IFQ across those categories. Thus, these transfer restrictions were intended to prevent consolidation of harvesting privileges among owners of large vessels.

Concern over the potential for excessive consolidation also led to the Modified Block Program implemented under Amendments 31 and 35 to the BSAI and GOA FMPs respectively and IFQ Program amendments published at 60 FR 51135 (October 7, 1994). The Modified Block Program requires an initial allocation of QS that represents less than 20,000 lb (9.1 mt) of IFQ in the year prior to the implementation year (1994) to be issued as an indivisible block that can be transferred in its entirety only.

During the first year of fishing under the IFQ Program in 1995, IFQ fishermen and their representatives reported to the Council that the prohibition against using or transferring QS across vessel categories limited their ability to improve the profitability of their operations. Many fishermen reported that they had received QS that represented far fewer pounds than their recent catch history prior to the IFQ program. Small boat fishermen reported the scarcity of medium- and large-size QS blocks ($\geq 5,000$ lb (2.3 mt)) available to smaller vessels and requested that the Council enable them to purchase shares from QS holders in larger vessel size categories. Also, category B vessel operators reported difficulties in using or marketing small category B blocks and requested the opportunity either to downsize operations or to sell smaller QS blocks to owners of smaller vessels.

This action would address the above concerns by allowing QS initially assigned to a larger vessel category to be used on smaller vessels, while continuing to prohibit the upgrading of QS or IFQ to larger vessel categories. Under the proposed amendments, QS would continue to be assigned to vessel categories by existing criteria at § 676.20(c)(1)-(9) and would retain original vessel category assignments in perpetuity. However, the proposed amendments would allow halibut and sablefish QS and IFQ assigned to vessel category B to be used on vessels of any size; halibut QS assigned to vessel

category C likewise could be used on vessels of categories C and D. The proposed amendments would continue to prohibit the use of QS and IFQ on larger vessel categories than originally assigned.

In taking final action on this proposal, the Council elected to diminish the effect the proposed amendment would have in IFQ regulatory areas 2C for halibut and east of 140° W. long. for sablefish. In these regulatory areas the proportion of QS assigned to vessel category B is significantly smaller than the amount assigned to other vessel categories. Excessive consolidation of QS among smaller vessels in this region of the GOA would reduce the larger vessel fleet and thus also have an undesirable impact on the fisheries' socio-economic character. This action proposes that QS assigned to vessel category B in IFQ regulatory areas 2C for halibut and east of 140° W. long. for sablefish be prohibited from use on vessels less than or equal to 60 ft (18.3 m) LOA except in QS blocks equivalent to less than 5,000 lb (2.3 mt) based on the 1996 Total Allowable Catch (TAC).

For example, an individual who holds two blocks of QS assigned to vessel category B in regulatory area 2C (for halibut) or east of 140° W. long. (for sablefish)—one block equivalent to 13,000 lb (5.9 mt) and the other equivalent to 3000 lb (1.4 mt) (according to the 1996 TAC)—would be able to transfer the smaller QS block or use its resulting IFQ on catcher vessels of any size, since the block is equivalent to less than 5,000 lb (2.3 mt). The larger QS block, which would result in IFQ of more than 5,000 lb (2.3 mt), would still be prohibited from use on any vessel other than one in vessel category B. *Unblocked* QS of any amount assigned to vessel category B in areas 2C and east of 140° W. long. would continue to be restricted to transfer or use on vessels in category B only.

This action would provide owners of small boats with opportunities to acquire QS initially assigned to larger vessel categories and would make smaller category B blocks more marketable. The Council's intent to prevent excessive consolidation of QS among owners of larger vessels would be maintained, while providing greater economic potential for owners/operators of smaller boats in the IFQ fisheries. Conversely, the additional provision to lessen the effect of the proposed action in regulatory areas 2C for halibut and east of 140° W. long. for sablefish would prevent excessive consolidation among owners of smaller boats in areas where category B QS are relatively few.

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a Council within 15 days of receipt of the FMP amendments and regulations. At this time, NMFS has not determined that the FMP amendments these regulations would implement are consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS, in making final determinations about the FMP amendments and in issuing final rules under both the Magnuson and Halibut Acts, will take into account the data, views, and comments received during the comment period.

The Council prepared an initial regulatory flexibility analysis as part of the regulatory impact review, which describes the impact this proposed rule would have on small entities, if adopted. The amendments could have a significant positive impact on small vessel owners. They open new opportunities for owners of smaller vessels to improve the profitability of their operations by increasing the quota share holdings available for trade by 309 percent and the IFQ pounds available for trade by 2,547 percent. A copy of the analysis is available from the Council (see ADDRESSES).

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

List of Subjects in 50 CFR Part 676

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 19, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 676 is proposed to be amended as follows:

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

1. The authority citation for 50 CFR part 676 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.* and 1801 *et seq.*

2. In § 676.20, paragraph (a)(2) is revised to read as follows:

§ 676.20 Individual allocations.

* * * * *

(a) * * *

(2) *Vessel categories.* QS and IFQ assigned to vessel categories include:
(i) Category A—QS and IFQ, which authorizes an IFQ cardholder to harvest and process IFQ species on a freezer vessel of any length;

(ii) Category B—QS and IFQ, which authorizes and IFQ cardholder to harvest IFQ species on a catcher vessel of any length;

(iii) Category C—QS and IFQ, which authorizes an IFQ cardholder to harvest IFQ species on a catcher vessel less than or equal to 60 ft (18.3 m) in length overall; and

(iv) Category D—QS and IFQ, which authorizes an IFQ cardholder to harvest IFQ halibut on a catcher vessel less than or equal to 35 ft (10.7 m) in length overall.

* * * * *

3. In § 676.22, paragraph (a) is revised to read as follows:

§ 676.22 Limitations on use of QS and IFQ

(a) The IFQ specified for one IFQ regulatory area must not be used in a different IFQ regulatory area. Except as provided in paragraph (i)(3) of this section or in § 676.21(h)(1), the IFQ assigned to one vessel category as provided in § 676.20(a) must not be used to harvest IFQ species on a vessel of a different vessel category.

Notwithstanding § 676.20(a)(2)(ii), IFQ assigned to vessel category B must not

be used on any vessel less than or equal to 60 ft (18.3 m) in length overall to harvest IFQ halibut in IFQ regulatory area 2C or IFQ sablefish in the IFQ regulatory area east of 140° W. long. unless such IFQ derives from blocked QS units that result in IFQ of less than 5,000 lb (2.3 mt), based on the 1996 TAC for fixed gear specified for the IFQ halibut fishery and the IFQ sablefish fishery in each of these two regulatory areas.

* * * * *

[FR Doc. 96-16078 Filed 6-20-96; 9:26 am]

BILLING CODE 3510-22-F

Notices

Federal Register

Vol. 61, No. 123

Tuesday, June 25, 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 AGRICULTURE

Natural Resources Conservation Service

Chestnut Creek Watershed; Notice of a Finding of No Significant Impact

AGENCY: Natural Resources Conservation Service.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CF Part 1500); and the Natural Resources Conservation Service Guidelines (CF Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Chestnut Creek Watershed in Carroll and Grayson Counties and the City of Galax, Virginia and Surry and Alleghany Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: M. Denise Doetzer, State Conservationist, USDA, Natural Resources Conservation Service 1606 Santa Rosa Road, Culpeper Building, Suite 209, Federal Building, Richmond, VA 23229-5014, telephone (804) 287-1691.

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, M. Denise Doetzer, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement are not needed for this project.

Chestnut Creek Watershed

The project concerns a watershed plan for the protection of 12,883 acres of pastureland, hayland, cropland, woodland and riparian zone in Carroll and Grayson Counties and the City of

Galax, Virginia and Surry and Alleghany Counties, North Carolina. This protection will be accomplished by the installation of soil and water conservation practices on private lands.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. Copies of the FONSI are available to fill single-copy requests at the above address. Basic data developed during the Environmental Assessment are on file and may be reviewed by contacting M. Denise Doetzer, State Conservationist. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10901, Resource Conservation and Development Program. Executive Order 12372 regarding intergovernment review of Federal and federally-assisted programs and projects is applicable.)

Dated: June 19, 1996.

L. Willis Miller, Jr.,

Acting State Conservationist.

[FR Doc. 96-16148 Filed 6-24-96; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Thursday, July 11, 1996, at the Brown University Center for the Study of Race & Ethnicity Conference Room, 150 Power Street, Providence, Rhode Island 02904. The purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. Robert G. Lee, 401-863-1693, or Ki-Taek Chun, Director of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter

should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 13, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96-16058 Filed 6-24-96; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposal To Collect Information on U.S. Transactions in Selected Services with Unaffiliated Persons

ACTION: Proposed collection; comments requested.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 26, 1996.

ADDRESSES: Direct all written comments to Wilson D. Haigler, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to: R. David Belli, U.S. Department of Commerce, Bureau of Economic Analysis, BE-50(OC), Washington, DC 20230 (Telephone: 202-606-9800).

SUPPLEMENTARY INFORMATION:

I. Abstract

The BE-20 Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons will obtain universe data on transactions in selected services between U.S. and unaffiliated foreign persons in 1996. The data from the survey will provide benchmarks for deriving current universe estimates of

such transactions from sample data collected in subsequent years. The information obtained from the survey is critically needed for tracking international transactions in new, growing, and volatile categories of services. The data are necessary for compiling monthly estimates of U.S. international transactions in goods and services, the U.S. balance of payments, and the national income and product accounts. The data also will support U.S. trade policy initiatives, including trade negotiations.

To close gaps in existing coverage of international services transactions, the Bureau of Economic Analysis (BEA) is considering adding several categories of services not included in the previous (1991) BE-20 survey. Specifically, BEA is considering adding coverage of purchases (payments) and sales (receipts) of commissions by unaffiliated sales agents, purchases (but not sales) of financial services, and sales (but not purchases) of merchanting services. BEA is also considering adding a broad category for purchases and sales of "other" business, professional, and technical services; this category would likely cover language-translation services, security services, collection services, actuarial services, salvage services, certain waste cleanup services, and, possibly, other specified services.

II. Method of Collection

The survey will be sent to potential respondents in January 1997, and responses are due on March 31, 1997. All U.S. persons who, during 1996, had more that \$500,000 of purchases from, or sales to, unaffiliated foreign persons in a covered service must report data. U.S. persons who receive a copy of the survey and who had purchases and sales transactions in a covered service with unaffiliated foreign persons of \$500,000 or less may voluntarily report the data, or they must file an exemption claim.

III. Data

OMB Number: 0608-0058.
Form Number: BE-20.
Type of Review: Regular submission.
Affected Public: Businesses, government agencies, or others engaging

in international transactions in covered services.

Estimated Number of Respondents: 1,600.

Estimated Time Per Response: 12 hours.

Estimated Total Annual Burden hours: 19,200 hours.

Estimated Total Annual Cost: \$576,000 (based on an estimated reporting burden of 19,200 hours and an estimated hourly cost of \$30).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 18, 1996.
 Wilson D. Haigler,
Acting Departmental Forms Clearance Officer, Office of Management and Organization.
 [FR Doc. 96-16055 Filed 6-24-96; 8:45 am]
BILLING CODE 3510-EA-P

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

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

ACTION: Notice of initiation of antidumping and countervailing duty

administrative reviews and requests for revocation in part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke two antidumping duty orders in part.

EFFECTIVE DATE: June 25, 1996.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482-4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a)(1994), for administrative reviews of various the following antidumping and countervailing duty orders and findings with May anniversary dates. The Department also received a timely request to revoke in part the antidumping duty order on frozen concentrated orange juice from Brazil and dynamic random access memory semiconductors (DRAMs) of one megabit and above from South Korea.

Initiation of Reviews

In accordance with sections 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under section 353.22(a) and 355.22(a) (19 CFR 353.22(a) and 355.22(a)). We intend to issue the final results of these reviews not later than May 31, 1997.

	Period to be reviewed
Antidumping Duty Proceedings	
BRAZIL: A-351-605—Frozen Concentrated Orange Juice Branco Peres Citrus, S.A. CTM Citrus S.A.	5/1/95-4/30/96
SOUTH KOREA: A-580-812—Dynamic Random Access Memory Semiconductors (DRAMs) of One Megabit and Above	5/1/95-4/30/96

	Period to be reviewed
Hyundai Electronic Industries Co., Ltd. LG Semicon Co., Ltd. NEW ZEALAND: A-614-801—Fresh Kiwifruit New Zealand Kiwifruit Marketing Board	5/1/95-4/30/96
TAIWAN: A-583-008—Certain Circular Welded Carbon Steel Pipes and Tubes Yieh Hsing Enterprise Co., Ltd.	5/1/95-4/30/96
Countervailing Duty Proceedings *	
SWEDEN: C-401-056—Viscose Rayon Staple Fiber Svenska Rayvon AB	1/1/95-12/31/95

*A request was received for an administrative review of ball bearings and parts thereof from Thailand (C-549-802) for the period January 1, 1995 through December 31, 1995. As this order has since been revoked, effective January 1, 1995 (61 FR 20796), the Department has not initiated an administrative review of this order.

If requested within 30 days of the date of publication of this notice, the Department will determine whether antidumping duties have been absorbed by an exporter or producer subject to any of these reviews if the subject merchandise is sold in the United States through an importer which is affiliated with such exporter or producer.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: June 19, 1996.

Joseph A. Spetrini,
Deputy Assistant Secretary for Compliance.
[FR Doc. 96-16192 Filed 6-24-96; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review; Notice of Application to Amend Certificate

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the

Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

An interim Certificate of Review was issued to Farmers' Rice Cooperative ("FRC") on March 12, 1984 (49 FR 9762, March 15, 1984). The final Certificate was issued on May 10, 1984 (49 FR 20890, May 17, 1984) and an amendment to the Certificate was issued on August 30, 1985 (50 FR 36126, September 5, 1985). A summary of the application for an additional amendment follows.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 84-A0005."

Summary of the Application:

Applicant: Farmers' Rice Cooperative, 2525 Natomas Park Drive, P.O. Box 15223, Sacramento, California 9581-0223.

Contact: Loyd W. McCormick, Esquire, Telephone: (415) 393-2130.

Application No.: 84-A0005.

Date Deemed Submitted: June 11, 1996.

Proposed Amendment: FRC seeks to amend its Certificate to:

1. Add as "Members" the following companies: American Rice, Inc. of Houston, Texas (Controlling Entity: ERLY Industries Inc. of Los Angeles, California) and California Pacific Rice Milling, Ltd. of Arbutle, California.

2. Delete the following companies as "Members": Comet Rice of California, Inc.; Pacific International Rice Mills, Inc.; and C. E. Grosjean Milling Company.

3. Amend the "Export Trade Activities and Methods of Operation", to read as follows: (1) Farmers' Rice Cooperative may, on a transaction-by-transaction basis, join with any or all of the Members to bid for the sale of, and to sell, California rice and rice products to the Export Markets.

(2) For each bid or sale, Farmers' Rice Cooperative and/or one or more of the Members may negotiate and agree on the terms of their participation in the bid or sale, including the amount of California rice and rice products each will commit to the sale and the price to be bid, and, in order to negotiate those terms, may exchange:

(a) information (other than information about the costs, output, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale or United States business plans, strategies or methods of Farmers' Rice Cooperative or any other Member) that is already generally available to the trade or public,

(b) information (such as selling strategies, prices, projected demand, and customary terms of sale) solely about the Export Markets, and

(c) information on expenses specific to exporting to the Export Markets (such as ocean freight, inland freight to the terminal or port, terminal or port storage, wharfage and handling charges, insurance, agents' commissions, export

sales documentation and service, and export sales financing).

(3) Farmers' Rice Cooperative may negotiate with the Members to provide, and may provide, the storage, shipping and delivery, and associated services needed for each sale.

(4) Farmers' Rice Cooperative and/or one or more of the Members may, with respect to each bid, refuse to include in their bid any other company having rice and rice products for export.

(5) Farmers' Rice Cooperative may solicit Non-member Suppliers to sell their Products through the certified activities of Farmers' Rice Cooperative and its Members.

4. Under the heading "Terms and Conditions of Certificate", delete section (a) and replace sections (b) and (c) with the following:

(a) Except as provided in paragraph (2) above, Farmers' Rice Cooperative and the Members shall not intentionally disclose, directly or indirectly, to each other or to any Non-member Supplier any information about their costs, output, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale, or United States business plans, strategies, or methods that is not already generally available to the trade or public.

(b) Farmers' Rice Cooperative and the Members will comply with requests made by the Department of Commerce on behalf of the Secretary of Commerce or the Department of Justice on behalf of the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities or Methods of Operation of an entity protected by this Certificate of Review continue to comply with the standards of Section 303(a) of the Act.

5. Delete the heading "Members" and its accompanying text.

6. Add a new heading, "Definitions", with the following text: (1) Members, within the meaning of Section 325.2(l) of the Regulations, means American Rice, Inc. and California Pacific Rice Milling, Ltd. Firms may withdraw from Member status by notifying the Department of Commerce in writing.

(2) Non-member Supplier shall mean any producer (including farmers and farm cooperatives), miller, or broker of California rice and rice products, apart from Farmers' Rice Cooperative, American Rice, Inc., and California Pacific Rice Milling, Ltd.

Dated: June 19, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96-16043 Filed 6-24-96; 8:45 am]

BILLING CODE 3510-DR-P

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of Export Trade Certificate of Review No. 94-00006.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to P & B International. Because this certificate holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to P & B International.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the act") [Pub. L. No. 97-290, 15 U.S.C. 4011-21] authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ["the Regulations"] are found at 15 CFR part 325 (1986). Pursuant to this authority, a certificate of review was issued on December 30, 1994 to P & B International.

A certificate holder is required by law to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate (section 308 of the act, 15 U.S.C. 4018, section 235.14(a) of the regulations, 15 CFR 325.14(a)). The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review [§ 325.14(b) of the regulations, 15 CFR 325.14(b)]. Failure to submit a complete annual report may be the basis for revocation (Sections 325.10(a) and 325.14(c) of the Regulations, 15 CFR 325.10(a)(3) and 325.14(c)).

On January 11, 1996, the Department of Commerce sent to P & B International a letter containing annual report questions with a reminder that its annual report was due on February 13, 1996. Additional reminders were sent on March 13, 1996 and on April 19, 1996. The Department has received no written response from P & B International to any of these letters.

On May 14, 1996, and in accordance with § 325.10(c)[2] of the regulations, [15 CFR 325.10(c)(2)], the Department of Commerce sent a letter by certified mail to notify P & B International that the Department was formally initiating the process to revoke its certificate for failure to file an annual report. In addition, a summary of this letter allowing P & B International thirty days to respond was published in the Federal Register on May 20, 1996 at 61 FR 25207. Pursuant to 325.10(c)(2) of the Regulations (15 CFR 325.10(c)(2)), the Department considers the failure of P & B International to respond to be an admission of the statements contained in the notification letter.

The Department has determined to revoke the certificate issued to P & B International for its failure to file an annual report. The Department has sent a letter, dated June 20, 1996, to notify P & B International of its determination. The revocation is effective thirty (30) days from the date of publication of this notice. Any person aggrieved by this decision may appeal to an appropriate U.S. district court within 30 days from the date on which this notice is published in the Federal Register 325.10(c)(4) and 325.11 of the Regulations, 15 CFR 324.10(c)(4) and 325.11 of the Regulations, 15 CFR 325.10(c)(4) and 325.11.

Dated: June 20, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96-16176 Filed 6-24-96; 8:45 am]

BILLING CODE 3510-DR-P

President's Export Council; Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of a partially closed meeting.

SUMMARY: The President's Export Council (PEC) will hold a full Council meeting to discuss topics related to export expansion. The closed session will include briefings on trade negotiations with China, barriers to trade and other sensitive matters properly classified under Executive Order 12958. The portion of the meeting that will be open to the public will provide an overview of Commerce Secretary Kantor's recent trip to the ASEAN countries.

The President's Export Council was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. trade. It was most recently renewed on September 29, 1995, by Executive Order

12974. A Notice of Determination to close meetings or portions of meetings of the Council to the public on the basis of 5 U.S.C. 5522b(c)(1) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6204, U.S. Department of Commerce, 202-482-4115.

DATES: July 1, 1996.

TIME: 2:00 P.M.–3:30 P.M.; Closed Meeting. 3:30 P.M.–4:00 P.M.; Open Meeting.

ADDRESSES: The Secretary's Conference Room, Room 5851, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. This program is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Linda Breslau, President's Export Council, Room 2015B, Washington DC 20230. Seating is limited and will be on a first come, first serve basis.

FOR FURTHER INFORMATION CONTACT: Sylvia Prosak or Linda Breslau, President's Export Council, Room 2015B, Washington D.C. 20230.

Dated: June 20, 1996.

Sylvia Lino Prosak,
Staff Director and Executive Secretary,
President's Export Council.

[FR Doc. 96-16175 Filed 6-24-96; 8:45 am]

BILLING CODE 3510-DR-P

National Oceanic and Atmospheric Administration

[I.D. 021095B]

Atlantic Striped Bass Fishery; 1994 Survey of Atlantic Striped Bass Fisheries

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

ACTION: Notice of availability.

SUMMARY: NMFS announces the availability, and summarizes the results, of a survey of the Atlantic coast striped bass fisheries for 1994. The Atlantic Striped Bass Conservation Act (Act), requires NMFS to provide information on the status of the fisheries.

ADDRESSES: Copies of the survey results are available from Paul Perra, NOAA/NMFS/FCM3, 1315 East-West Highway, Room 14837 Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Paul Perra, (301) 713-2339.

SUPPLEMENTARY INFORMATION:

The Act requires the Secretary of Commerce, and the Secretary of the Interior, to conduct a comprehensive annual survey of the Atlantic striped bass fisheries. The following is a summary of the survey for 1994. Management measures severely restricting the harvest of striped bass by commercial and recreational fisheries remained in place during 1994, as the stocks continue to rebuild.

The 1994 commercial harvest of striped bass was 1,923,000 lb (872.3 mt), an increase of 13.6 percent above the landings of 1,695,000 lb in 1993. The Chesapeake Bay area (Maryland, Virginia, and the Potomac River) accounted for 72 percent of the 1994 commercial landings.

The recreational catch in 1994 was an estimated 8.1 million striped bass, of which 591,000 were harvested (7.3 percent of the catch); the remaining 7.5 million were released alive. The estimated weight of the recreational harvest was 6.9 million lb (3,125 mt), about three and one half times that of the commercial harvest.

Juvenile production in 1994 was lower than in 1993, but remained at levels well above the long term averages for Maryland, North Carolina, Virginia. The Delaware production index of 2.3, while not higher than the long term average, was higher than any available annual index recorded prior to 1989.

Information from sampling the population of striped bass shows an increased relative abundance from recent year classes. Copies of the survey are available upon request (see **ADDRESSES**).

Dated: June 19, 1996.

Richard H. Schaefer,
Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96-16081 Filed 6-24-96; 8:45 am]

BILLING CODE 3510-22-F

Notice of Withdrawal of the Waimanu Valley National Estuarine Research Reserve From the National Estuarine Research Reserve System

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Public notice.

SUMMARY: Notice is hereby given that the Waimanu Valley National Estuarine Research Reserve (NERR) is withdrawn from the NERR System, established by

section 315 of the Coastal Zone Management Act of 1972, as amended. The Waimanu Valley NERR, located on the windward side of the Island of Hawaii, was designated in 1978 as the second NERR in the system. Serious budget cuts within the State have hindered efforts to adequately staff the Waimanu Valley NERR and complete a site management plan, which are required by the National Oceanic and Atmospheric Administration (NOAA) to be in compliance with regulations governing the NERR System. In addition, the remoteness and relative inaccessibility of the Waimanu Valley NERR, and the inability of the State of Hawaii to secure adequate protection of 200 acres of property in the WVNERR due to ownership by the Department of Hawaiian Homelands, renders the Waimanu Valley NERR unable to meet the research, education, and management purposes of the NERR System. After much effort to seek alternatives to withdrawal from the NERR System, both the State of Hawaii and NOAA agree that the only feasible solution at this time is to withdraw the Waimanu Valley NERR from the NERR System.

FOR FURTHER INFORMATION CONTACT: Nina Garfield, NOAA/NOS/OCRM/SRD, 1305 East-West Highway, SSMC4 12th Floor, Silver Spring, MD. 20910; Phone (301) 713-3141, ext. 171.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Estuarine Sanctuaries.

Dated: June 12, 1996.

David L. Evans
Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 96-15960 Filed 6-24-96; 8:45 am]

BILLING CODE 3510-08-M

[I.D. 061196B]

Marine Mammals; Scientific Research Permit (P466B)

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

ACTION: Receipt of application for a scientific research permit (P5I).

SUMMARY: Notice is hereby given that Dr. Scott D. Kraus, New England Aquarium, Central Wharf, Boston, MA 02110-3309, has applied in due form for a permit to conduct scientific research on North Atlantic right whales (*Eubalaena glacialis*).

DATES: Written comments must be received on or before July 25, 1996.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289);

Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298 (508/281-9250); and

Director, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432 (813/893-3141).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, Permits Division, 301/713-2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217-222). The applicant seeks authorization to harass during photo-identification studies and aerial, and vessel surveys, up to 350 North Atlantic right whales, up to 10 times each, annually, over a five year period. Of these 350 animals, up to 80 may be biopsy darted, up to 10 may be radio tagged, up to 15 may be satellite tagged, and up to 50 may have blubber measurements taken ultrasonically, annually. In addition, authorization is requested to import up to 100 and export up to 100 tissue samples annually, and to collect an unspecified number of samples and/or entire carcasses, if feasible, from up to 10 right whales annually that die and strand along the coast of the United States.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 12, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96-16079 Filed 6-24-96; 8:45 am]

BILLING CODE 3510-22-F

[I.D. 060696B]

Marine Mammals; Permit No. 834 (P60)

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

ACTION: Issuance of modification.

SUMMARY: Notice is hereby given that permit no. 834, issued to The National Zoological Park, Smithsonian Institution, Washington, D.C., was amended to include export of specimen materials.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130 Silver Spring, MD 20910 (301/713-2289); and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298 (508/281-9250).

SUPPLEMENTARY INFORMATION: The subject modification has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the provisions of paragraphs (d) and (e) of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: June 14, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96-16080 Filed 6-24-96; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0010]

Submission for OMB Review; Comment Request Entitled Progress Payments

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 (9000-0010).

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 Progress Payments. A request for public comments was published at 61 FR 14745, April 3, 1996. No comments were received.

DATES: *Comment Due Date:* July 25, 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. 9000-0010, Progress Payments, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson, Federal Acquisition Policy Division, GSA (202) 501-3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

Certain Federal contracts provide for progress payments to be made to the contractor during performance of the contract. The requirement for certification and supporting information are necessary for the administration of statutory and regulatory limitation on the amount of progress payments under a contract. The submission of supporting cost schedules is an optional procedure that, when the contractor elects to have a group of individual orders treated as a single contract for progress payments purposes, is necessary for the administration of statutory and regulatory requirements concerning progress payments.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .55 hours 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, 27,000; responses per respondent, 32; total annual responses, 864,000; preparation hours per response, .55; and total response burden hours, 475,200.

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) 501-2164. Please cite OMB Control No. 9000-0010, Progress Payments, in all correspondence.

Dated: June 18, 1996.

Shari Kiser,
FAR Secretariat.

[FR Doc. 96-16092 Filed 6-24-96; 8:45 am]

BILLING CODE 6820-EP-P

[OMB Control No. 9000-0080]

**Submission for OMB Review;
Comment Request Entitled Integrity of
Unit Prices**

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 (9000-0080).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the 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 Integrity of Unit Prices. A request for public comments was published at 61 FR 14745, April 3, 1996. No comments were received.

DATES: *Comment Due Date:* July 25, 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. 9000-0080, Integrity of Unit Prices, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson, Federal Acquisition Policy Division, GSA (202) 501-3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR 15.812-1(c) and the clause at FAR 52.215-26, Integrity of Unit Prices, require offerors and contractors under Federal contracts to identify in their proposals those supplies which they will not manufacture or to which they will not contribute significant value. The policies included in the FAR are required by section 501 of Public Law 98-577 (for the civilian agencies) and section 927 of Public Law 99-500 (for DOD and NASA). The rule eliminates reporting requirements on contracts with civilian agencies for commercial items.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 5 minutes per line item, 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, 7,822; responses per respondent, 95; total annual responses, 743,090; preparation hours per response, .084; and total response burden hours, 62,420.

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) 501-2164. Please cite OMB Control No. 9000-0080, Integrity of Unit Prices, in all correspondence.

Dated: June 18, 1996.

Shari Kiser,
FAR Secretariat.

[FR Doc. 96-16093 Filed 6-24-96; 8:45 am]

BILLING CODE 6820-EP-P

[OMB Control No. 9000-0082]

**Submission for OMB Review;
Comment Request Entitled Economic
Purchase Quantities—Supplies**

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 (9000-0082).

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 Economic Purchase Quantities—Supplies. A request for public comments was published at 61 FR 14746, April 3, 1996. No comments were received.

DATES: *Comment Due Date:* July 25, 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. 9000-0082, Economic Purchase Quantities—Supplies, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson, Federal Acquisition Policy Division, GSA (202) 501-3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

The provisions at 52.207-4, Economic Purchase Quantities—Supplies, invites offerors to state an opinion on whether the quantity of supplies on which bids, proposals, or quotes are requested in solicitations is economically advantageous to the Government. Each offeror who believes that acquisitions in different quantities would be more advantageous is invited to (1) recommend an economic purchase quantity, showing a recommended unit and total price, and (2) identify the different quantity points where significant price breaks occur. This information is required by Public Law 98-577 and Public Law 98-525.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 50 hour 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, 2,252; responses per respondent, 35; total annual responses, 78,820; preparation hours per response, .83; and total response burden hours, 65,421.

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) 501-2164. Please cite OMB Control No. 9000-0082, Economic Purchase Quantities—Supplies, in all correspondence.

Dated: June 18, 1996.

Shari Kiser,
FAR Secretariat.

[FR Doc. 96-16094 Filed 6-24-96; 8:45 am]

BILLING CODE 6820-EP-P

[OMB Control No. 9000-0083]

**Submission for OMB Review;
Comment Request Entitled
Qualification Requirements**

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 (9000-0083).

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 Qualification Requirements. A request for public comments was published at 61 FR 14746, April 3, 1996. No comments were received.

DATES: *Comment Due Date:* July 25, 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. 9000-0083, Qualification Requirements, in all correspondence.

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

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the Qualified Products Program, an end item, or a component thereof, may be required to be prequalified. The solicitation at FAR 52.209-1, Qualification Requirements, requires offerors who have met the qualification requirements to identify the offeror's name, the manufacturer's name, source's name, the item name, service identification, and test number (to the extent known).

The contracting officer uses the information to determine eligibility for award when the clause at 52.209-1 is included in the solicitation. The offeror must insert the offeror's name, the manufacturer's name, source's name, the item name, service identification, and test number (to the extent known). Alternatively, items not yet listed may be considered for award upon the submission of evidence of qualification with the offer.

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, 7,882; responses per respondent, 100; total annual responses, 788,200; preparation hours per response, .25; and total response burden hours, 197,050.

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) 501-2164. Please cite OMB Control No. 9000-0083, Qualification Requirements, in all correspondence.

Dated: June 18, 1996.

Shari Kiser,
FAR Secretariat.

[FR Doc. 96-16095 Filed 6-24-96; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Assessment and Finding of No Significant Impact for the Realignment of Towed and Self-Propelled Combat Vehicle Mission From Letterkenny Army Depot, Pennsylvania; the Associated Combat Vehicle Material and Management Functions From the Defense Distribution Depot Letterkenny, Pennsylvania (DDLDP); and the 142nd Explosive Ordnance Detachment From McClellan, Alabama to Anniston Army Depot (ANAD), Alabama

AGENCY: Department of the Army, DOD.

ACTION: Correction notice.

SUMMARY: This document contains a correction to a previous notice that was published Friday, June 14, 1996 (61 FR Vol 61, No. 116, page 30228). On page 30228, in the second column the DATES paragraph is corrected to read as follows:

DATES: Inquiries will be accepted until June 29, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Neil Robison at the U.S. Army Corps of Engineers, Mobile District, ATTN: CESAM-PD-E, P.O. Box 2288, Mobile, Alabama 36628-0001 or by telephone at (334) 690-3018.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96-16144 Filed 6-24-96; 8:45 am]

BILLING CODE 3710-08-M

Proposal to Change Items 325 and 327 in the Military Traffic Management Command Freight Traffic Rules Publication No. 1A (MFTRP No. 1A) Governing Dromedary Service

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Request for comments on proposed changes.

SUMMARY: MTMC is proposing changes to Items 325 and 327 in MFTRP No. 1A governing dromedary service. The following changes are necessary for clarification and to follow the current United States Department of Transportation rules:

Item 325, Paragraph 2d, beginning on line 2, the second sentence will read: "Shipments of bulk white phosphorus or of bulk initiating or priming, explosives, wetted (Diazodinitrophenol, mercury fulminate, guanlyl nitrosaminoguanilydene hydrazine, lead azide, lead styphnate, nitromannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazone, lead monoitrosresorcinate) will be subject to a

line-haul minimum weight of 5,000 pounds or actual weight, if greater, at the 5,000 pound tender rate."

Item 327, Paragraph 2c, beginning on line 2, the second sentence will read: "Shipments of bulk white phosphorus or of bulk initiating or priming explosives, wetted (Diazodinitrophenol, mercury fulminate, guanyl nitrosaminoguanilydene hydrazine, lead azide, lead styphnate, nitromannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene, lead mononitroresorcinat) will be subject to a line-haul minimum weight of 10,000 pounds or actual weight, if greater, at the 10,000 pound tender rate."

Cancel Note 3 to Item 325 and Item 327.

DATES: Comments concerning the proposed changes must reach Headquarters, Military Traffic Management Command, ATTN: MTOP-T-SR, 629 NASSIF Building, 5611 Columbia Pike, Falls Church, VA 22041-5050, within 60 days of the publication date of this Federal Register notice.

FOR FURTHER INFORMATION CONTACT: Mr. Julian Jolkovsky, MTOP-T-SR, (703) 681-3440, or Mr. James Murphy, MTOP-T-SR (703) 681-3443.

SUPPLEMENTARY INFORMATION: These changes will clarify that the commodities in these Item 325 and 327 paragraphs refer to "bulk" commodities. "Bulk," as used in Items 325 and 327, means a package containing only the individual commodity, such as a package containing only lead azide. Shipments of small amounts of these commodities, as components of ammunition, have significantly lower risk because of safe and arming designs and devices and packaging, and therefore should not be subject to higher minimum weights. Cancellation of Note 3 to Items 325 and 327 eliminates misinterpretations concerning chemical ammunition that have occurred in the past.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96-16149 Filed 6-24-96; 8:45 am]

BILLING CODE 3710-08-M

Defense Logistics Agency

Privacy Act of 1974: Computer Matching Program Between the Department of Defense and the Social Security Administration

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, Department of Defense (DoD).

ACTION: Notice of a computer matching program between the Social Security

Administration and the Department of Defense.

SUMMARY: Subsection (e)(12) of the Privacy Act, 5 U.S.C. 552a, requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The Department of Defense (DoD), as the matching agency under the Privacy Act, is (1) hereby giving indirect or constructive notice in lieu of direct notice to the record subjects of this computer matching program between the Social Security Administration (SSA) and DoD that their records are being matched to validate an applicant's initial eligibility for, or recipients receiving, Supplemental Security Income (SSI) benefits from the SSA; and (2) announcing to the public the opportunity to comment on the proposed computer matching program.

DATES: This proposed action is effective on July 25, 1996, when the computer matching agreement will become effective and matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comments must be received before the effective date.

ADDRESSES: Please submit written comments to the Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Room 920, Arlington, VA 22202-4502. Telephone (703) 607-2943 or DSN 327-2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the DoD and the SSA has concluded an agreement to conduct a computer matching program between the agencies. The purpose of the computer match is to verify the information furnished to the SSA by applicants and recipients of Supplemental Security Income benefits who are retired military members or their survivors. By law, the SSA must independently verify the information submitted by applicants and recipients. Computer matching appeared to be the most efficient and economical manner in which this verification process could be accomplished while preserving the due process of the individual concerned. Therefore, it was concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between the SSA and the

DoD is available upon request to the public. Requests should be submitted to the address above or to Mr. Steve Hawk, Matching Staff, Social Security Administration, 3-J-3 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235.

Set forth below is a notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on Computer Matching published in the Federal Register at 54 FR 25818 on June 19, 1989.

The matching agreement as required by 5 U.S.C. 552a(r) of the Privacy Act, was submitted on June 4, 1996, to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, pursuant to paragraph 4d of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated February 8, 1996 (61 FR 6428, February 20, 1996). The matching program is subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

Dated: June 10, 1996.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

Computer Matching Program Between the Department of Defense and the Social Security Administration for Verification of Eligibility for Supplemental Security Income

A. Participating agencies: Participants in this computer matching are the Social Security Administration (SSA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The SSA is the source agency, i.e., the agency disclosing the records for the purpose of the match. The DMDC is the specific recipient agency or matching agency, i.e., the agency that actually performs the computer matching.

B. Purpose of the match: The Social Security Act requires SSA to verify, with independent or collateral sources, information provided to SSA by applicants for and recipients of SSI payments. The SSI applicant or recipient provides information about eligibility factors and other relevant information. SSA obtains additional information as necessary before making any determinations of eligibility or payment amounts or adjustments thereto. With respect to military

retirement payments to SSI recipients who are former members of the Uniformed Services or their survivors, SSA proposes to accomplish this task by computer matching with the DOD. The component responsible for the disclosure on behalf of DOD is the Defense Manpower Data Center. The responsible component for SSA is the Office of Program Benefits Policy.

C. Authority for conducting the match: The legal authority for the matching program is contained in section 1631(e)(1)(B) and (f) of the Social Security Act (42 U.S.C. 1383(e)(1)(B) and (f)).

D. Records to be matched: The systems of records maintained by the respective agencies under the Privacy Act, from which records will be disclosed for the proposed computer match are as follows:

The Social Security Administration, will use records from a system identified as 09-60-0103, entitled 'Supplemental Security Income Record, (SSR), HHS/SSA/OSR', last published in the Federal Register at 60 FR 2150 on January 6, 1995.

The category of records to be used from this system is the SSI eligibility file. DMDC (DoD) will use a record system from the Defense Logistics Agency identified as S322.10 DMDC entitled 'Defense Manpower Data Center Data Base', published in the Federal Register at 61 FR 6355 on February 20, 1996. The categories of records utilized are military retirees and/or their survivors. The specific data elements to be used in the match are set forth below under the description of the computer matching program. Both systems of records respectively contain an appropriate routine use disclosure provision permitting the interchange of the affected personal information between SSA and DMDC. These routine uses are compatible with the purpose for collecting the information and establishing and maintaining the record system.

E. Description of computer matching program: A electronic query file, provided by SSA as the source, will contain approximately 5.5 million records extracted from the Supplemental Security Income Record system of records which is made up of individual record subjects containing the name, social security number and type of beneficiary. The query file will be matched by DMDC, as the recipient matching agency, and matched against the data base category of individuals who are retired members of the Uniformed Services of the United States: Army, Navy, Air Force Marine

Corps, Coast Guard, or the commissioned corps of either the national Oceanic and Atmospheric Administration or the Public Health Service. DMDC will match on the social security number and provide the SSA in a electronic reply file with information on each match (hit), including the following data elements: name, date of birth, address, payments status, monthly pension amount, date of entitlement, the date of any payments stopped and reason. The electronic reply file will contain approximately 4,000 records. SSA will be responsible for verifying and determining if the data on the DMDC reply file are consistent with the data of the SSA query file and to resolving any discrepancies or inconsistencies on an individual basis. SSA will also be responsible for making final determinations as to eligibility for, or thereto or any recovery of overpayments as a result of the match.

G. Inclusive dates of the matching program: This computer matching program is subject to review by the Office of Management and Budget and Congress. If no objections are raised by either, and the mandatory 30 day public notice period for comment has expired for this Federal Register notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective and the respective agencies may begin the exchange of data 30 days after the date of this published notice at a mutually agreeable time and will be repeated on an annual basis. Under no circumstances shall the matching program be implemented before the 30 day public notice period for comment has elapsed as this time period cannot be waived. By agreement between SSA and DMDC, the matching program will be in effect and continue for 18 months with an option to extend it for 12 additional months.

H. Address for receipt of public comments or inquiries: Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Room 920, Arlington, VA 22202-4502. Telephone (703) 607-2943.

[FR Doc. 96-15078 Filed 6-24-96; 8:45 am]
BILLING CODE 5000-04-F

Privacy Act of 1974; Notice to Amend Records Systems

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to amend records systems.

SUMMARY: The Defense Logistics Agency proposes to amend five systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

The amendments consist of changing an address from Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, VA 93940-2453 to Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

DATES: The amendments will be effective on July 25, 1996, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Defense Logistics Agency, DASC-RP, Alexandria, VA 22304-6100.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767-6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The amendments consist of changing an address from Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, VA 93940-2453 to Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report. The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety.

Dated: June 10, 1996.

Patricia L. Toppings,
Alternate OSD Federal Register Liaison
Officer, Department of Defense.

§322.11 DMDC

SYSTEM NAME:

Federal Creditor Agency Debt Collection Data Base.

SYSTEM LOCATION:

Primary location: W. R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93943-5000.

Decentralized segments: Military and civilian payment and personnel centers of the military services, the Office of Personnel Management, and Federal creditor agencies.

Backup location: Defense Manpower Data Center, DoD Center Monterey Bay,

400 Gigling Road, Seaside, CA 93955-6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense officers and enlisted personnel, members of reserve and guard components, retired military personnel. All Federal-wide civilian employees and retirees. Individuals identified by Federal creditor agencies as delinquent in repayment of debts owed to the U.S. Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, debt principal amount, interest and penalty amount, if any, debt reason, debt status, demographic information such as grade or rank, sex, date of birth, duty and home address, and various dates identifying the status changes occurring in the debt collection process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Debt Collection Act of 1982 (Pub.L. 97-365); 5 U.S.C. 5514 "Installment Deduction of Indebtedness"; 10 U.S.C. 136; 4 CFR Chapter II "Federal Claims Collection Standards"; 5 CFR 550.1101-1108 "Collection by Offset from Indebted Government Employees"; "Guidelines on the Relationship Between the Privacy Act of 1974 and the Debt Collection Act of 1982", March 30, 1983 (48 FR 15556, April, 1983); the Interagency Agreement for Federal Salary Offset Initiative (Office of Management and Budget, Department of the Treasury, Office of Personnel Management and the Department of Defense, April 1987); and Office of Management and Budget Guidelines (54 FR 52818, June 19, 1989) interpreting the provisions of the Privacy Act (5 U.S.C. 552a) pertaining to computer matching.

PURPOSE(S):

The primary purpose for the establishment of this system of records is to maintain a computer data base permitting computer matching in compliance with the Privacy Act of 1974 (5 U.S.C. 552a) as amended, to assist and implement debt collection efforts by Federal creditor agencies under the Debt Collection Act of 1982 to identify and locate individual debtors.

To increase the efficiency of U.S. Government-wide efforts to collect debts owed the U.S. Government.

To provide a centralized Federal data bank for computer matching of Federal employment records with delinquent debt records furnished by Federal creditor agencies under an Interagency agreement sponsored and monitored by

the Department of the Treasury and the Office of Management and Budget.

To identify and locate employees or beneficiaries who are receiving Federal salaries or other benefit payments and indebted to the creditor agency in order to recoup the debt either through voluntary repayment or by administrative or salary offset procedures established by law.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Individual's name, Social Security Number, Federal agency or military service, category of employees, Federal salary or benefit payments, record of debts and current work or home address and any other appropriate demographic data to a Federal creditor agency for the purpose of contacting the debtor to obtain voluntary repayment and, if necessary, to initiate any administrative or salary offset measures to recover the debt.

To the Office of Finance of the U.S. House of Representatives and the Disbursing Office of the U.S. Senate, records of individual indebtedness from this system of records consisting of individual name, Social Security Number and amount, to be used to identify House and Senate members and their employees indebted to the Federal government for the purpose of collecting the debts.

The Defense "Blanket Routine Uses" do not apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic computer tape.

RETRIEVABILITY:

Records are retrieved by social security number and name from a computerized index.

SAFEGUARDS:

Primary location at the W. R. Church Computer Center, Monterey, CA, tapes are stored in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

At the backup location in Monterey, CA, tapes are stored in rooms protected

with cipher locks, the building is secured after hours, and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Records are erased within six months after each match cycle.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

Written requests for information should contain the full name, social security number, current address and telephone number of the individual requesting information.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, and for contesting contents and appealing initial agency determinations are published in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the Privacy Act Officer.

RECORD SOURCE CATEGORIES:

Federal creditor agencies, the Office of Personnel Management and DOD personnel and finance centers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

§322.20 DMDC

SYSTEM NAME:

Reenlistment Eligible File (RECRUIT).

SYSTEM LOCATION:

Primary location: W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93943-5000.

Back-up file: Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former enlisted personnel of the military services who separated from active duty since 1971.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer records consisting of Social Security Number, name, service, date of birth and date of separation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136.

PURPOSE(S):

The purpose of the system is to assist recruiters in reenlisting prior service personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Any record may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action or regulatory order. Any record may be disclosed to Coast Guard recruiters in the performance of their assigned duties.

The "Blanket Routine Uses" set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

All records are stored on disc with a full backup on magnetic tape.

RETRIEVABILITY:

Retrievable by Social Security Number.

SAFEGUARDS:

Disc file is protected by password access and hard-wire system.

Monterey, CA location has tape storage area in locked room accessible only to authorized personnel; building is locked after hours.

Recruiters making telephone inquiries must have valid recruiter identification and call back number.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief, Defense Manpower Data Center, DoD Center Monterey Bay,

400 Gigling Road, Seaside, CA 93955-6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Manager, RECRUIT System, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Manager, RECRUIT System, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

Written requests for information should contain the full name, current address, telephone number, Social Security Number, and date of separation of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the Privacy Act Officer.

RECORD SOURCE CATEGORIES:

The data contained in the system are obtained from the Army, Navy, Air Force, Marine Corps, and Coast Guard.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

§322.35 DMDC**SYSTEM NAME:**

Survey and Census Data Base.

SYSTEM LOCATION:

Primary location - W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93943-5000.

Decentralized locations for back-up files - Department of Defense, Defense Manpower Data Center, 1600 Wilson Boulevard, 4th Floor, Arlington, VA 22209-2593, and Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals targeted for a census and who returned census forms or individuals who were selected at random for survey administration and

who completed survey forms. Survey data is collected on a periodic basis. Individuals include both civilians and military members and all persons eligible for DOD benefits. Among civilian respondents are young men and women of military age and applicants to the military services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Survey responses and census information:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136 and 2358; E.O. 9397; DOD Directive 5124.2, Assistant Secretary of Defense (Force Management and Personnel).

PURPOSE(S):

The purposes of the system are to count DOD personnel and beneficiaries for evacuation planning, apportionment when directed by oversight authority and for other policy planning purposes, and to obtain characteristic information on DOD personnel and households to support manpower and benefits research; to sample attitudes and/or discern perceptions of social problems observed by DOD personnel and to support other manpower research activities; to sample attitudes toward enlistment in and determine reasons for enlistment decisions. This information is used to support manpower research sponsored by the Department of Defense and the military services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The information may be used to support manpower research sponsored by other Federal agencies.

The "Blanket Routine Uses" set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Magnetic computer tape.

RETRIEVABILITY:

Records can be retrieved by Social Security Number; by institutional affiliation such as service membership; and by individual characteristics such as educational level.

SAFEGUARDS:

Tapes stored at the primary location are kept in a locked storage cage in a controlled access area; tapes stored at the back-up locations are kept in locked storage areas in buildings which are locked after hours.

RETENTION AND DISPOSAL:

Computer records are permanent; survey questionnaires and census forms are destroyed after computer records have been created.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Manpower Data Center, 1600 Wilson Boulevard, 4th Floor, Arlington, VA 22209-2593.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to the Director, Defense Manpower Data Center, 1600 Wilson Boulevard, 4th Floor, Arlington, VA 22209-2593.

Written requests should contain the full name, Social Security Number, and current address and telephone numbers of the individual. In addition, the appropriate data and location where the survey was completed should be provided.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Director, Defense Manpower Data Center, 1600 Wilson Boulevard, 4th Floor, Arlington, VA 22209-2593.

Written requests should contain the full name, Social Security Number, and current address and telephone numbers of the individual. In addition, the appropriate data and location where the survey was completed should be provided.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the Privacy Act Officer.

RECORD SOURCE CATEGORIES:

The survey and census information is provided by the individual; additional

data obtained from Federal records are linked to individual cases in some data sets.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

§322.50 DMDC**SYSTEM NAME:**

Defense Enrollment/Eligibility Reporting System (DEERS).

SYSTEM LOCATION:

Primary location: W.R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93920-5000.

Decentralized segments: A support center and an eligibility center are maintained and operated by a contractor in Monterey, CA and Alexandria, VA; two data processing centers in Sacramento, CA and Camp Hill, PA and the Processing Center for Automation of DOD Forms 1171 in Monterey, CA.

Back-up files are maintained at the Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Armed Forces and reserve personnel and their dependents, retired Armed Forces personnel and their dependents; surviving dependents of deceased active duty or retired personnel; active duty and retired Coast Guard personnel; active duty and retired Public Health Service personnel (Commissioned Corps) and their dependents; and active duty and retired National Oceanic and Atmospheric Administration employees (Commissioned Corps) and their dependents; and State Department employees employed in a foreign country and their dependents and any other individuals entitled to care under the health care program; providers and potential providers of health care; and any individual who submits a health care claim.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer files containing beneficiary's name, Service or Social Security Number of sponsor, enrollment number, relationship of beneficiary to sponsor, residence address of beneficiary or sponsor, date of birth of beneficiary, sex of beneficiary, branch of service of sponsor, dates of beginning and ending eligibility, number of dependents of sponsor, primary unit duty location of sponsor, race and ethnic origin of beneficiary, occupation of beneficiary, rank/pay grade of sponsor, and claim records of CHAMPUS claims containing enrolled,

patient and provider data such as cause of treatment, amount of payment, name and Social Security or tax ID number of providers of care. Information on individual records may extend to blood test results, dental care premium codes and dental x-rays.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136; 1969 Pub. L. 91-121, Section 404(A)(2), Establishment of the Assistant Secretary of Defense for Health Affairs; the Presidentially Commissioned Department of Defense, Department of Health, Education and Welfare, Office of Management and Budget Report of the Health Care Study (completed December 1975): DOD Directive 1341.1, Defense Enrollment/Eligibility Reporting System, October 14, 1981; DOD Instruction 1341.2, DEERS Procedures; E.O. 9397.

PURPOSE(S):

The purpose of the system is to provide a data base for determining eligibility to receive health care benefits under the Uniformed Health Services Delivery System and CHAMPUS, to support DOD health care management programs, to provide identification of deceased members, to monitor the accuracy of payments and to identify and collect overpaid amounts and to detect fraud and abuse of the benefit program by claimants and providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Department of Health and Human Services; Department of Veterans Affairs; Department of Commerce; Department of Transportation for the conduct of health care studies, for the planning and allocation of medical facilities and providers, for support of the DEERS enrollment process, and to identify individuals not entitled to health care. The data provided includes Social Security Number, name, age, sex, residence and demographic parameters of each Department's enrollees and dependents.

To the Social Security Administration (SSA) to perform computer data matching against the SSA Wage and Earnings Record file for the purpose of identifying employers of Department of Defense (DOD) beneficiaries eligible for health care. This employer data will in turn be used to identify those employed beneficiaries who have employment related group health insurance, to coordinate insurance benefits provided by DOD with those provided by the other insurance. This information will also be used to perform computer data

matching against the SSA Master Beneficiary Record file for the purpose of identifying DOD beneficiaries eligible for health care who are enrolled in the Medicare Program, to coordinate insurance benefits provided by DOD with those provided by Medicare.

To other Federal agencies and State, local and territorial governments to identify fraud and abuse of the Federal agency's programs and to identify debtors and collect debts and overpayment in the DOD health care programs.

To each of the fifty states and the District of Columbia for the purpose of conducting an on going computer matching program with state Medicaid agencies to determine the extent to which state Medicaid beneficiaries may be eligible for Uniformed Services health care benefits, including CHAMPUS and to recover Medicaid monies from the CHAMPUS program.

To private dental care providers to assure treatment eligibility.

The "Blanket Routine Uses" published at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes and disks are housed in a controlled computer media library.

RETRIEVABILITY:

Records about individuals are retrieved by an algorithm determined by contractor which uses name, enrollment number, Social Security Number, date of birth, rank and duty location as possible inputs. Retrievals are made on a summary basis by geographic characteristics and location and demographic characteristics. Information about individuals will not be distinguishable in such summary retrievals. Retrievals for the purposes of generating address lists for direct mail distribution of health care information may be made using selection criteria based on geographic and demographic keys.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, administrative procedures (e.g., fire protection regulations). Exits used solely for emergency situations is

secured to prevent unauthorized intrusion.

Personal data stored at a separate location for backup purposes is protected at least comparably to the protection provided at the primary location.

Requirements for protection of information are binding on contractors or their representative and are subject to the following minimum standards:

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of passwords which are changed periodically.

All those officials whose duties require access to, or processing and maintenance of personal information are trained in the proper safeguarding and use of the information.

RETENTION AND DISPOSAL:

Computerized records on an individual are maintained as long as the individual is legally eligible to receive health care benefits from the Uniformed Health Sciences Delivery System. The records are maintained for two (2) years after termination of eligibility.

Records may be disposed of or destroyed in accordance with DOD Component record management regulations which conform to the controlling disposition of such material as set forth in 44 U.S.C. 3301-3314. Non-record material containing personal information and other material of similar temporary nature is destroyed as soon as its intended purpose has been served under procedures established by the Head of the DOD Component consistent with the following requirement. Such material shall be destroyed by tearing, burning, melting, chemical deposition, pulping, pulverizing, shredding, or mutilation sufficient to preclude recognition or reconstruction of the information.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

Written requests for the information should contain full name of individual and sponsor, if applicable, and other attributes required by previously mentioned search algorithm.

For personal visits the individual should be able to provide a data element required to satisfy the previously mentioned algorithm. Identification should be corroborated with a driver's license or other positive identification.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the Privacy Act Officer.

RECORD SOURCE CATEGORIES:

Personnel and financial pay systems of the Military Departments, the Coast Guard, the Public Health Service, the National Oceanic and Atmospheric Administration, other Federal agencies having employees eligible for military medical care.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

§322.53 DMDC

SYSTEM NAME:

Defense Debt Collection Data Base.

SYSTEM LOCATION:

Primary Location: W. R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93943-5000.

Back-up files maintained at the Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

Decentralized segments - military and civilian financial and personnel centers of the services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All offices and enlisted personnel, members of reserve components, retired military personnel and survivors and deceased military personnel, Federal civilian employees, and contractors who have been identified as being indebted to the United States Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer records containing name, Social Security Number, debt principal

amount, interest and penalty amount (if any), debt reason, debt status, demographic information such as grade or rank, sex, date of birth, location, and various dates identifying the status changes occurring in the debt collection process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136 and Pub. L. 97-365, Debt Collection Act of 1982.

PURPOSE(S):

The purpose of the system of records is to provide the DOD with a central record of all debts and debtors either under current or past financial obligation to the United States Government to control and report on the debt collection process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Other Federal Agencies - Records of debtors obligated to DOD, but currently employed by another Federal agency are referred to the employing agency under the provisions of the Debt Collection Act of 1982 for collection of the debt. Records of debtors employed by DOD, but obligated to another Federal agency will be released to the other agency upon collection of the debt.

Internal Revenue Service - Record may be referred to obtain home address.

Office of Personnel Management - Records may be referred to obtain current employment location.

Credit Bureaus and Debt Collection Agencies - Records may be referred to private contract organizations to comply with the provisions of the Debt Collection Act of 1982 for non-payment of a outstanding debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape.

RETRIEVABILITY:

Records are retrieved by social security number and name from a computerized index.

SAFEGUARDS:

Primary location - W. R. Church Computer Center - tapes are stored in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted

for processing only if the appropriate security code is provided.

Back-up location - Monterey, California - tapes are stored in rooms protected with cypher locks, building is locked after hours, and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Records are retained indefinitely as a financial record.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

Individuals should provide information that contains the full name, Social Security Number, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the Privacy Act Officer.

The record accuracy may also be contested through the administrative processes contained in Pub. L. 97-365, Debt Collection Act of 1982.

RECORD SOURCE CATEGORIES:

The military services and any other Federal agency.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 96-15077 Filed 6-24-96; 8:45 am]

BILLING CODE 5000-04-F

Corps of Engineers

Availability of Surplus Land and Buildings Located at Savanna Army Depot, Savanna, IL

AGENCY: U.S. Army Corps of Engineers, Louisville District.

ACTION: Notice of Availability.

SUMMARY: This notice identifies the surplus real property located at Savanna Army Depot, Route 84, (approximately 7 miles north of the town of Savanna) Savanna, Illinois.

FOR FURTHER INFORMATION CONTACT:

For more information regarding particular properties identified in this notice (i.e. acreage, floor plans, existing sanitary facilities, exact street address), contact Ms. Laura Whitworth, Army Corps of Engineers, P.O. Box 59, Louisville, KY 40201-0059 (telephone 502/625-7303, fax 502-625-7324); or Mr. Arlen Dahlman, Base Transition Field Office, Savanna Army Depot Activity, Savanna, Illinois 61074-9636 (telephone 815/273-8311).

SUPPLEMENTARY INFORMATION: This surplus property is available under the provisions of the Federal Property and Administrative Services Act of 1949 and the Base Closure Community Redevelopment and Homeless Assistance Act of 1994. Notices of interest should be forwarded to Savanna Army Depot Local Redevelopment Authority, ATTN: Mr. Steven M. Haring, P.O. Box 325, Savanna, Illinois 61074 (telephone 815/273-4371).

The surplus real property totals 3,157 acres and includes 15 office buildings, 201 storage/warehouse buildings ranging in square footage, 251 other buildings including recreation, housing and dining areas, maintenance facilities, and various metal and woodworking shops. A railroad runs throughout the installation giving access to many areas including the loading docks.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96-16145 Filed 6-24-96; 8:45 am]

BILLING CODE 3710-JB-M

Available Surplus Real Property at Camp Bonneville, Located in Clark County, WA

AGENCY: U.S. Army Corps of Engineers, Seattle District.

ACTION: Notice.

SUMMARY: This notice identified the surplus real property located at Camp Bonneville, located in Clark County, Washington Camp Bonneville is located approximately 10 miles northeast of Vancouver, Washington.

FOR FURTHER INFORMATION CONTACT:

Management and Disposal Branch, Real Estate Division, U.S. Army Corps of Engineers, Seattle District, P.O. Box 3755, Seattle, WA 98124-2255; Mrs. Lynn Walters, Realty Specialist;

Telephone: 206-764-3745; fax: 206-764-6579.

SUPPLEMENTARY INFORMATION: This surplus property is available under the provisions of the Federal Property and Administrative Services Act of 1949 and the Base Closure Community Development and Homeless Assistance Act of 1994. Notices of interest should be forwarded to Janice Davin, LRA Coordinator, Clark County Department of Public Works, P.O. Box 9810, Vancouver, WA 98666-9810, Telephone 360-6118, ext. 4330.

The surplus real property totals 3,020 acres, more or less and includes 74 buildings. The total space for all buildings is approximately 60,565 square feet. The current use is as a U.S. Army Active and Reserve training installation.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96-16146 Filed 6-24-96; 8:45 am]

BILLING CODE 3710-ER-M

Inland Waterways Users Board

AGENCY: Corps of Engineers, DOD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with 10 (a)(2) of the Federal Advisory Committee Act, Public Law (92-463) announcement is made of the next meeting of the Inland Waterways Users Board. The meeting will be held on 31 July 1996 at the Thunderbird Hotel in Bloomington, Minnesota, (Tel. (612) 854-3411 or 800-328-1931). Registration will begin at 8:30 a.m. and the meeting is scheduled to adjourn at 4 p.m. The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Mr. Norman T. Edwards, Headquarters, U.S. Army Corps of Engineers, CECW-PD, Washington, DC 20314-1000.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96-16150 Filed 6-24-96; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF ENERGY

Floodplain Statement of Findings for Site Investigation Activities at the Paducah Gaseous Diffusion Plant Area of Responsibility

AGENCY: Oak Ridge Operations Office, Department of Energy (DOE).

ACTION: Floodplain Statement of Findings.

SUMMARY: This is a Floodplain Statement of Findings for Site Investigation Activities at the Paducah Gaseous Diffusion Plant (PGDP), McCracken County, Kentucky, prepared in accordance with 10 CFR Part 1022 Compliance With Floodplain/Wetlands Environmental Review Requirements. DOE proposes to conduct preliminary engineering and site investigation activities as required under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), underground storage tank regulations, or other regulations and directives within the PGDP area of responsibility. Some site investigation activities may occur within 500-year or 100-year floodplains of streams within the study area. The areas of the 100- and 500-year floodplains are 1.12 km² (112.1 hectares, 276.9 acres) and 1.24 km² (123.5 hectares, 305.2 acres), respectively. DOE has prepared a floodplain assessment describing the possible effects, alternatives, and measures designed to avoid or minimize potential harm to floodplains or their flood storage potential. Actions will not be located in floodplains if practicable alternatives exist. DOE will endeavor to allow 15 days of public review after publication of the statement of findings before conducting site investigations or preliminary engineering activities in floodplains at the PGDP area of responsibility. Actions conducted under CERCLA will comply with the substantive requirements of 10 CFR 1022 and 33 CFR 330 as provided for under the National Contingency Plan (40 CFR 300, et seq.).

FOR FURTHER INFORMATION, CONTACT: Mr. Robert C. Sleeman, Director, Environmental Restoration Division (EW-91), DOE Oak Ridge Operations Office, Post Office Box 2001, Oak Ridge, TN 37831-8540, Telephone: (423) 576-3534, Facsimile: (423) 576-6074.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLAND ENVIRONMENTAL REVIEW REQUIREMENTS,

CONTACT: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH-42, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586-4600 or (800) 472-2756.

SUPPLEMENTARY INFORMATION: A Notice of Floodplain Involvement was published in the Federal Register on October 5, 1993 (58 FR 51812), and a floodplain assessment was prepared.

The floodplain assessment covers a variety of intrusive and non-intrusive preliminary engineering and site investigation activities that may be used at one or more sites within the PGDP area of responsibility. These activities include (as detailed in the October 5, 1993, notice), but are not limited to: "(a) Sampling of air, surface water, groundwater, sediments, surface and deeper soils; sampling assessment, and evaluation of terrestrial and aquatic biota, and measurement of meteorological characteristics; (b) drilling of boreholes to obtain soil/geological samples (some of the boreholes would be completed as groundwater monitoring wells); (c) digging soil test pits by hand or backhoe; (d) taking a variety of non-invasive surveys (such as radiological surveys); (e) taking invasive surveys (such as with soil penetrometers and similar devices); and (f) conducting underground tests (such as aquifer pump, tracer geophysical log, vertical seismic profile, and seismic tests)."

Sampling sites will be located outside of floodplains to the extent practicable (i.e., when data quality is not compromised). Sampling activities within floodplains are expected to be limited to activities related to surface and sediment sampling and a minimum number of boreholes, wells, and soil test pits. Most of the activities addressed by the floodplain assessment will result in no measurable impact on floodplain cross-sections or flood stage, and thus do not increase the risk of flooding. Those specific activities that are identified during review of sampling plans as possibly impacting negatively upon the floodplain (e.g., installation of flumes and construction of access roads) may require separate floodplain assessments and the implementation of mitigative measures. Alternatively, DOE may opt to omit the activity or relocate the activity to an alternate site outside of the floodplain. Site investigation activities addressed in the floodplain assessment conform to applicable floodplain protection standards.

Issued in Oak Ridge, Tennessee on June 5, 1996.

James L. Elmore,

Alternate NEPA Compliance Officer.

[FR Doc. 96-16122 Filed 6-24-96; 8:45 am]

BILLING CODE 6450-01-P

Pittsburgh Energy Technology Center; Notice of Sources Sought

AGENCY: Pittsburgh Energy Technology Center, Department of Energy.

ACTION: Sources Sought for possible future competitive solicitation.

SUMMARY: The U.S. Department of Energy (DOE), Pittsburgh Energy Technology Center (PETC) is contemplating research efforts leading to technology demonstration in the area of coprocessing fossil fuels (coal and resid) and municipal solid wastes for producing a source of premium liquid fuels and valuable chemicals as by-products. The Department believes that benefits associated with coprocessing include, improved plant operability, increased product value and more favorable economics. We are interested in aiding in the formulation of non-federal project teams that would eventually demonstrate the reference or alternate technology. Information should be submitted pertinent to the area of interest, such as experience of the entity and personnel and a description of the applicable technology which can result in a demonstration program and commercialization. Responses should be limited to 5-10 pages.

ADDRESSES: U. S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-118, Pittsburgh, PA 15236-0940.

FOR FURTHER INFORMATION CONTACT: William R. Mundorf, Contract Specialist, 412/892-4483, Internet: Mundorf@PETC.DOE.GOV.

SUPPLEMENTARY INFORMATION: Cooperative Agreements are contemplated.

Title of Effort:

Co-Processing of Coal with Plastics, Rubber or Other Solid Wastes to Produce Alternative Liquid Fuels Award(s)

Phase 1—three to five, reducing to two or three in Phase 2, and finally one awardee in Phase 3

Term of Assistance Award(s)

Five (5) Years

Cost of Assistance Effort

The total estimated program value is \$25-35 Million

Phase 1—\$100,000 per award, at least 20% cost sharing by non-federal entity

Phase 2—\$1-2 Million per award, at least 35% cost sharing by non-federal entity

Phase 3—\$25+ Million, at least 50% cost sharing by non-federal entity

Objective

The objectives of this program is to provide the nation by 2005 with an alternative source of liquid fuels,

costing \$25 per barrel (Required selling price in mid 1996 dollars) or less, that can be produced from coal and solid wastes. Some of the technological areas that might meet this goal include:

Reference Technology

(1) Direct liquefaction technology with coal PETC is already investigating the addition of waste materials (plastics, used oils and tires) to the direct coal liquefaction process and preliminary results are encouraging. Work remains to be done in areas of feed preparation, thermodynamic properties for scale-up data, and product upgrading, process engineering, and economics.

Alternate Approaches

(2) Indirect liquefaction technology with coal Waste materials and coal could be gasified and the resulting syngas converted to liquid fuels through Fischer-Tropsch or oxygenate-synthesis technology.

(3) Conversion technologies without coal PETC recognizes that in some instances conversion technologies might best be employed on waste feedstocks without the addition of coal to the process to produce premium liquid fuels.

(4) Pyrolysis and Pre-treatments: Mild to severe pyrolysis of wastes could liquid products that could be used to generate premium liquid fuels. Pre-treatments could include processes that would facilitate the goal of converting solid wastes to produce high-value products.

(5) Other technologies not specified PETC recognizes that innovative solutions to this problem may come from a combination of technologies or from technology areas not previously identified.

Responsive technologies would be those that are economically competitive with current disposal technologies such as land fill and incineration, environmentally benign, with little potential environmental impact through ash/slag disposal, air emissions, ground water contamination, and fugitive emissions. Entities of particular interest in this announcement are key stakeholders that would be interested in applying the technology and using the fuel and chemical products such as: State/Municipal interests, solid waste management infrastructure (e.g., land-fill operators, haulers and regulators), environmental interests, coal producers, universities, technology developers and the oil industry.

Issue Date: June 14, 1996.

Debra E. Ball,

Contracting Officer.

[FR Doc. 96-16123 Filed 6-24-96; 8:45 am]

BILLING CODE 6450-01-P

Revised Summary of Title I of the Petroleum Marketing Practices Act

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: This notice contains a summary of Title I of the Petroleum Marketing Practices Act, as amended (the Act). The Petroleum Marketing Practices Act was originally enacted on June 19, 1978, and was amended by the Petroleum Marketing Practices Act Amendments of 1994, enacted on October 19, 1994. On August 30, 1978, the Department of Energy published in the Federal Register a summary of the provisions of Title I of the 1978 law, as required by the Act. The Department is publishing this revised summary to reflect key changes made by the 1994 amendments.

The Act is intended to protect franchised distributors and retailers of gasoline and diesel motor fuel against arbitrary or discriminatory termination or nonrenewal of franchises. This summary describes the reasons for which a franchise may be terminated or not renewed under the law, the responsibilities of franchisors, and the remedies and relief available to franchisees. The Act requires franchisors to give franchisees copies of the summary contained in this notice whenever notification of termination or nonrenewal of a franchise is given.

FOR FURTHER INFORMATION CONTACT: Carmen Difiglio, Office of Energy Efficiency, Alternative Fuels, and Oil Analysis (PO-62), U.S. Department of Energy, Washington, D.C. 20585, Telephone (202) 586-4444; Lawrence Leiken, Office of General Counsel (GC-73), U.S. Department of Energy, Washington, D.C. 20585, Telephone (202) 586-6978.

SUPPLEMENTARY INFORMATION: Title I of the Petroleum Marketing Practices Act, as amended, 15 U.S.C. §§ 2801-2806, provides for the protection of franchised distributors and retailers of motor fuel by establishing minimum Federal standards governing the termination of franchises and the nonrenewal of franchise relationships by the franchisor or distributor of such fuel.

Section 104(d)(1) of the Act required the Secretary of Energy to publish in the Federal Register a simple and concise summary of the provisions of Title I, including a statement of the respective

responsibilities of, and the remedies and relief available to, franchisors and franchisees under that title. The Department published this summary in the Federal Register on August 30, 1978. 43 F.R. 38743 (1978).

In 1994 the Congress enacted the Petroleum Marketing Practices Act Amendments to affirm and clarify certain key provisions of the 1978 statute. Among the key issues addressed in the 1994 amendments are: (1) termination or nonrenewal of franchised dealers by their franchisors for purposes of conversion to "company" operation; (2) application of state law; (3) the rights and obligations of franchisors and franchisees in third-party lease situations; and (4) waiver of rights limitations. See H.R. REP. NO. 737, 103rd Cong., 2nd Sess. 2 (1994), reprinted in 1994 U.S.C.C.A.N. 2780. Congress intended to: (1) make explicit that upon renewal a franchisor may not insist on changes to a franchise agreement where the purpose of such changes is to prevent renewal in order to convert a franchisee-operated service station into a company-operated service station; (2) make clear that where the franchisor has an option to continue the lease or to purchase the premises but does not wish to do so, the franchisor must offer to assign the option to the franchisee; (3) make clear that no franchisor may require, as a condition of entering or renewing a franchise agreement, that a franchisee waive any rights under the Petroleum Marketing Practices Act, any other Federal law, or any state law; and (4) reconfirm the limited scope of Federal preemption under the Act. *Id.*

The summary which follows reflects key changes to the statute resulting from the 1994 amendments. The Act requires franchisors to give copies of this summary statement to their franchisees when entering into an agreement to terminate the franchise or not to renew the franchise relationship, and when giving notification of termination or nonrenewal. This summary does not purport to interpret the Act, as amended, or to create new legal rights.

In addition to the summary of the provisions of Title I, a more detailed description of the definitions contained in the Act and of the legal remedies available to franchisees is also included in this notice, following the summary statement.

Summary of Legal Rights of Motor Fuel Franchisees

This is a summary of the franchise protection provisions of the Federal Petroleum Marketing Practices Act, as amended in 1994 (the Act), 15 U.S.C.

§§ 2801–2806. This summary must be given to you, as a person holding a franchise for the sale, consignment or distribution of gasoline or diesel motor fuel, in connection with any termination or nonrenewal of your franchise by your franchising company (referred to in this summary as your supplier).

You should read this summary carefully, and refer to the Act if necessary, to determine whether a proposed termination or nonrenewal of your franchise is lawful, and what legal remedies are available to you if you think the proposed termination or failure to renew is not lawful. In addition, if you think your supplier has failed to comply with the Act, you may wish to consult an attorney in order to enforce your legal rights.

The franchise protection provisions of the Act apply to a variety of franchise agreements. The term "franchise" is broadly defined as a license to use a motor fuel trademark which is owned or controlled by a refiner, and it includes secondary arrangements such as leases of real property and motor fuel supply agreements which have existed continuously since May 15, 1973, regardless of a subsequent withdrawal of a trademark. Thus, if you have lost the use of a trademark previously granted by your supplier but have continued to receive motor fuel supplies through a continuation of a supply agreement with your supplier, you are protected under the Act.

Any issue arising under your franchise which is not governed by this Act will be governed by the law of the State in which the principal place of business of your franchise is located.

Although a State may specify the terms and conditions under which your franchise may be transferred upon the death of the franchisee, it may not require a payment to you (the franchisee) for the goodwill of a franchise upon termination or nonrenewal.

The Act is intended to protect you, whether you are a distributor or a retailer, from arbitrary or discriminatory termination or nonrenewal of your franchise agreement. To accomplish this, the Act first lists the reasons for which termination or nonrenewal is permitted. Any notice of termination or nonrenewal must state the precise reason, as listed in the Act, for which the particular termination or nonrenewal is being made. These reasons are described below under the headings "Reasons for Termination" and "Reasons for Nonrenewal."

The Act also requires your supplier to give you a written notice of termination or intention not to renew the franchise

within certain time periods. These requirements are summarized below under the heading "Notice Requirements for Termination or Nonrenewal."

The Act also provides certain special requirements with regard to trial and interim franchise agreements, which are described below under the heading "Trial and Interim Franchises."

The Act gives you certain legal rights if your supplier terminates or does not renew your franchise in a way that is not permitted by the Act. These legal rights are described below under the heading "Your Legal Rights."

The Act contains provisions pertaining to waiver of franchisee rights and applicable State law. These provisions are described under the heading "Waiver of Rights and Applicable State Law."

This summary is intended as a simple and concise description of the general nature of your rights under the Act. For a more detailed description of these rights, you should read the text of the Petroleum Marketing Practices Act, as amended in 1994 (15 U.S.C. §§ 2801–2806). This summary does not purport to interpret the Act, as amended, or to create new legal rights.

I. Reasons for Termination

If your franchise was entered into on or after June 19, 1978, the Act bars termination of your franchise for any reasons other than those reasons discussed below. If your franchise was entered into before June 19, 1978, there is no statutory restriction on the reasons for which it may be terminated. If a franchise entered into before June 19, 1978, is terminated, however, the Act requires the supplier to reinstate the franchise relationship unless one of the reasons listed under this heading or one of the additional reasons for nonrenewal described below under the heading "Reasons for Nonrenewal" exists.

A. Non-Compliance with Franchise Agreement

Your supplier may terminate your franchise if you do not comply with a reasonable and important requirement of the franchise relationship. However, termination may not be based on a failure to comply with a provision of the franchise that is illegal or unenforceable under applicable Federal, State or local law. In order to terminate for non-compliance with the franchise agreement, your supplier must have learned of this non-compliance recently. The Act limits the time period within which your supplier must have learned of your non-compliance to various periods, the longest of which is 120

days, before you receive notification of the termination.

B. Lack of Good Faith Efforts

Your supplier may terminate your franchise if you have not made good faith efforts to carry out the requirements of the franchise, provided you are first notified in writing that you are not meeting a requirement of the franchise and you are given an opportunity to make a good faith effort to carry out the requirement. This reason can be used by your supplier only if you fail to make good faith efforts to carry out the requirements of the franchise within the period which began not more than 180 days before you receive the notice of termination.

C. Mutual Agreement To Terminate the Franchise

A franchise can be terminated by an agreement in writing between you and your supplier if the agreement is entered into not more than 180 days before the effective date of the termination and you receive a copy of that agreement, together with this summary statement of your rights under the Act. You may cancel the agreement to terminate within 7 days after you receive a copy of the agreement, by mailing (by certified mail) a written statement to this effect to your supplier.

D. Withdrawal From the Market Area

Under certain conditions, the Act permits your supplier to terminate your franchise if your supplier is withdrawing from marketing activities in the entire geographic area in which you operate. You should read the Act for a more detailed description of the conditions under which market withdrawal terminations are permitted. See 15 U.S.C. § 2802(b)(E).

E. Other Events Permitting a Termination

If your supplier learns within the time period specified in the Act (which in no case is more than 120 days prior to the termination notice) that one of the following events has occurred, your supplier may terminate your franchise agreement:

- (1) Fraud or criminal misconduct by you that relates to the operation of your marketing premises.
- (2) You declare bankruptcy or a court determines that you are insolvent.
- (3) You have a severe physical or mental disability lasting at least 3 months which makes you unable to provide for the continued proper operation of the marketing premises.
- (4) Expiration of your supplier's underlying lease to the leased marketing

premises, if: (a) your supplier gave you written notice before the beginning of the term of the franchise of the duration of the underlying lease and that the underlying lease might expire and not be renewed during the term of the franchise; (b) your franchisor offered to assign to you, during the 90-day period after notification of termination or nonrenewal was given, any option which the franchisor held to extend the underlying lease or to purchase the marketing premises (such an assignment may be conditioned on the franchisor receiving from both the landowner and the franchisee an unconditional release from liability for specified events occurring after the assignment); and (c) in a situation in which the franchisee acquires possession of the leased marketing premises effective immediately after the loss of the right of the franchisor to grant possession, the franchisor, upon the written request of the franchisee, made a bona fide offer to sell or assign to the franchisee the franchisor's interest in any improvements or equipment located on the premises, or offered the franchisee a right of first refusal of any offer from another person to purchase the franchisor's interest in the improvements and equipment.

(5) Condemnation or other taking by the government, in whole or in part, of the marketing premises pursuant to the power of eminent domain. If the termination is based on a condemnation or other taking, your supplier must give you a fair share of any compensation which he receives for any loss of business opportunity or good will.

(6) Loss of your supplier's right to grant the use of the trademark that is the subject of the franchise, unless the loss was because of bad faith actions by your supplier relating to trademark abuse, violation of Federal or State law, or other fault or negligence.

(7) Destruction (other than by your supplier) of all or a substantial part of your marketing premises. If the termination is based on the destruction of the marketing premises and if the premises are rebuilt or replaced by your supplier and operated under a franchise, your supplier must give you a right of first refusal to this new franchise.

(8) Your failure to make payments to your supplier of any sums to which your supplier is legally entitled.

(9) Your failure to operate the marketing premises for 7 consecutive days, or any shorter period of time which, taking into account facts and circumstances, amounts to an unreasonable period of time not to operate.

(10) Your intentional adulteration, mislabeling or misbranding of motor fuels or other trademark violations.

(11) Your failure to comply with Federal, State, or local laws or regulations of which you have knowledge and that relate to the operation of the marketing premises.

(12) Your conviction of any felony involving moral turpitude.

(13) Any event that affects the franchise relationship and as a result of which termination is reasonable.

II. Reasons for Nonrenewal

If your supplier gives notice that he does not intend to renew any franchise agreement, the Act requires that the reason for nonrenewal must be either one of the reasons for termination listed immediately above, or one of the reasons for nonrenewal listed below.

A. Failure To Agree on Changes or Additions To Franchise

If you and your supplier fail to agree to changes in the franchise that your supplier in good faith has determined are required, and your supplier's insistence on the changes is not for the purpose of converting the leased premises to a company operation or otherwise preventing the renewal of the franchise relationship, your supplier may decline to renew the franchise.

B. Customer Complaints

If your supplier has received numerous customer complaints relating to the condition of your marketing premises or to the conduct of any of your employees, and you have failed to take prompt corrective action after having been notified of these complaints, your supplier may decline to renew the franchise.

C. Unsafe or Unhealthful Operations

If you have failed repeatedly to operate your marketing premises in a clean, safe and healthful manner after repeated notices from your supplier, your supplier may decline to renew the franchise.

D. Operation of Franchise is Uneconomical

Under certain conditions specified in the Act, your supplier may decline to renew your franchise if he has determined that renewal of the franchise is likely to be uneconomical. Your supplier may also decline to renew your franchise if he has decided to convert your marketing premises to a use other than for the sale of motor fuel, to sell the premises, or to materially alter, add to, or replace the premises.

III. Notice Requirements for Termination or Nonrenewal

The following is a description of the requirements for the notice which your supplier must give you before he may terminate your franchise or decline to renew your franchise relationship. These notice requirements apply to all franchise terminations, including franchises entered into before June 19, 1978 and trial and interim franchises, as well as to all nonrenewals of franchise relationships.

A. How Much Notice Is Required

In most cases, your supplier must give you notice of termination or nonrenewal at least 90 days before the termination or nonrenewal takes effect.

In circumstances where it would not be reasonable for your supplier to give you 90 days notice, he must give you notice as soon as he can do so. In addition, if the franchise involves leased marketing premises, your supplier may not establish a new franchise relationship involving the same premises until 30 days after notice was given to you or the date the termination or nonrenewal takes effect, whichever is later. If the franchise agreement permits, your supplier may repossess the premises and, in reasonable circumstances, operate them through his employees or agents.

If the termination or nonrenewal is based upon a determination to withdraw from the marketing of motor fuel in the area, your supplier must give you notice at least 180 days before the termination or nonrenewal takes effect.

B. Manner and Contents of Notice

To be valid, the notice must be in writing and must be sent by certified mail or personally delivered to you. It must contain:

- (1) A statement of your supplier's intention to terminate the franchise or not to renew the franchise relationship, together with his reasons for this action;
- (2) The date the termination or nonrenewal takes effect; and
- (3) A copy of this summary.

IV. Trial Franchises and Interim Franchises

The following is a description of the special requirements that apply to trial and interim franchises.

A. Trial Franchises

A trial franchise is a franchise, entered into on or after June 19, 1978, in which the franchisee has not previously been a party to a franchise with the franchisor and which has an initial term of 1 year or less. A trial franchise must be in writing and must

make certain disclosures, including that it is a trial franchise, and that the franchisor has the right not to renew the franchise relationship at the end of the initial term by giving the franchisee proper notice.

The unexpired portion of a transferred franchise (other than as a trial franchise, as described above) does not qualify as a trial franchise.

In exercising his right not to renew a trial franchise at the end of its initial term, your supplier must comply with the notice requirements described above under the heading "Notice Requirements for Termination or Nonrenewal."

B. Interim Franchises

An interim franchise is a franchise, entered into on or after June 19, 1978, the duration of which, when combined with the terms of all prior interim franchises between the franchisor and the franchisee, does not exceed three years, and which begins immediately after the expiration of a prior franchise involving the same marketing premises which was not renewed, based on a lawful determination by the franchisor to withdraw from marketing activities in the geographic area in which the franchisee operates.

An interim franchise must be in writing and must make certain disclosures, including that it is an interim franchise and that the franchisor has the right not to renew the franchise at the end of the term based upon a lawful determination to withdraw from marketing activities in the geographic area in which the franchisee operates.

In exercising his right not to renew a franchise relationship under an interim franchise at the end of its term, your supplier must comply with the notice requirements described above under the heading "Notice Requirements for Termination or Nonrenewal."

V. Your Legal Rights

Under the enforcement provisions of the Act, you have the right to sue your supplier if he fails to comply with the requirements of the Act. The courts are authorized to grant whatever equitable relief is necessary to remedy the effects of your supplier's failure to comply with the requirements of the Act, including declaratory judgment, mandatory or prohibitive injunctive relief, and interim equitable relief. Actual damages, exemplary (punitive) damages under certain circumstances, and reasonable attorney and expert witness fees are also authorized. For a more detailed description of these legal remedies you should read the text of the Act. 15 U.S.C. §§ 2801-2806.

VI. Waiver of Rights and Applicable State Law

Your supplier may not require, as a condition of entering into or renewing the franchise relationship, that you relinquish or waive any right that you have under this or any other Federal law or applicable State law. In addition, no provision in a franchise agreement would be valid or enforceable if the provision specifies that the franchise would be governed by the law of any State other than the one in which the principal place of business for the franchise is located.

Further Discussion of Title I—Definitions and Legal Remedies

I. Definitions

Section 101 of the Petroleum Marketing Practices Act sets forth definitions of the key terms used throughout the franchise protection provisions of the Act. The definitions from the Act which are listed below are of those terms which are most essential for purposes of the summary statement. (You should consult section 101 of the Act for additional definitions not included here.)

A. Franchise

A "franchise" is any contract between a refiner and a distributor, between a refiner and a retailer, between a distributor and another distributor, or between a distributor and a retailer, under which a refiner or distributor (as the case may be) authorizes or permits a retailer or distributor to use, in connection with the sale, consignment, or distribution of motor fuel, a trademark which is owned or controlled by such refiner or by a refiner which supplies motor fuel to the distributor which authorizes or permits such use.

The term "franchise" includes any contract under which a retailer or distributor (as the case may be) is authorized or permitted to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by such refiner or by a refiner which supplies motor fuel to the distributor which authorizes or permits such occupancy. The term also includes any contract pertaining to the supply of motor fuel which is to be sold, consigned or distributed under a trademark owned or controlled by a refiner, or under a contract which has existed continuously since May 15, 1973, and pursuant to which, on May 15, 1973, motor fuel was sold, consigned or distributed under a

trademark owned or controlled on such date by a refiner. The unexpired portion of a transferred franchise is also included in the definition of the term.

B. Franchise Relationship

The term "franchise relationship" refers to the respective motor fuel marketing or distribution obligations and responsibilities of a franchisor and a franchisee which result from the marketing of motor fuel under a franchise.

C. Franchisee

A "franchisee" is a retailer or distributor who is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

D. Franchisor

A "franchisor" is a refiner or distributor who authorizes or permits, under a franchise, a retailer or distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

E. Marketing Premises

"Marketing premises" are the premises which, under a franchise, are to be employed by the franchisee in connection with the sale, consignment, or distribution of motor fuel.

F. Leased Marketing Premises

"Leased marketing premises" are marketing premises owned, leased or in any way controlled by a franchisor and which the franchisee is authorized or permitted, under the franchise, to employ in connection with the sale, consignment, or distribution of motor fuel.

G. Fail to Renew and Nonrenewal

The terms "fail to renew" and "nonrenewal" refer to a failure to reinstate, continue, or extend a franchise relationship (1) at the conclusion of the term, or on the expiration date, stated in the relevant franchise, (2) at any time, in the case of the relevant franchise which does not state a term of duration or an expiration date, or (3) following a termination (on or after June 19, 1978) of the relevant franchise which was entered into prior to June 19, 1978 and has not been renewed after such date.

II. Legal Remedies Available to Franchisee

The following is a more detailed description of the remedies available to the franchisee if a franchise is terminated or not renewed in a way that fails to comply with the Act.

A. Franchisee's Right to Sue

A franchisee may bring a civil action in United States District Court against a franchisor who does not comply with the requirements of the Act. The action must be brought within one year after the date of termination or nonrenewal or the date the franchisor fails to comply with the requirements of the law, whichever is later.

B. Equitable Relief

Courts are authorized to grant whatever equitable relief is necessary to remedy the effects of a violation of the law's requirements. Courts are directed to grant a preliminary injunction if the franchisee shows that there are sufficiently serious questions, going to the merits of the case, to make them a fair ground for litigation, and if, on balance, the hardship which the franchisee would suffer if the preliminary injunction is not granted will be greater than the hardship which the franchisor would suffer if such relief is granted.

Courts are not required to order continuation or renewal of the franchise relationship if the action was brought after the expiration of the period during which the franchisee was on notice concerning the franchisor's intention to terminate or not renew the franchise agreement.

C. Burden of Proof

In an action under the Act, the franchisee has the burden of proving that the franchise was terminated or not renewed. The franchisor has the burden of proving, as an affirmative defense, that the termination or nonrenewal was permitted under the Act and, if applicable, that the franchisor complied with certain other requirements relating to terminations and nonrenewals based on condemnation or destruction of the marketing premises.

D. Damages

A franchisee who prevails in an action under the Act is entitled to actual damages and reasonable attorney and expert witness fees. If the action was based upon conduct of the franchisor which was in willful disregard of the Act's requirements or the franchisee's rights under the Act, exemplary (punitive) damages may be awarded where appropriate. The court, and not the jury, will decide whether to award exemplary damages and, if so, in what amount.

On the other hand, if the court finds that the franchisee's action is frivolous, it may order the franchisee to pay reasonable attorney and expert witness fees.

E. Franchisor's Defense to Permanent Injunctive Relief

Courts may not order a continuation or renewal of a franchise relationship if the franchisor shows that the basis of the non-renewal of the franchise relationship was a determination made in good faith and in the normal course of business:

- (1) To convert the leased marketing premises to a use other than the sale or distribution of motor fuel;
- (2) To materially alter, add to, or replace such premises;
- (3) To sell such premises;
- (4) To withdraw from marketing activities in the geographic area in which such premises are located; or
- (5) That the renewal of the franchise relationship is likely to be uneconomical to the franchisor despite any reasonable changes or additions to the franchise provisions which may be acceptable to the franchisee.

In making this defense, the franchisor also must show that he has complied with the notice provisions of the Act.

This defense to permanent injunctive relief, however, does not affect the franchisee's right to recover actual damages and reasonable attorney and expert witness fees if the nonrenewal is otherwise prohibited under the Act.

Issued in Washington, D.C. on June 12, 1996.

Marc W. Chupka,

Acting Assistant Secretary for Policy.

[FR Doc. 96-16124 Filed 6-24-96; 8:45 am]

BILLING CODE 6450-01-P

Office of Energy Efficiency and Renewable Energy

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of Bard Manufacturing Company From the DOE Furnace Test Procedure. (Case No. F-086)

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Today's notice grants an Interim Waiver to Bard Manufacturing Company (Bard) from the existing Department of Energy (DOE or Department) test procedure regarding blower time delay for the company's TU and TDH series furnaces.

Today's notice also publishes a "Petition for Waiver" from Bard. Bard's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time

delay specification. Bard seeks to test using a blower delay time of 30 seconds for its TU and TDH series furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. The Department is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than July 25, 1996.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Codes and Standards, Case No. F-086, Mail Stop EE-43, Room 1J-018, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586-7140.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasser, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE-431, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0121, (202) 586-9138

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-72, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0103, (202) 586-9507

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at Title 10 CFR Part 430, Subpart B.

The Department amended the test procedure rules to provide for a waiver process by adding Section 430.27 to Title 10 CFR Part 430. 45 FR 64108, September 26, 1980. Subsequently, DOE amended the waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. Title 10 CFR Part 430, Section 430.27(a)(2).

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic

model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

An Interim Waiver will be granted if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. Title 10 CFR Part 430, § 430.27 (g). An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On April 4, 1996, Bard filed an Application for Interim Waiver and a Petition for Waiver regarding blower time delay. Bard's Application seeks an Interim Waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Bard requests the allowance to test using a 30-second blower time delay when testing its TU and TDH series furnaces. Bard states that the 30-second delay is indicative of how these furnaces actually operate. Such a delay results in an average 0.4 to 0.6 percent increase in AFUE. Since current DOE test procedures do not address this variable blower time delay, Bard asks that the Interim Waiver be granted.

The Department has published a Notice of Proposed Rulemaking on August 23, 1993, (58 FR 44583) to amend the furnace test procedure, which addresses the above issue.

Previous Petitions for Waiver for this type of time blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 56 FR 2920, January 25, 1991, 57 FR 10166, March 24, 1992, 57 FR 34560, August 5, 1992; 59 FR 30577, June 14, 1994, and 59 FR 55470, November 7, 1994; Trane Company, 54 FR 19226, May 4, 1989, 56 FR 6021, February 14,

1991, 57 FR 10167, March 24, 1992, 57 FR 22222, May 27, 1992, 58 FR 68138, December 23, 1993, and 60 FR 62835, December 7, 1995; Lennox Industries, 55 FR 50224, December 5, 1990, 57 FR 49700, November 3, 1992, 58 FR 68136, December 23, 1993, and 58 FR 68137, December 23, 1993; Inter-City Products Corporation, 55 FR 51487, December 14, 1990, and 56 FR 63945, December 6, 1991; DMO Industries, 56 FR 4622, February 5, 1991, and 59 FR 30579, June 14, 1994; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991, 57 FR 38830, August 27, 1992, 58 FR 68131, December 23, 1993, 58 FR 68133, December 23, 1993, 59 FR 14394, March 28, 1994, and 60 FR 62832, December 7, 1995; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, 56 FR 63940, December 6, 1991, 57 FR 23392, June 3, 1992, and 58 FR 68130, December 23, 1993; Snyder General Corporation, 56 FR 54960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991, 57 FR 27970, June 23, 1992, 59 FR 12586, March 17, 1994 and 61 FR 17289, April 19, 1996; The Ducane Company Inc., 56 FR 63943, December 6, 1991, 57 FR 10163, March 24, 1992, and 58 FR 68134, December 23, 1993; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, 57 FR 10160, March 24, 1992, 57 FR 10161, March 24, 1992, 57 FR 39193, August 28, 1992, 57 FR 54230, November 17, 1992, and 59 FR 30575, June 14, 1994; Thermo Products, Inc., 57 FR 903, January 9, 1992, and 61 FR 17887, April 23, 1996; Consolidated Industries Corporation, 57 FR 22220, May 27, 1992, and 61 FR 4262, February 5, 1996; Evcon Industries, Inc., 57 FR 47847, October 20, 1992, and 59 FR 46968, September 13, 1994; Bard Manufacturing Company, 57 FR 53733, November 12, 1992, and 59 FR 30578, June 14, 1994; and York International Corporation, 59 FR 46969, September 13, 1994, 60 FR 100, January 3, 1995, 60 FR 62834, December 7, 1995, and 60 FR 62837, December 7, 1995.

Thus, it appears likely that this Petition for Waiver for blower time delay will be granted. In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Bard an Interim Waiver for its TU and TDU series furnaces. Bard shall be permitted to test its TU and TDH series furnaces on the basis of the test procedures specified in Title 10 CFR

Part 430, Subpart B, Appendix N, with the modification set forth below:

(i) Section 3.0 in Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in Section 9 in ANSI/ASHRAE 103-82 with the exception of Sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-) unless: (1) the furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay (t-) using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within 0.01 inch of water column of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be removed or modified at any time upon a determination that the factual basis underlying the Application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Bard's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time delay specification. Bard seeks to test using a blower delay time of 30 seconds for its TU and TDH series furnaces instead of the specified 1.5-minute delay between burner on-time

and blower on-time. Pursuant to paragraph (b) of Title 10 CFR Part 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The Petition contains no confidential information. The Department solicits comments, data, and information respecting the Petition.

Issued in Washington, D.C. June 13, 1996.

Christine A. Ervin,
Assistant Secretary, Energy Efficiency and Renewable Energy.

April 4, 1996.

Ms. Christine A. Ervin
Assistant Secretary for Conservation and Renewable Energy

U.S. Department of Energy
Forrestal Building
1000 Independence Ave, SW
Washington, DC 20585

Subject: Petition for Waiver and Application for Interim Waiver

Dear Assistant Secretary: Petition for Waiver and Application for Interim Waiver are requested pursuant to Title 10 CFR Part 430.27.

Waiver is requested from test procedures for measuring the energy consumption of furnaces that are found in Appendix N of Subpart B to 10 CFR Part 430. Presently the test procedure requires a 1.5 minute delay between burner ignition and the start of the circulating air blower.

Bard Manufacturing Company is requesting to use a 30 second delay instead of the specified 1.5 minutes. Furnace Series TU and TDH use an electronic fixed time blower control set at 30 seconds. Test results for these furnaces indicate an average .4-.6 percent increase in AFUE.

We are confident that this Waiver will be granted, and request Interim Waiver until a final ruling is made. Bard has been granted previous waivers 57 FR 53733 and 59 FR 30578, and many other manufacturers have been granted similar waivers.

Copies of confidential test data will be provided to you at your request. Please contact the undersigned if you have any questions or require additional information.

Sincerely,

Richard Hanna,
Manager, Heating and Application Engineering.

[FR Doc. 96-16121 Filed 6-24-96; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket No. EG96-76-000]

AYP Energy, Inc.; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

June 19, 1996.

On June 7, 1996, AYP Energy, Inc. ("Applicant") filed with the Federal Energy Regulatory Commission an application for determination of exempt

wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant is a corporation organized under the laws of the state of Delaware. Applicant is a wholly owned subsidiary of AYP Capital, Inc. ("AYP"), which itself is a wholly owned subsidiary of Allegheny Power System, Inc. ("APS"), a registered electric utility holding company. Applicant's business address is c/o Allegheny Power Service Corporation, 800 Cabin Hill Drive, Greensburg, PA 15601 (Attn: Theresa Colecchia).

The eligible facility consists primarily of a 50 percent undivided interest in Unit No. 1 of the Fort Martin Power Station, an operating steam-electric generating unit, and associated portion of Ft. Martin Unit 1's main transformers. Ft. Martin Unit 1 is located in West Virginia on the Monongahela River between Morgantown, West Virginia and Point Marion, Pennsylvania. The portion of Ft. Martin Unit 1 that is the eligible facility is currently owned by Duquesne Light Company ("Duquesne"), a Pennsylvania public utility not affiliated with APS; however, Duquesne has entered into an Asset Purchase Agreement (dated November 28, 1995) with AYP, pursuant to which Duquesne will sell on or before December 31, 1996 its undivided ownership interest in Ft. Martin Unit 1 (including its interest in the transformers) to AYP, which will assign the Asset Purchase Agreement to AYP Energy, Inc. The remainder of the facility of which the eligible facility is a portion is owned by Monongahela Power Company ("MPC") and The Potomac Edison Company ("PEC"), two of the three wholly owned electric operating subsidiaries of APS.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions or comments should be filed on or before June 28, 1996, and must be served on the applicant. 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. 96-16073 Filed 6-24-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP96-570-000]

Questar Pipeline Company; Notice of Request under Blanket Authorization

June 19, 1996.

Take notice that on June 13, 1996, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111 filed in the above docket, a request pursuant to Sections 157.205 of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate a new delivery point located adjacent to Questar's jurisdictional Lateral (J.L.) No. 4 in Uinta County, Wyoming. Questar states that its request was made under its blanket certificate authorization issued in Docket No. CP82-491-000 pursuant to Section 7(c) of the NGA, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, Questar states that the facilities proposed to be constructed will be utilized to initiate interruptible natural gas transportation service to Universal Resources Corporation (URC), and affiliate of Questar. The additional delivery point, it is stated, is required to effectuate the transportation of natural gas to URC under Questar's interruptible transportation Rate Schedule T-2 which is included in First Revised Volume No. 1 of Questar's currently effective FERC Gas Tariff.

Questar proposes to construct and operate a new delivery point to be designated the Clear Creek District Regulator Station (DRS). Questar states that the Clear Creek DRS will comprise approximately two feet of four-inch piping, two four-inch valves, one four-inch meter run and appurtenant facilities. It is explained that the total investment associated with the facilities propose to be constructed is \$33000 and that all construction activities will take place above ground and within Questar's existing authorized 100 by 150-foot graveled and graded Clear Creek receipt-point site.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the

Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request.

If no protest is filed within the time allowed therefor, the proposed activity is deemed to be authorized effective on the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96-16072 Filed 6-24-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP96-277-000]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 19, 1996.

Take notice that on June 14, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective July 15, 1996:

First Revised Sheet No. 164
Second Revised Sheet No. 169
Third Revised Sheet No. 275
First Revised Sheet No. 276-279

Southern proposes to make the following revisions to the capacity release procedures of its tariff to respond to shippers' requests: (1) To allow releasing shippers to release segments of their capacity to themselves instead of only to third parties; (2) to allow releasing shippers to post for competitive bid those offers currently not required by the Commission's regulations to be posted (i.e., prearranged deals for a month or less); (3) to provide for one business day to process prearranged, permanent releases of capacity; and (4) to change its posting deadlines from business days to calendar days for those offers that do not require manual intervention by Southern, at the releasing shipper's option. Southern proposes to make these changes effective on July 15, 1996.

Southern states that copies of the filing have been served on all shippers and interested state commissions.

Any person desiring to be heard or to make protest to this 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 Procedures (18 CFR Section 385.211 and 385.214). All such

motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96-16076 Filed 6-24-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP96-278-000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

June 19, 1996.

Take notice that on June 14, 1996, Tennessee Gas Pipeline Company (Tennessee), tendered for filing the Firm Natural Gas Transportation Agreement (Revised) between Tennessee and Commonwealth Gas Company (ComGas), dated November 1, 1995, for service under Tennessee's Rate Schedule NET, and the following revisions to its FERC Gas Tariff, Fifth Revised Volume No. 1:

Substitute Third Revised Sheet No. 181

Tennessee states that the filing is intended to conform the Fuel and Use Quantity for ComGas to the fuel retention methodology under Rate Schedule NET, and that the filing does not affect service to any shipper other than ComGas. Tennessee requests that its submission be accepted for filing effective November 1, 1995, and in that connection, seeks waiver of the 30-day notice requirement pursuant to 18 CFR 154.207.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such petitions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on

file and available for public inspection at the Commission's Public Reference office.

Lois D. Cashell,
Secretary.

[FR Doc. 96-16077 Filed 6-24-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT96-67-000]

Williston Basin Interstate Pipeline Company; Notice of Compliance Filing

June 19, 1996.

Take notice that on June 14, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 the following revised tariff sheets to become effective July 13, 1996.

First Revised Sheet No. 3
Sheet Nos. 684-723
First Revised Sheet No. 724

Williston Basin states that the revised tariff sheets reflect the Commission's Regulations which state that any service contract that deviates in any material respect from the form of service agreement must be filed with the Commission and such non-conforming service agreement must be referenced in the pipeline's tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commissions in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 96-16074 Filed 6-24-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER96-2076-000, et al.]

Louisville Gas and Electric Company, et al.; Electric Rate and Corporate Regulation Filings

June 18, 1996

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

1. Louisville Gas and Electric Company

[Docket No. ER96-2076-000]

Take notice that on June 7, 1996, Louisville Gas and Electric Company, tendered for filing a copy of a Non-Firm Transmission Service Agreement between Louisville Gas and Electric Company and Utilicorp United Inc. under Rate TS.

Comment date: July 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Louisville Gas and Electric Company

[Docket No. ER96-2077-000]

Take notice that on June 7, 1996, Louisville Gas and Electric Company, tendered for filing a copy of a Non-Firm Transmission Service Agreement between Louisville Gas and Electric Company and KN Marketing, Inc. under Rate TS.

Comment date: July 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Louisville Gas and Electric Company

[Docket No. ER96-2078-000]

Take notice that on June 7, 1996, Louisville Gas and Electric Company, tendered for filing a copy of a Non-Firm Transmission Service Agreement between Louisville Gas and Electric Company and Coastal Electric Services Company under Rate TS.

Comment date: July 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Louisville Gas and Electric Company

[Docket No. ER96-2079-000]

Take notice that on June 7, 1996, Louisville Gas and Electric Company, tendered for filing a copy of a Non-Firm Transmission Service Agreement between Louisville Gas and Electric Company and LG&E Power Marketing, Inc., under Rate TS.

Comment date: July 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company

[Docket No. ER96-2080-000]

Take notice that on June 7, 1996, Louisville Gas and Electric Company, tendered for filing a copy of a Non-Firm Transmission Service Agreement between Louisville Gas and Electric

Company and NorAm Energy Services, Inc. under Rate TS.

Comment date: July 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Louisville Gas and Electric Company

[Docket No. ER96-2081-000]

Take notice that on June 7, 1996, Louisville Gas & Electric Company, tendered for filing a copy of a Non-Firm Transmission Service Agreement between Louisville Gas and Electric Company and Sonat Power Marketing under Rate TS.

Comment date: July 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas & Electric Company

[Docket No. ER96-2082-000]

Take notice that on June 7, 1996, Louisville Gas and Electric Company, tendered for filing a copy of a Non-Firm Transmission Service Agreement between Louisville Gas and Electric Company and TransCanada Power Corp. under Rate TS.

Comment date: July 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Conti Metals, Inc.

[Docket No. ER96-2083-000]

Take notice that on June 7, 1996, Conti Metals, Inc. (CMI), tendered for filing Electric Service Rate Schedule No. 1, together with a petition for waivers and blanket approvals of various Commission regulations necessary for such Rate Schedule to become effective 60 days after the date of the filing.

CMI states that it intends to engage in electric power and energy transactions as a marketer and a blanket, and that it proposes to make sales under rates, terms and conditions to be mutually agreed to with the purchasing party. CMI further states that it does not own any generation or transmission facilities.

Comment date: July 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Northern Indiana Public Service Company

[Docket No. ER96-2084-000]

Take notice that on June 7, 1996, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement between Northern Indiana Public Service Company and TransCanada Power Corporation.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to

TransCanada Power Corporation pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. ER96-1426-000 and allowed to become effective by the Commission. *Northern Indiana Public Service Company*, 75 FERC ¶ 61,213 (1996). Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of July 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumers Counselor.

Comment date: July 2, 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. 96-16071 Filed 6-24-96; 8:45 am]
BILLING CODE 6717-01-P

[Project Nos. 2058 and 2075]

Washington Water Power; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Public Scoping Meetings and a Site Visit

June 19, 1996.

The Federal Energy Regulatory Commission (FERC) is reviewing a proposal to relicense and continue operating the Cabinet Gorge (FERC Project No. 2058) and Noxon Rapids (FERC Project No. 2075) in Bonner County, Idaho and Sanders County, Montana. The projects are partially located on federal lands managed by the Idaho Panhandle, Kootenai, and Lolo National Forest.

Relicensing these projects could constitute a major federal action significantly affecting the quality of the human environment. Therefore, the

FERC intends to prepare an Environmental Impact Statement (EIS) on the projects in accordance with the National Environmental Policy Act of 1969, and the Commission's regulations. The EIS will objectively consider both site-specific and cumulative environmental impacts of the projects and reasonable alternatives, and will include an economic and engineering analysis.

A Draft EIS will be circulated for review and comment by all interested parties, and FERC staff will hold a public meeting on the Draft EIS. FERC staff will consider and respond to comments received on the Draft EIS in the final EIS. The FERC staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decision.

Scoping: Interested citizens, non-governmental organizations, local governments, state and federal agencies, Indian tribes, and any other interested parties are invited to comment on the scope of the environmental issues that should be analyzed in the EIS. Scoping will help ensure that all significant issues related to this proposal are addressed in the EIS.

FERC staff will conduct three scoping meetings as follows: (1) a scoping meeting oriented towards the public will begin at 7:00 p.m. on July 15 at the Sandpoint High School, 410 South Division Street, Sandpoint, Idaho; (2) a scoping meeting oriented towards the agencies will begin at 1:00 p.m. on July 16 at the Noxon Public School, 25 Railroad Road, Noxon, Montana; and (3) a scoping meeting oriented towards the public will begin at 7:00 p.m. on July 16 at the Noxon Public School. The public and agencies may attend any meeting.

Objectives: At the scoping meetings, FERC staff will (1) identify preliminary environmental issues related to the proposed projects; (2) attempt to identify preliminary resource issues that are not important and do not require detailed analysis; (3) identify reasonable alternatives to be addressed in the EIS; (4) solicit from the meeting participants all available information, especially quantified data, on the resource issues; and (5) encourage statements from experts and the public on issues that should be analyzed in the EIS, including points of view in opposition to, or in support of, the staff's preliminary views.

Procedures: The meetings will be recorded by a court reporter and all statements (oral and written) will become a part of the official record of the Commission proceedings for the relicensing of the Cabinet Gorge and Noxon Rapids Projects. Individuals

presenting statements at the meetings will be asked to clearly identify themselves for the record.

To help focus discussions at the scoping meeting, the FERC will mail a scoping document, outlining subject areas to be addressed in the EIS, to all entities on the projects' mailing lists. Copies of the scoping document will also be available at the scoping meetings.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record at the meetings. In addition, written scoping comments may be filed with the Office of the Secretary, Dockets Room 1A, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C., 20426, until August 19, 1996. All written correspondence should clearly show the following caption on the first page: Cabinet Gorge (No. 2058) and Noxon Rapids (No. 2075) Hydroelectric Projects.

Site Visit: There will also be a tour of the projects on July 18, 1996. Those who wish to attend should contact Ms. Kathy Krueger of Washington Water Power at (406) 847-2729 by July 9th to sign up. Attendees will meet at the Noxon Public School parking lot at 8:00 a.m.

For Further Information Contact: Joe Davis, FERC, Office of Hydropower Licensing (202) 219-2865.

Lois D. Cashell,

Secretary.

[FR Doc. 96-16075 Filed 6-24-96; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5526-8]

Amendment to Common Sense Initiative Council Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Amendment to Open Meeting of the Public Advisory Common Sense Initiative Council.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is given that the times for the Common Sense Initiative Council meeting scheduled for June 27, and June 28, 1996, in Alexandria, Virginia, have been amended.

AMENDMENT OF OPEN MEETING NOTIFICATION: Notice is hereby given that the Environmental Protection Agency, has amended an open meeting of the Common Sense Initiative Council

(reference FRN dated June 11, 1996, 61FR29559) scheduled for Thursday, June 27 and Friday, June 28, 1996, at the Holiday Inn Hotel and Suites, 625 First Street, Alexandria, Virginia. The meeting will convene at 10:00 a.m., EDT, rather than 1:00 p.m., EDT, on June 27, 1996. On June 28, 1996, the meeting will begin at 8:30 a.m. EDT, as previously scheduled, but will end at 12 noon EDT, rather than 1:00 p.m. EDT.

FOR FURTHER INFORMATION: For more information regarding the amendment of this meeting, please call Prudence Goforth, Designated Federal Officer (DFO), at 202-260-7417.

Dated: June 13, 1996.

Robert English,

Acting Designated Federal Officer.

[FR Doc. 96-16258 Filed 6-24-96; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5526-5]

Science Advisory Board; Notification of Public Advisory Committee Meeting; Open Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that several committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Daylight Time. All meetings are open to the public. Due to limited space, seating at meetings will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office.

1. Integrated Risk Project Steering Committee

The Integrated Risk Project (IRP) Steering Committee, an *ad hoc* committee established by the Executive Committee of the Science Advisory Board, will meet on July 16-17, 1996, at the Morrison House, 116 South Alfred Street, Alexandria, VA 22314, telephone (703) 838-8000. The meeting will begin at 8:30 a.m. on July 16, and at 8:00 a.m. on July 17, and end no later than 5:30 p.m. on both days. Seating will be limited and available on a first-come, first-served basis. The purpose of the meeting is to receive reports from the Subcommittees of the IRP and to begin discussion of an integrated model for decision-making that incorporates information on risks to ecosystems and humans, risk reduction options, and their economic implications.

Background on the Integrated Risk Project

In a letter dated October 25, 1995, to Dr. Matanoski, Chair of the SAB Executive Committee, Deputy Administrator Fred Hansen charged the SAB to: (a) develop an updated ranking of the relative risk of different environmental problems based upon explicit scientific criteria; (b) provide an assessment of techniques and criteria that could be used to discriminate among emerging environmental risks and identify those that merit serious, near-term Agency attention; (c) assess the potential for risk reduction and propose alternative technical risk reduction strategies for the environmental problems identified; and (d) identify the uncertainties and data quality issues associated with the relative rankings. The project will be conducted by several SAB panels, working at the direction of an *ad hoc* Steering Committee established by the Executive Committee.

Single copies of Reducing Risk, the report of the previous relative risk ranking effort of the SAB, can be obtained by contacting the SAB's Committee Evaluation and Support Staff (1400), 401 M Street, SW, Washington, DC 20460, telephone (202) 260-8414, or fax (202) 260-1889. Members of the public desiring additional information about the meeting, including an agenda, should contact Ms. Constance Valentine, Staff Secretary, Committee Operations Staff, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington DC 20460, by telephone at (202) 260-6552, fax at (202) 260-7118, or via the Internet at: Valentine.Connie@epamail.epa.gov.

Anyone wishing to make a brief oral presentation at the IRP meeting must contact Ms. Stephanie Sanzone, Designated Federal Official for the IRP, *in writing* no later than 4:00 pm, July 8, 1996, at the above address, via fax (202) 260-7118 or via the Internet at Sanzone.Stephanie@epamail.epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Ms. Sanzone no later than the time of the presentation for distribution to the Committee and the interested public. Ms. Sanzone may be contacted by phone at (202) 260-6557. See below for additional information on providing comments to the SAB.

2. Ecological Processes and Effects Committee

The Ecological Processes and Effects Committee (EPEC) of the Science Advisory Board (SAB) will meet on July 18-19, 1996, at the Environmental Protection Agency's Washington Information Center (WIC), Conference Room 17, 401 M Street, SW, Washington, DC 20460. The meeting will begin at 8:30 a.m. on July 18 and at 8:00 a.m. on July 19, and end no later than 5:00 p.m. on each day.

The main purpose of the meeting is to: a) review the planning and problem formulation for several watershed-level ecological risk assessment case studies; b) discuss a process for identifying and ranking ecological risks as part of the SAB's Integrated Risk Project; and c) discuss EPEC Subcommittee reports, possibly including reports from the Marsh Management Subcommittee and the Lakes Biocriteria Subcommittee.

Background on the Watershed-Level Ecological Risk Assessment Case Studies

The Office of Water and the Office of Research and Development have asked the Committee to conduct a two-stage review of the five case studies being prepared to illustrate ecological risk assessment for watersheds experiencing multiple stressors. In 1993, watershed teams began the development of risk assessments for five watersheds: Big Darby Creek, OH; Clinch River, VA; Middle Platt River Wetlands, NE; Snake River, ID; and Waquoit Bay Estuary, MA. The initial review (termed an SAB Advisory) will focus on the approach to planning and problem formulation, illustrated primarily by the draft case study for Waquoit Bay, with additional examples being drawn from the other case studies where appropriate. The Charge to the Committee is to evaluate the process for: framing the risk assessment to respond to management goals; selecting relevant assessment endpoints and measures; developing conceptual models that represent the interactions among multiple stressors, exposure pathways, ecological effects, and ecosystem processes; and developing an analysis plan.

Single copies of the materials supplied to the Committee, including the draft case studies, can be obtained by contacting Ms. Crystal Robinson, EPA Risk Assessment Forum (W635), 401 M Street, SW, Washington, DC 20460, telephone (202) 260-6743.

Background on the Integrated Risk Project

For background on this project, please see information listed above in the meeting announcement for the IRP.

Anyone wishing to make a brief oral presentation at the EPEC meeting must contact Ms. Stephanie Sanzone, Designated Federal Official for the EPEC, *in writing* no later than 4:00 pm, July 8, 1996, at the above address, via fax (202) 260-7118 or via the Internet at Sanzone.Stephanie@epamail.epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Ms. Sanzone no later than the time of the presentation for distribution to the Committee and the interested public. Ms. Sanzone may be contacted by phone at (202) 260-6557. See below for additional information on providing comments to the SAB.

3. Environmental Health Committee

The Environmental Health Committee (EHC) of the Science Advisory Board (SAB) will meet on July 18-19, 1996 at the Holiday Inn Georgetown, 2101 Wisconsin Avenue NW, Washington D.C. 20007, telephone (202) 338-4600. The meeting will start at 9:00 a.m. and end no later than 5:00 p.m. (Eastern Daylight Time) each day. Due to limited space, seating at the meeting will be on a first-come basis. The main purpose of the meeting is to discuss and review two documents: the EPA's Proposed Guidelines for Neurotoxicity Risk Assessment and the revised Thyroid Cancer Risk Assessment Policy Document.

Background on the Reviews

The Committee's review of the Neurotoxicity Risk Assessment Guidelines will include the following issues: (a) combining hazard identification and dose-response evaluation to reflect more accurately the process used for noncancer health; (b) compensation and recovery of function in neurotoxicological studies and how to account for compensation in neurotoxicology risk assessment; (c) the use of blood and/or brain acetylcholinesterase activity as an indication of neurotoxicity for risk assessment; (d) endpoints indicative of neurotoxicity that may not be covered by these proposed Guidelines, e.g., endocrine disruption or neuroendocrine-mediated neurotoxicity; (e) the completeness of the description of the endpoints used in human and animal neurotoxicological assessments;

(f) the possibility of no threshold for some neurotoxic agents; (g) the treatment of susceptible populations and individuals by the proposed Guidelines; and (h) the use of the Benchmark Dose in Neurotoxicity Risk Assessment.

The review of the Thyroid Cancer Risk Assessment Policy Document will include the following issues: (a) the relevant science and its support of the proposed science policy position; (b) the summary of the state of knowledge regarding potential susceptibility for thyroid cancer development and the proposed science policy position; (c) the reasonableness of the science policy position that disruption in thyroid-pituitary status may be associated with increases in thyroid cancer risk; (d) the seven factors for assessing whether or not a chemical has antithyroid activity and the minimal criteria for making such a determination; (e) the proposed default assumption that the significance of human exposure to antithyroid carcinogens should be evaluated by margin-of-exposure considerations unless biologically based models and data are available; and (f) the nature, adequacy and completeness of the provided case studies and of the guidance for using the information.

For Further Information—Single copies of the review materials for the Proposed Guidelines for Neurotoxicity Risk Assessment (which was published in full in the Federal Register, Vol 60, No. 192, pages 52032-52056, October 4, 1995) can be obtained from Dr. William Wood (8103), US EPA, 401 M Street, SW, Washington, DC 20460, telephone (202) 260-1095, fax (202) 260-3955, or by sending a request via Internet to wood.bill@epamail.epa.gov. PLEASE NOTE THAT THIS DOCUMENTATION IS NOT AVAILABLE FROM THE SAB. Members of the public desiring additional technical information about the Guidelines should contact Dr. Hugh Tilson, Neurotoxicology Division (MD-74B), National Health and Environmental Effects Research Laboratory, Research Triangle Park, NC 27711, telephone (919) 541-2671 or fax (919) 541-4849, or by sending a request via Internet to tilson@herl45.herl.epa.gov.

Single copies of the review materials for the Thyroid Cancer Risk Assessment Policy Document, as well as additional technical information, can be obtained from Dr. Richard Hill, Office of Prevention (7101), US EPA, 401 M Street, SW, Washington, DC 20460, telephone (202) 260-2894, fax (202) 260-1847, or by sending a request via Internet to hill.richard@epamail.epa.gov. PLEASE

NOTE THAT THIS DOCUMENTATION IS NOT AVAILABLE FROM THE SAB.

Members of the public desiring additional information about the meeting, including a draft agenda, should contact Ms. Mary Winston, Staff Secretary, Committee Operations Staff, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington DC 20460, telephone (202) 260-6552, fax (202) 260-7118, or Internet at: winston.mary@epamail.epa.gov. Anyone wishing to make an oral presentation at the EHC meeting must contact Mr. Samuel Rondberg, Designated Federal Official for the EHC, *in writing* at the above address no later than 4:00 p.m., July 11, 1996 via fax (202) 260-7118 or via Internet at: rondberg.sam@epamail.epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Mr. Rondberg no later than the time of the presentation for distribution to the Committee and the interested public. Mr. Rondberg may be contacted by telephone at (202) 260-2559.

4. Drinking Water Committee

The Drinking Water Committee (DWC) will meet on July 16-18, 1996, at the Holiday Inn Georgetown, 2101 Wisconsin Avenue NW, Washington, D.C. 20007, telephone (202) 338-4600. The meeting will begin at 9:00 a.m. on July 16 and at 8:30 a.m. on July 17 and 18, and end no later than 5:00 p.m. each day.

The main purpose of the meeting is to: (a) evaluate the statistical approach to enumerate pathogens in drinking water supplies; (b) discuss the proposals submitted for DWC review in Fiscal Year 1997; (c) identify testing procedures, and advice needed from the DWC regarding endocrine disruptors; (d) consider the impacts revisions to the Cancer Guidelines may have on the assessment of waterborne cancer hazards; and, e) finish drafting the DWC's report on the Agency's Five Year Research Plan for Microbes and Disinfectant By-Products.

Background on the Statistical Evaluation of Pathogenic Parasites

The Agency has conducted an Information Collection Rule (ICR) which among other things provided data about the occurrence of the pathogenic parasites *Cryptosporidium* and *Giardia* in several hundred water supplies. Information about pathogen occurrence and the treatment options is needed for a Regulatory Impact Analysis of the

Enhanced Surface Water Treatment Rule (ESWTR). While the Office of Water (OW) does not believe that current statistical methods are appropriate for evaluating occurrence and treatment efficacy at individual sites, it does think it has developed an appropriate approach for conducting a National Impact Analysis. The charge to the Committee is to evaluate: (a) the factual and conceptual soundness of the approach and methods used, and the soundness of the results and conclusions of the report; (b) the suitability of the assumptions and conditions tested in the report; (c) the suitability of the report as a basis for making a decision on the use of protozoan monitoring data for a national impact assessment; and, (d) whether the degree of accuracy and precision of the protozoan method is acceptable for an impact analysis.

For Further Information—Single copies of the Statistical Methods can be obtained by contacting Mr. John Fox, Office of Water (4304), US EPA, 401 M Street, SW, Washington, DC 20460, telephone (202) 260-9889 or fax (202) 260-7185, or by sending a request via Internet to Fox.John@epamail.epa.gov.

Members of the public desiring additional information about the meeting, including a draft agenda, should contact Ms. Mary Winston, Staff Secretary, Committee Operations Staff, Science Advisory Board (1400), U.S. EPA, 401 M Street SW., Washington DC 20460, telephone (202) 260-6552, fax (202) 260-7118, or by Internet at: winston.mary@epamail.epa.gov. Anyone wishing to make an oral presentation at the meeting must contact Dr. Jack Kooyoomjian, Designated Federal Official for the Drinking Water Committee, in *writing* no later than 4:00 p.m., July 9, 1996 (at the above address), via fax (202) 260-7118 or by Internet at: kooyoomjian.jack@epamail.epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Dr. Kooyoomjian no later than the time of the presentation for distribution to the Committee and the interested public. To discuss technical aspects of the meeting, please contact Dr. Kooyoomjian on telephone (202) 260-2560.

5. Radiation Advisory Committee (RAC)

The Radiation Advisory Committee (RAC) of the Science Advisory Board (SAB), will meet on Wednesday, July 31 and Thursday, August 1, 1996 at the Environmental Protection Agency, Washington Information Center, Room

17, 401 M Street, S.W., Washington, DC 20460. On July 31, the meeting will begin at 9:00 am and adjourn no later than 5:30 pm. On August 1, the meeting will begin at 8:30 am and will adjourn no later than 4:00 pm. At this meeting, the RAC will conduct planning for Fiscal Year 1997, planning for an upcoming review on the Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM), and receive briefings from the staff of the Office of Radiation and Indoor Air (ORIA) on the following topics: uncertainty in radiation risk estimates, models, and environmental goals for ORIA, and a consultation on environmental indicators.

Background

The draft documents that are the subject of this review are available from the originating EPA office and are *not* available from the SAB Office. At the present time, no draft documents have been provided to the RAC, but it is anticipated that draft chapters one and two of the MARSSIM will be available for informational reading. These draft documents will be available from the ORIA staff. To obtain copies, please contact the Office of Radiation and Indoor Air (ORIA/RPD/MARSSIM) (6603J), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460, fax (202) 233-9650.

Anyone wishing to make a brief oral presentation at the RAC meeting must contact Dr. Kooyoomjian *in writing* no later than 4:00 pm, July 24, 1996 at the address below, via fax (202) 260-7118, or via the Internet at Koojoomjian.Jack@epamail.epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Dr. Kooyoomjian no later than the time of the presentation for distribution to the Committee and the interested public. Dr. Kooyoomjian may be contacted by phone at (202) 260-2560. In order to obtain a copy of the draft agenda, please contact Ms. Diana L. Pozun, Staff Secretary, Committee Operations Staff, Science Advisory Board (1400), 401 M Street, SW, Washington, DC 20460, tel. (202) 260-6552, fax (202) 260-7118, or via the INTERNET at: Pozun.Diana@epamail.epa.gov. See below for additional information on providing comments to the SAB.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: June 19, 1996.

John R. Fowle, III,
Acting Staff Director, Science Advisory Board.
[FR Doc. 96-16127 Filed 6-24-96; 8:45 am]
BILLING CODE 6560-50-P

[SW-FRL-5524-7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Public Notice

AGENCY: Environmental Protection Agency.

ACTION: Notice of Extension of Delisting Delegation to Regions.

SUMMARY: On October 10, 1995, the EPA Administrator extended the delegation of the hazardous waste delisting authority to EPA's ten Regional Offices. As result of this action, delisting petitions which require a Federal decision will now be reviewed by the appropriate EPA Regional Office instead of EPA Headquarters. This notice provides a list of Regional delisting contacts. They should be contacted for information about the delisting process and for guidance on submitting delisting petitions to EPA Regional Offices.

DATES: The EPA Regions have the authority for providing decisions on delisting petitions as of October 10, 1995.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346 or at (703) 412-9810, or Shen-yi Yang, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (703) 308-0437.

SUPPLEMENTARY INFORMATION: Under §§ 260.20 and 260.22 of the Code of Federal Regulations, facilities may petition the Agency to remove their wastes from the hazardous waste management system by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine that factors other than those for which the waste was listed (including additional constituents) would not warrant retaining the waste as a hazardous waste. The overall intent of the delisting process is to ease the regulatory burden on handlers of listed wastes that may have been improperly captured by the broad listing definitions. In addition, the delisting process can be used to exclude listed wastes that are sufficiently treated so that they no longer pose an adverse threat to human health or the environment.

On October 10, 1995, the Administrator formally extended the delegation of the Federal hazardous waste delisting authority to the Regional Administrators [Delegation of Authority 8-19]. The Agency believes that decentralizing the delisting authority to the Regional Administrators would result in more timely responses to delisting petitions.

Under RCRA, States authorized¹ to administer a delisting program in lieu of the federal program also may exclude wastes from hazardous waste regulations. Facilities that manage their wastes in States with delisting authorization should petition that State for an exclusion rather than EPA. Even in unauthorized States, EPA encourages petitioners to contact State authorities to determine what procedures might be necessary for delisting under State laws.

Regional delisting decisions will carry the same authority as a Headquarters delisting decision. A Regional delisting decision will be applicable in all States not currently authorized for delisting, regardless of the EPA Region in which they are located. EPA recommends that petitioners contact relevant state and

EPA Regional Offices to determine where the petition should be submitted. The list of Regional delisting contacts is provided below:

Regional Delisting Contacts

EPA Region I, Sharon Leitch, John F. Kennedy Bldg., Mail Code CHW, Hazardous Waste Unit, Boston, MA 02203, (617) 565-4879

EPA Region II, Ernst Jabouin, 290 Broadway, Hazardous Waste, Facilities Branch (22nd Floor), New York, NY 10007, (212) 637-4104

EPA Region III, David Friedman, 841 Chestnut Building, Hazardous Waste, Management Division, Mail Code 3HW70, Philadelphia, PA 19107, (215) 566-3395

EPA Region IV, Alan Farmer, 345 Courtland Street, NE, RCRA Branch, Mail Code 4WD-RCRA, Atlanta, GA 30365, (404) 347-3433

EPA Region V, Judy Kleiman, 77 W Jackson Blvd., Waste, Pesticides, and Toxics Division, Mail Code HRP-8J, Chicago, IL 60604, (312) 886-1482

EPA Region VI, Bill Gallagher, 1445 Ross Avenue, Oklahoma/Texas Section, Mail STOP 6PD-0, Dallas, TX 75202, (214) 665-6775

EPA Region VII, Ken Herstowski, 726 Minnesota Avenue, Air, RCRA, and Toxic Division, RCRA Permits and Compliance Branch, Kansas City, KS 66101, (913) 551-7631

EPA Region VIII, Mike Gansecki, 999 18th Street, Hazardous Waste Program, Suite #500, Mail Code 8P2-HW, Denver, CO 80202, (303) 312-6150

EPA Region IX, Paula Bisson, 75 Hawthorne Street, RCRA Permit Section, Mail Code H-3-2, San Francisco, CA 94105, (415) 744-2052

EPA Region X, Jamie Sikorski, Linda Liu, 1200 Sixth Avenue, Office of Waste and Chemical Management, Mail Code WCM-126, Seattle, WA 98101, (206) 553-5153 (Sikorski), (206) 553-1447 (Liu)

Dated: June 10, 1996.

Michael Shapiro,

Director, Office of Solid Waste.

[FR Doc. 96-15887 Filed 6-24-96; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5526-6]

Proposed Process for Reevaluating Cancer Assessments

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On April 23, 1996, EPA issued a proposal to revise its 1986

Guidelines for Cancer Risk Assessment (61 FR 17960). Today, EPA is proposing a process for using the new guidelines to reevaluate cancer hazard and dose-response assessments developed using the 1986 guidelines.

EPA is inviting public comment on its proposal to identify, prioritize and select agents for reevaluation. This proposal outlines opportunities for public involvement in the reevaluation process, and requests comment on the proposed process. The new process would take effect when the Proposed Guidelines are issued as final.

In addition, this notice also discusses the use of the Proposed Guidelines in ongoing or new cancer assessments.

DATES: Comments on this proposal must be submitted on or before September 23, 1996.

ADDRESSES: This notice contains the full proposed process for reevaluating cancer assessments.

Submitting Comments: Comments on the proposed process should be submitted to: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), Attn: File CAN-96-01, Waterside Mall, 401 M St. SW, Washington, DC 20460. Please submit one unbound original with pages numbered consecutively, and three copies. For attachments, provide an index, number pages consecutively, provide comment on how the attachments relate to the main comment(s), and submit an unbound original and three copies. Please identify all comments and attachments with the file number CAN-96-01. Mailed comments must be postmarked by the date indicated. Comments may be also submitted electronically by sending electronic mail (e-mail) to: A-and-R-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments in electronic form must also be identified by the file number CAN-96-01. No Confidential Business Information (CBI) should be submitted through e-mail.

The docket and information center is open for public inspection and copying between 8:00 a.m. and 5:30 p.m., weekdays, at the Air and Radiation Docket and Information Center (6102), Room M-1500, 401 M St. SW, Washington, DC 20460. The docket and information center is located on the ground floor of Waterside Mall. The file index, materials and comments are available for review in the information

¹ The following 18 States are authorized to implement the RCRA delisting program, including Alabama, Colorado, Georgia, Idaho, Illinois, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Nebraska, North Carolina, New Jersey, North Dakota, Oregon, South Dakota, Utah, and Wyoming. Note that Michigan has only obtained a "partial" delisting authorization for wastes involving closure or partial closure activities. Kentucky would soon receive delisting authorization (61 FR 18504).

center or copies may be mailed on request from the Air and Radiation Docket and Information Center by calling (202) 260-7548 or -7549. The FAX number for the Center is (202) 260-4400. A reasonable fee may be charged for copying information materials.

Please note that all technical comments received in response to this notice will be placed in the public record. For that reason, commentors should not submit personal information such as medical data or home addresses, confidential business information or information protected by copyright. Due to limited resources, acknowledgments will not be sent.

Requesting Copies of Proposed Guidelines

To obtain a copy of the Proposed Guidelines for Carcinogen Risk Assessment (61 FR 17960), interested parties should consult the April 23 Federal Register notice or contact ORD Publications, Technology Transfer and Support Division, National Risk Management Research Laboratory, U.S. Environmental Protection Agency, 26 W. Martin Luther King Drive, Cincinnati, OH 45268; telephone: 513-569-7566. Please provide your name, mailing address, document title (Proposed Guidelines for Carcinogen Risk Assessment), and EPA number (EPA/600/P-92/003C).

FOR FURTHER INFORMATION ON TODAY'S NOTICE CONTACT: Jennifer Orme-Zavaleta, Office of Water, Telephone Number (202) 260-7571.

Proposed Implementation Strategy for Reevaluating Existing Assessments Using the Final Revised Guidelines

Background

EPA has applied the 1986 Guidelines for Carcinogen Risk Assessment to hundreds of environmental agents. The results of many of these cancer hazard and dose-response assessments (hereafter referred to as assessments) can be found on EPA's Agency-wide Integrated Risk Information System (IRIS) database. Other assessments are maintained separately within individual EPA programs (e.g., certain pesticides). Information on IRIS and the other assessments are used as guidance to support Agency decisions.

Once the Proposed Guidelines are finalized, EPA will continue to rely on existing assessments as they are still viewed as scientifically acceptable based on the 1986 Guidelines. However, EPA recognizes that under some circumstances, it will be appropriate to reassess an existing assessment taking into account new risk assessment

methods, principles and data. As EPA's current compendium of cancer assessments is the product of many years of analysis, it is reasonable to assume that revisiting all existing assessments could require comparable amounts of time and resources. Therefore, it would not be practicable to reassess all these existing assessments and balance our commitment to assess new agents as well. Given these circumstances, EPA is proposing a process for applying the revised Cancer Guidelines that moves the Agency forward with new assessments, while also addressing reassessments of some environmental agents.

Proposed Reassessment Process

EPA proposes the following process to involve the public in the identification, prioritization and selection of candidate environmental agents for reevaluation. The intent is to ensure that agents that warrant reevaluation are given the highest priority.

EPA envisions the following process:

- (1) EPA publishes an annual notice in the Federal Register requesting candidates for reevaluation,
- (2) Candidates are submitted,
- (3) Candidates are reviewed and prioritized within the Agency,
- (4) Candidates selected are published in a Federal Register notice. Submitters are notified on the status of their submission.

(5) Reassessment is initiated in the next fiscal year. The reassessment is reviewed in accordance with EPA's Peer Review Policy and placed on IRIS.

In selecting candidates for reevaluation, EPA will consider the following:

- (1) whether application of the new guidelines will appreciably change the existing cancer assessment,
- (2) completeness and validity of the scientific information,
- (3) EPA priorities,
- (4) Resources.

Discussion

On an annual basis, EPA will publish in the Federal Register a list of agents for which EPA plans to initiate cancer hazard and dose response assessments in the following year. A rationale will be given. This list may include reassessments as well as new assessments to meet Agency needs, focusing on evidence that application of the new guidelines is expected to change the assessment.

Call for Candidates and Screening Criterion

In addition, the above notice will ask the public for candidates for

reassessment. For all nominations, EPA will ask the public to provide evidence that application of the revised guidelines is likely to appreciably change the existing cancer assessment. This requirement represents the criterion that the Agency will use to screen candidates for reassessment. Along with this nomination, EPA will encourage the public to propose a revised cancer assessment which applies the revised guidelines; this could greatly facilitate the review for selection. If an interested party is not able to provide a revised assessment, then the nomination should be accompanied by a justification explaining the importance of reassessing that agent. Candidates for reassessment will be accepted during a 90-day period.

Prioritization and Peer Review

An Agency screening team will review all nominations. The team will first determine if the above criterion is met. Then, the screening team will prioritize the submissions based on completeness and quality of the supporting information and consistency with Agency priorities. It is the intent of the Agency to involve peer review of the scientific validity and relative ranking of the candidates proposed for reassessment. The peer review can assist EPA in the final prioritization of requests for reevaluation. A number of peer review mechanisms can be used, including the Science Advisory Board, an annually constituted expert panel specifically charged with reviewing the ranking of chemicals, targeted mail reviews to expert independent reviewers, or other peer review mechanisms.

(a) Completeness and scientific validity of the supporting information: The screening team will consider the extent to which a request for reevaluation is supported by a complete reassessment or justification. A complete, high-quality reassessment should address all the principles of the new Guidelines.

EPA expects that commentors may be interested in submitting candidates based on minor changes, e.g., change in interspecies scaling factor. Revising risk assessments based on minor changes may or may not be consistent with Agency priorities. Thus, commentors are encouraged to apply all elements of the Guidelines in their supporting materials.

(b) Agency priorities: Following review of the screening criterion and supporting scientific information, the Agency screening team will weigh the list of candidates according to the following Agency priorities:

Degree of public health protection,
Protecting the maximum number of
people including sensitive subgroups,
Addressing the public interest,
Addressing multimedia exposure,
Addressing agents where there is
scientific controversy,
Addressing the potential to change a
regulation.

Prioritization of candidates will be case-by-case depending on issues identified above. The screening team may give higher priority to those agents for which public health protection is of concern to ensure that those agents with the potentially highest risk are addressed first. Other factors such as potential for widespread exposure, particularly to sensitive members of the population, may also place an agent higher on the list.

Selection and Notification

Once the candidate list has been prioritized, the Agency will evaluate the availability of resources for final selection of candidates for reassessment. The Agency must balance resource needs for new assessments as well as reassessments in making this decision. Resources include the availability of staff time as well as resources for conducting peer reviews.

In the fourth quarter of each fiscal year, EPA will publish in the Federal Register a list of agents that have been selected for reevaluation. Those who submitted comments will be notified in writing. If a chemical is not selected for reassessment in the upcoming cycle, EPA will explain its reasons for not including the requester's candidate and invite the requester to resubmit its request during the next cycle (with any updated supporting information, if desired or necessary). A decision to not include a chemical in any given cycle does not mean that the Agency does not consider reassessment of the chemical to be appropriate, and it certainly does not mean that the Agency will not reassess the chemical in some later cycle. The decision merely means that given Agency resources for the performance of reassessments in the upcoming cycle and the other candidates presented, the Agency will not be able to reassess the requestor's candidate in the next cycle. For purposes of judicial review, the Agency does not consider this prioritization decision to be a final Agency action on a request to reassess a chemical.

Once an assessment (including reevaluations) has been completed by EPA, it will undergo peer review in accordance with the Agency's Peer Review Policy. Consistent with previous practices for conducting assessments,

EPA may also consult with other Federal agencies. The final reassessment, reflecting Agency consensus and peer review, will be summarized in IRIS.

The Office of Pesticide Programs is conducting new or updated cancer assessments on certain pesticides according to timetables established for its reregistration, registration and special review programs. A list of potential candidate chemicals to be evaluated in reregistration during FY97 was published for comment in the Federal Register on May 15, 1996. The comment period for that notice ends July 15, 1996. Therefore, requests to reevaluate previous assessments associated with the listed pesticides are not necessary under the process outlined above.

Issues for Comment

EPA requests comments on the proposed process for reevaluating existing cancer hazard and dose response assessments. Specifically, EPA seeks public opinion on four topics.

- (1) The screening criterion.
- (2) The relative importance of the different prioritization factors in determining where an agent falls on the list. Other factors that can usefully be considered.
- (3) The utility and appropriateness of the peer review mechanism(s) suggested for peer review of the ranking of chemicals for reevaluation. Please note that peer review of each completed EPA assessment (both new and reevaluated) will proceed as outlined above.
- (4) Other relevant issues pertaining to this proposed process.

Interim Use of the Proposed Guidelines Pending Finalization in New Assessments

EPA will continue in most circumstances to rely on the assessment information currently available on IRIS as guidance for use in regulatory and non-regulatory decisions. Existing assessments which applied the 1986 Guidelines continue to be scientifically acceptable.

At the same time, the Agency's 1986 Guidelines for Carcinogen Risk Assessment provide for use of data on mode(s)/mechanism(s) of action and biologically-based models whenever such information is available. The 1986 Guidelines state that they are intended to accommodate new knowledge and methods regarding cancer assessment as they emerge. Accordingly, EPA has used new approaches to cancer assessment for agents (such as in EPA's pending reevaluation of dioxin risks) when there

has been sufficient scientific foundation to support the new approaches.

Thus, pending publication of the final revised guidelines and in keeping with advancing knowledge on cancer assessment, the principles and approaches of the Proposed Guidelines will be applied in part or in whole, on a case-by-case basis for new assessments as data warrant. Such use of the Proposed Guidelines will allow EPA to gain more experience before they are finalized. The assessment will state the rationale for applying the Proposed Guidelines. When the Guidelines are adopted by the Agency as final, they will provide guidance for all new cancer hazard and dose-response assessments. EPA will continue to use appropriate peer review processes during this time.

In summary, EPA recognizes the possible need to reevaluate cancer assessments developed using the 1986 Guidelines for Carcinogen Risk Assessment. In addition, EPA must also address new chemicals to meet Agency priorities. Thus, EPA is proposing a process that will enable it to move forward in conducting new assessments while also reevaluating existing assessments using the new guidelines.

Dated: June 17, 1996.
Henry L. Longest,
Acting Assistant Administrator for Research and Development.
[FR Doc. 96-16128 Filed 6-24-96; 8:45 am]
BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting Thursday, June 27, 1996

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, June 27, 1996, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, Subject

- 1—Wireless Telecommunications—
Title: Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, WT Docket No. 96-6). Summary: The Commission will consider action to allow commercial mobile radio service providers more flexibility to provide fixed wireless services.
- 2—Wireless Telecommunications—
Title: Interconnection and Resale Obligations Pertaining to Commercial

Mobile Radio Services (CC Docket No. 94-54). Summary: The Commission will consider roaming obligations to providers of commercial mobile radio services.

3—Common Carrier—Title: Access to Telecommunications Equipment and Services by Persons with Disabilities (CC Docket No. 87-124). Summary: The Commission will consider action on hearing aid compatibility requirements for wireline telephones.

4—Common Carrier—Title: Telephone Number Portability (CC Docket No. 95-116, RM-8535). Summary: The Commission will consider action concerning issues pertaining to the portability of telephone numbers.

Additional information concerning this meeting may be obtained from Audrey Spivack or Susan Lewis Sallet, Office of Public Affairs, telephone number (202) 418-0500.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. at (202) 857-3800. Audio and Video Tapes of this meeting can be purchased from Telspan International at (301) 731-5355.

Dated June 20, 1996.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-16346 Filed 6-21-96; 3:29 pm]

BILLING CODE 6712-01-F

Semiannual Report of Payment Accepted From Non-Federal Sources Under 31 U.S.C. 1353

For the Period Beginning October 1, 1995 Ending March 31, 1996 Summary Report

Reimbursement/In-Kind Payments in Excess of \$250

Total Number of Sponsored Events: 56.

Total Number of Sponsoring Organizations: 47.

Total Number of Different Commissioners/Employees Attending: 48.

Total Amount of Reimbursement Received:

	Check	In-kind
In excess of \$250:	\$20,726.16	\$67,270.30
Under \$250 (Detail not included):	319.62	426.00
Total	21,045.78	67,696.30

1. *Agency:* Federal Communications Commission.
2. *Employee:* Aileen A. Pisciotta.
3. *Government Position:* Chief, Planning & Negotiations Division, International Bureau.
3. *Event:* Conference "Latin American Telecoms Deregulation".
4. *Sponsor of Event:* America Economia.
5. *Sponsor Address:* Mr. Steve Carr, Rio Tiber 110 6th Floor, Cal Cuauhtemoc, C.P. 06500 Mexico D.F.
6. *Location of Event:* Mexico City, Mexico.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 11/21-22/94.
9. *Travel Dates:* 11/21-23/94.
10. (a)

Nature of Benefit.	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$446.45	.....
2. Hotel Room .....	.....	\$357.28
3. Meals	180.00	.....
4. Mileage, Parking & Taxi	59.00	.....
	685.45	357.28

- (b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Michael S. Carowitz.
3. *Government Position:* Legal Advisor, Common Carrier Bureau.
3. *Event:* Eastern Conference & Expo.
4. *Sponsor of Event:* American Public Communications Council—APCC.
5. *Sponsor Address:* 10306 Eaton Place, Suite 520, Fairfax, VA 22030.
6. *Location of Event:* Nashville, Tennessee.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/25-27/95.
9. *Travel Dates:* 10/26-28/95.
10. (a)

Nature of Benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$482.00
2. Hotel Room	300.84
3. Meals	48.71
4. Taxi	20.25
	851.80

- (b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Susan Ness.
3. *Government Position:* Commissioner.

3. *Event:* Film Series "Women in the Public Sphere".
4. *Sponsor of Event:* Annenberg School for Communication, University of Pennsylvania.
5. *Sponsor Address:* 3620 Walnut Street, Philadelphia, PA 19104-6220.
6. *Location of Event:* Philadelphia, Pennsylvania.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 01/26/95.
9. *Travel Dates:* 01/26/95.
10. (a)

Nature of Benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$104.00	.....
2. Hotel Room .....	.....	.....
3. Meals	17.00	.....
4. Parking & Taxi	15.00	.....
	136.00	.....

- (b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Roy J. Stewart.
3. *Government Position:* Chief, Mass Media Bureau.
3. *Event:* ABA Annual Convention.
4. *Sponsor of Event:* Arkansas Broadcasters Association—ABA.
5. *Sponsor Address:* 2024 Arkansas Valley Drive, Suite 201, Little Rock, AR 72212.
6. *Location of Event:* Hot Springs, Arkansas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 08/13-15/95.
9. *Travel Dates:* 08/12-15/95.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In Kind
1. Roundtrip Transportation	\$307.00	.....
2. Hotel Room .....	.....	\$290.00
3. Meals	82.50	.....
4. Taxi & Mileage	36.00	.....
	425.50	290.00

- (b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* John S. Morabito.
3. *Government Position:* Attorney Advisor, Common Carrier Bureau.
3. *Event:* AIC's Billing & Transaction Management for Broadband Networks.
4. *Sponsor of Event:* AIC Conferences.
5. *Sponsor Address:* 50 Broad Street, 19th Floor, New York, NY 10004.

6. *Location of Event:* San Francisco, California.
 7. *Employee's Role:* Speaker.
 8. *Dates of Event:* 07/17-18/95.
 9. *Travel Dates:* 07/16-17/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$658.80
2. Hotel Room		173.60
3. Meals		
4. Taxi		
		832.40

- (b) *Non-Fed Source:* Same as No. 4.
 1. *Agency:* Federal Communications Commission.
 2. *Employee:* Mark A. Grannis.
Government Position: Attorney Advisor, International Bureau.
 3. *Event:* Space & Satellite Conference.
 4. *Sponsor of Event:* AIC Conference Ltd.
 5. *Sponsor Address:* Attn: Tania Atkinson, 2nd Floor, 100 Hatton Garden, London EC1N 8NX, UK.
 6. *Location of Event:* London, England.
 7. *Employee's Role:* Speaker.
 8. *Dates of Event:* 01/30/96.
 9. *Travel Dates:* 01/28-31/96.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$1,450.00
2. Hotel Room		260.00
3. Meals		
4. Taxi		
		1710.00

- (b) *Non-Fed Source:* Same as No. 4.
 1. *Agency:* Federal Communications Commission.
 2. *Employee:* Richard M. Smith.
Government Position: Chief, Office of Engineering & Technology.
 3. *Event:* APCO Annual Conference.
 4. *Sponsor of Event:* APCO Institute.
 5. *Sponsor Address:* Attn: Robert M. Gurs, Wilkes, Artis, Hedrick & Lane, 1000 K Street, NW., Suite 1100, Washington, DC 20008.
 6. *Location of Event:* Detroit, Michigan.
 7. *Employee's Role:* Panelist.
 8. *Dates of Event:* 08/13-17/95.
 9. *Travel Dates:* 08/13-14/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$306.00	
2. Hotel Room		\$102.00
3. Meals	47.50	
4. Mileage & Taxi	31.00	
	384.50	102.00

- (b) *Non-Fed Source:* Same as No. 4.
 1. *Agency:* Federal Communications Commission.
 2. *Employee:* Scott B. Harris.
Government Position: Chief, International Bureau.
 3. *Event:* 17th Annual Satellite Communications Users Conference.
 4. *Sponsor of Event:* Argus Trade Shows.
 5. *Sponsor Address:* Attn: Gina Shaw, Conference Director, 6151 Powers Ferry Road, N.W., Suite 300, Atlanta, GA 30339-2941.
 6. *Location of Event:* San Jose, California.
 7. *Employee's Role:* Speaker.
 8. *Dates of Event:* 09/20-22/95.
 9. *Travel Dates:* 09/19-20/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$336.00	
2. Hotel Room		\$95.70
3. Meals	66.50	
4. Taxi, Parking & Telephone	111.30	
5. Rental Car & Mileage	64.34	
	578.14	95.70

- (b) *Non-Fed Source:* Same as No. 4.
 1. *Agency:* Federal Communications Commission.
 2. *Employee:* Thomas S. Tycz.
Government Position: Chief, Satellite & Radiocommunication Division, International Bureau.
 3. *Event:* 17th Annual Satellite Communications Users Conference.
 4. *Sponsor of Event:* Argus Trade Shows.
 5. *Sponsor Address:* 6151 Powers Ferry Road, N.W., Suite 300, Atlanta, GA 30339-2941.
 6. *Location of Event:* San Jose, California.
 7. *Employee's Role:* Panelist.
 8. *Dates of Event:* 09/20-22/95.
 9. *Travel Dates:* 09/21-23/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$399.00	
2. Hotel Room	75.00	
3. Meals	76.00	
4. Taxi & Telephone	35.50	
5. Mileage & Parking	22.00	
	607.50	

- (b) *Non-Fed Source:* Same as No. 4.
 1. *Agency:* Federal Communications Commission.
 2. *Employee:* Donald H. Gips.
Government Position: Deputy Chief, Office of Plans & Policy.
 3. *Event:* Conference on Telecommunications.
 4. *Sponsor of Event:* Banco de Investimentos Garantia.
 5. *Sponsor Address:* Rua Jorge Coelho, 16-13 CEP 01451-020, Sao Paulo SP Brazil.
 6. *Location of Event:* Sao Paulo, Brazil.
 7. *Employee's Role:* Speaker.
 8. *Dates of Event:* 09/27-28/95.
 9. *Travel Dates:* 09/26-29/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$3268.95
2. Hotel Room		462.00
3. Meals		297.00
4. Taxi		
		4027.95

- (b) *Non-Fed Source:* Same as No. 4.
 1. *Agency:* Federal Communications Commission.
 2. *Employee:* Andrew C. Barrett.
Government Position: Commissioner.
 3. *Event:* Conference on "Productive Regulation in the TV Market".
 4. *Sponsor of Event:* Bertelsmann Foundation.
 5. *Sponsor Address:* Carl-Bertelsmann, Stravbe 256, Gutersloh 33311.
 6. *Location of Event:* Dusseldorf, Germany.
 7. *Employee's Role:* Speaker.
 8. *Dates of Event:* 12/01-02/95.
 9. *Travel Dates:* 11/29-12/08/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$1234.70
2. Hotel Room		918.04
3. Meals		
4. Taxi		
		2152.74

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Marcia K. Diamond.
Government Position: Attorney, Enforcement Division, Mass Media Bureau.
 3. *Event*: 35th Annual Conference BCFMA.
 4. *Sponsor of Event*: Broadcast Cable Financial Management Association—BCFMA.
 5. *Sponsor Address*: 701 Lee Street, Suite 640, Des Plaines, IL 60016.
 6. *Location of Event*: Las Vegas, Nevada.
 7. *Employee's Role*: Panelist.
 8. *Dates of Event*: 05/21–24/95.
 9. *Travel Dates*: 5/22–24/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Airline Ticket		
2. Hotel Room		\$180.00
3. Meals		
4. Taxi		
		180.00

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Gerald P. Vaughan.
Government Position: Deputy Chief, Wireless Telecommunications Bureau.
 3. *Event*: International Communications Forecasting Conference.
 4. *Sponsor of Event*: Bell Canada/Quebec.
 5. *Sponsor Address*: Attn: Bob Stoffels, 3-S-050 Butternut, Glenn Ellyn, IL 60137.
 6. *Location of Event*: Toronto, Canada.
 7. *Employee's Role*: Panelist.
 8. *Dates of Event*: 06/13–16/95.
 9. *Travel Dates*: 06/15–16/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$425.67	
2. Hotel Room	97.00	
3. Meals	60.00	
4. Taxi	49.85	
	632.52	

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Jonathan D. Levy.
Government Position: Economist, Office of Plans & Policy.
 3. *Event*: Communications Research Forum.
 4. *Sponsor of Event*: BZW Australia.
 5. *Sponsor Address*: 255 George Street, Box 2675, GPO Sydney 2001, Australia.
 6. *Location of Event*: Sydney, Australia.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 10/19–27/95.
 9. *Travel Dates*: 10/16–30/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$2951.00
2. Hotel Room		777.00
3. Meals		53.35
4. Taxi		
		3781.35

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Bruce Romano.
Government Position: Deputy Chief, Policy & Rules Division, Mass Media Bureau.
 3. *Event*: CBA Annual Summer Convention.
 4. *Sponsor of Event*: Colorado Broadcasters Association—CBA.
 5. *Sponsor Address*: 1660 Lincoln Street, Suite 2200, Denver, CO 80264.
 6. *Location of Event*: Denver, Colorado.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 06/15–17/95.
 9. *Travel Dates*: 6/15–17/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$513.00	

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room	154.00	
3. Meals		
4. Taxi		
	667.00	

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Beverly G. Baker.
Government Position: Chief, Compliance & Information Bureau.
 3. *Event*: CBA Summer Convention.
 4. *Sponsor of Event*: California Broadcasters Association—CBA.
 5. *Sponsor Address*: Attn: Stan Stathem, Executive Director, 1127 11th Street, Suite 730, Sacramento, CA 95814.
 6. *Location of Event*: Monterey, California.
 7. *Employee's Role*: Panelist.
 8. *Dates of Events*: 07/15–17/95.
 9. *Travel Dates*: 7/16–19/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$556.00	
2. Hotel Room		\$288.20
3. Meals	59.50	
4. Taxi	47.00	
5. Telephone		3.75
	662.50	291.95

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: James H. Quello.
Government Position: Commissioner.
 3. *Event*: CBA Summer Convention.
 4. *Sponsor of Event*: California Broadcasters Association—CBA.
 5. *Sponsor Address*: Attn: Stan Stathem, Executive Director, 1127 11th Street, Suite 730, Sacramento, CA 95814.
 6. *Location of Event*: Monterey, California.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 07/15–17/95.
 9. *Travel Dates*: 07/16–19/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$556.00	

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room .....	.....	\$288.20
3. Meals .....	.....	.....
4. Taxi	87.00	.....
	643.00	288.20

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Roy J. Stewart.
Government Position: Chief, Mass Media Bureau.
 3. *Event*: CBA Summer Convention.
 4. *Sponsor of Event*: California Broadcasters Association—CBA.
 5. *Sponsor Address*: Attn: Stan Stathem, Executive Director, 1127 11th Street, Suite 730, Sacramento, CA 95814.
 6. *Location of Event*: Monterey, California.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 07/15–17/95.
 9. *Travel Dates*: 07/16–18/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$485.00	.....
2. Hotel Room	246.00	.....
3. Meals	93.50	.....
4. Parking & Mileage	39.00	.....
	863.50	.....

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Jennifer A. Warren.
Government Position: Senior Legal Advisor, International Bureau.
 3. *Event*: Annual Conference.
 4. *Sponsor of Event*: Computer & Communications Industry Association—CCIA.
 5. *Sponsor Address*: 666 11th Street, NW., Sixth Floor, Washington, DC 20001.
 6. *Location of Event*: Palm Beach, Florida.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 12/04/95.
 9. *Travel Dates*: 12/03–04/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$546.00

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room	170.00
3. Meals	62.00
4. Taxi
	778.00

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Robert C. McDonald.
Government Position: Staff Attorney, International Bureau.
 3. *Event*: International Simple Resale Conference.
 4. *Sponsor of Event*: CommEd Limited.
 5. *Sponsor Address*: 137 Dulwich Road, London SE24 ONG.
 6. *Location of Event*: London, England.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 12/04–05/95.
 9. *Travel Dates*: 12/02–09/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$909.00
2. Hotel Room	784.44
3. Meals	100.00
4. Taxi	80.00
	1873.44

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Richard M. Smith.
Government Position: Chief, Office of Engineering & Technology.
 4. *Sponsor of Event*: Coopers & Lybrand, LLP.
 5. *Sponsor Address*: 1530 Wilson Blvd., Arlington, VA 22209–2447.
 6. *Location of Event*: La Paz, Bolivia.
 7. *Employee's Role*: Technical Assistance.
 8. *Dates of Event*: 03/09–16/96.
 9. *Travel Dates*: 03/09–17/96.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$1274.95
2. Hotel Room	390.00
3. Meals
4. Taxi

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	1664.95

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Jonathan D. Levy.
Government Position: Economist, Office of Plans & Policy.
 4. *Sponsor of Event*: Centre de Perfectionnement aux Affaires—CPA.
 5. *Sponsor Address*: 14. av. de la Porte Champerret, 75838 Paris Cedex 17.
 6. *Location of Event*: New York City, New York.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 10/16–18/95.
 9. *Travel Dates*: 10/15–16/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$75.00
2. Hotel Room	142.00
3. Meals	38.00
4. Taxi
	255.00

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Robert M. Pepper.
Government Position: Chief, Office of Plans & Policy.
 4. *Sponsor of Event*: Centre de Perfectionnement aux Affaires—CPA.
 5. *Sponsor Address*: 14. av. de la Porte Champerret, 75838 Paris Cedex 17.
 6. *Location of Event*: New York City, New York.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 0/16–18/95.
 9. *Travel Dates*: 0/16–17/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$320.00
2. Hotel Room
3. Meals
4. Taxi
	320.00

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.

- 2. *Employee:* Linda B. Dubroof.
Government Position: Deputy Division Chief, Common Carrier Bureau.
- 3. *Event:* Symposium on "Captioning the New Frontier".
- 4. *Sponsor of Event:* CPB-WGBH, National Center for Accessible Media.
- 5. *Sponsor Address:* 125 Western Avenue, Boston, MA 02134.
- 6. *Location of Event:* New York City, New York.
- 7. *Employee's Role:* Speaker.
- 8. *Dates of Event:* 12/04-05/95.
- 9. *Travel Dates:* 12/03-05/95.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$150.00
2. Hotel Room		373.50
3. Meals		102.00
4. Taxi		26.00
		651.50

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* Donald H. Gips.
Government Position: Deputy Chief, Office of Plans & Policy.
- 3. *Event:* Scottsdale Media Conference.
- 4. *Sponsor of Event:* Daniels & Associates.
- 5. *Sponsor Address:* Denver Headquarters, 3200 Cherry Creek South Drive, Suite 500, Denver, CO 80209.
- 6. *Location of Event:* Phoenix, Arizona.
- 7. *Employee's Role:* Panelist.
- 8. *Dates of Event:* 10/22-25/95.
- 9. *Travel Dates:* 10/22-24/95.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$1,269.00
2. Hotel Room		122.00
3. Meals		68.00
4. Taxi		
		1,459.00

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* Scott B. Harris.
Government Position: Chief, International Bureau.
- 3. *Event:* Conference "Telecommunications in the Year 2000: a World Challenge.

- 4. *Sponsor of Event:* Economist Conferences.
- 5. *Sponsor Address:* c/o Alcestes Serrano, 46, 1st Interior, Madrid 28461.
- 6. *Location of Event:* Madrid, Spain.
- 7. *Employee's Role:* Speaker.
- 8. *Dates of Event:* 11/29-30/95.
- 9. *Travel Dates:* 11/29-12/01/95.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$737.00
2. Hotel Room		460.00
3. Meals		23.00
4. Taxi		
		1,220.00

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* Saul Shapiro.
Government Position: Assistant Chief for Technology Policy, Mass Media Bureau.
- 3. *Event:* EIA's Fall Conference.
- 4. *Sponsor of Event:* Electronic Industries Association—EIA.
- 5. *Sponsor Address:* Attn: Ms. Elizabeth Ahmad, 2500 Wilson Boulevard, Arlington, VA 22201-3834.
- 6. *Location of Event:* Phoenix, Arizona.
- 7. *Employee's Role:* Speaker.
- 8. *Dates of Event:* 10/15-18/95.
- 9. *Travel Dates:* 10/16-18/95.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$242.00
2. Hotel Room		120.00
3. Meals		
4. Taxi		
		362.00

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* Jennifer A. Warren.
Government Position: Senior Legal Advisor, International Bureau.
- 3. *Event:* Liberalization of Public Telecom Infrastructures Conference.
- 4. *Sponsor of Event:* Euroforum.
- 5. *Sponsor Address:* Postfach 23 02 05, 40000 Dusseldorf.
- 6. *Location of Event:* Cologne, Germany.
- 7. *Employee's Role:* Speaker.

- 8. *Dates of Event:* 02/26-28/96.
- 9. *Travel Dates:* 02/25-28/96.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$1,373.00
2. Hotel Room		600.00
3. Meals		
4. Taxi		
		1,973.00

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* Blair S. Levin.
Government Position: Chief of Staff to Chairman Reed E. Hundt.
- 3. *Event:* FCBA 1995 Seminar.
- 4. *Sponsor of Event:* Federal Communications Bar Association—FCBA.
- 5. *Sponsor Address:* Attn: Ms. Sally Buckman, 1722 Eye Street, N.W., Suite 300, Washington, D.C. 20006.
- 6. *Location of Event:* Hot Springs, Virginia.
- 7. *Employee's Role:* Panelist.
- 8. *Dates of Event:* 05/19-21/95.
- 9. *Travel Dates:* 05/19-21/95.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$129.60	
2. Hotel Room		\$360.00
3. Meals		
4. Taxi		
	129.60	360.00

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* Richard K. Welch.
Government Position: Legal Advisor, Commissioner Rachelle B. Chong.
- 3. *Event:* Luncheon of the Midwest Chapter of the FCBA.
- 4. *Sponsor of Event:* Federal Communications Bar Association—FCBA.
- 5. *Sponsor Address:* 1722 Eye Street, N.W., Suite 300, Washington, D.C. 20006.
- 6. *Location of Event:* Chicago, Illinois.
- 7. *Employee's Role:* Speaker.
- 8. *Dates of Event:* 02/15/96.
- 9. *Travel Dates:* 02/14-16/96.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		
2. Hotel Room		\$104.00
3. Meals		
4. Taxi		
		104.00

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Rachell B. Chong.
Government Position: Commissioner.
 3. *Event*: Telecommunications Conference.
 4. *Sponsor of Event*: Financial times.
 5. *Sponsor Address*: Kasahara Building, 6-10 Uchikanda, 1-Chome Chiyoda-Ku, Tokyo 101 Japan.
 6. *Location of Event*: Tokyo, Japan.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: Week of 09/25/95.
 9. *Travel Dates*: 9/24-29.95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$3692.81	
2. Hotel Room		\$692.67
3. Meals		
4. Taxi		
	3692.81	692.67

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Roy J. Stewart.
Government Position: Chief, Mass Media Bureau.
 3. *Event*: IBA Convention.
 4. *Sponsor of Event*: Illinois Broadcasters Association—IBA.
 5. *Sponsor Address*: Attn: Wally Gair, 1125 South Fifth Street, Springfield, IL 62703.
 6. *Location of Event*: Quincy, Illinois.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 10/07-09/95.
 9. *Travel Dates*: 10/8/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$399.00	
2. Hotel Room		
3. Meals	30.00	
4. Taxi		

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	429.00	

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Gerald P. Vaughn.
Government Position: Deputy Chief, Wireless Telecommunications Bureau.
 3. *Event*: Digital Wireless Technologies Conference.
 4. *Sponsor of Event*: International Communications for Management—ICM.
 5. *Sponsor Address*: 3 Illinois Center, 303 East Wacker Drive, Chicago, IL 20601.
 6. *Location of Event*: Miami, Florida.
 7. *Employee's Role*: Give a Presentation.
 8. *Dates of Event*: 02/08-09/96.
 9. *Travel Dates*: 02/08-09/96
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$249.32
2. Hotel Room		174.38
3. Meals		
4. Taxi		
		423.70

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Thomas Dombrowsky.
Government Position: Electronics Engineer, Wireless Telecommunications Bureau.
 3. *Event*: Cellular Fraud Conference.
 4. *Sponsor of Event*: Institute for International Research—IIR.
 5. *Sponsor Address*: 708 Third Avenue, 4th Floor, New York, NY 10017-4103.
 6. *Location of Event*: Chicago, Illinois.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 06/26-27/95.
 9. *Travel Dates*: 6/26/96.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$380.00	
2. Hotel Room		
3. Meals	28.50	
4. Taxi	60.00	

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	468.50	

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Robert M. Pepper.
Government Position: Chief, Office Plans & Policy.
 3. *Event*: Pan-Asian PCS Summit.
 4. *Sponsor of Event*: Institute for International Research—IIR.
 5. *Sponsor Address*: Attn: Karen Rasmussen, 20/F, Siu On Centre, 188 Lockhart Road, Wanchai, Hong Kong.
 6. *Location of Event*: Hong Kong.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 01/24-26/96.
 9. *Travel Dates*: 01/21-25/96.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$1,486.95
2. Hotel Room		741.30
3. Meals		153.22
4. Taxi		
		2,381.47

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Andrew E. Sinwell.
Government Position: Telecommunications Policy Analyst, Office of Plans & Policy.
 3. *Event*: GSM and DCS 1800 Conference.
 4. *Sponsor of Event*: Institute for International Research—IIR.
 5. *Sponsor Address*: Attn: Claire Paterson, 6th Floor, 29 Bressenden Place, London SW1E 5DR.
 6. *Location of Event*: London, England.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 12/11-13/95.
 9. *Travel Dates*: 12/10-12/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$936.90
2. Hotel Room		306.00
3. Meals		301.00
4. Taxi & Telephone		100.00

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
.....	1,643.90

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Jackie E. Chorney.
Government Position: Media Liaison Officer, Wireless Telecommunications Bureau.
 3. *Event*: PCS Strategies '95 Conference.
 4. *Sponsor of Event*: Institute for International Research—IIR.
 5. *Sponsor Address*: Attn: James M. Sullivan, 708 Third Avenue, 4th Floor, New York City, NY 10017-4103.
 6. *Location of Event*: Dallas, Texas.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 10/26-27/95.
 9. *Travel Dates*: 10/26-27/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$1,000.42
2. Hotel Room	71.00
3. Meals	30.00
4. Taxi
.....	1,101.42

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Michael J. Marcus.
Government Position: Associate Chief for Technology, Office of Engineering & Technology.
 3. *Event*: IIR Telcoms & Technology Symposium.
 4. *Sponsor of Event*: Institute for International Research—IIR.
 5. *Sponsor Address*: 6th Floor, 29 Bressenden Place, London SW1E 5DR.
 6. *Location of Event*: London, England.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 12/12-14/95.
 9. *Travel Dates*: 02/11-15/96.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$2,068.45
2. Hotel Room	800.00
3. Meals
4. Taxi

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
.....	2,868.45

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Aileen A. Pisciotta.
Government Position: Chief Planning & Negotiations, International Bureau.
 3. *Event*: I Worldwide Forum of Regulation of Telecommunications.
 4. *Sponsor of Event*: National Institute of Telecommunications—INTEL.
 5. *Sponsor Address*: Not Available.
 6. *Location of Event*: Panama City, Panama.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 10/30-31/95.
 9. *Travel Dates*: 10/29-31/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$654.95
2. Hotel Room	198.00
3. Meals	42.75
4. Taxi
.....	895.70

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Robert M. Pepper.
Government Position: Chief, Office Plans & Policy.
 3. *Event*: INTV Board of Directors Meeting.
 4. *Sponsor of Event*: Association of Independent Television Stations Inc.—INTV.
 5. *Sponsor Address*: 1320 Nineteenth Street, N.W., Suite 300, Washington, D.C. 20036.
 6. *Location of Event*: Dallas, Texas.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 10/09/95.
 9. *Travel Dates*: 10/09/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$390.00	.....
2. Hotel Room .....	.....	.....
3. Meals	25.50	.....
4. Parking	12.00	.....
.....	427.50	.....

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Richard M. Smith.
Government Position: Chief, Office Engineering & Technology.
 3. *Event*: ISBT '95.
 4. *Sponsor of Event*: International Symposium Broadcasting Technology—ISBT.
 5. *Sponsor Address*: Attn: Mr. Wu Shaoyuan, China International Conference for Science & Technology, 44 Ke Xue Yuan nan Rd., Hai Dian District, Beijing, China 1000086, China.
 6. *Location of Event*: Beijing, China.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 10/17-19/95.
 9. *Travel Dates*: 10/15-22/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation
2. Hotel Room	\$420.25
3. Meals	139.36
4. Taxi
.....	559.61

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Kenneth P. Moran.
Government Position: Chief, Accounting & Audits Division, Common Carrier Bureau.
 3. *Event*: Universal Services in the Future.
 4. *Sponsor of Event*: Japan Posts & Telecommunications International.
 5. *Sponsor Address*: Not Available.
 6. *Location of Event*: Tokyo, Japan.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 12/15/95.
 9. *Travel Dates*: 12/12-16/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$4261.00
2. Hotel Room	840.00
3. Meals	210.00
4. Taxi	70.00
.....	5381.00

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Roy J. Stewart.
Government Position: Chief, Mass Media Bureau.

- 3. *Event:* KAB Convention.
- 4. *Sponsor of Event:* Kansas Association of Broadcasters—KAB.
- 5. *Sponsor Address:* 800 SW Jackson, #818, Topeka, KS 66612-1216
- 6. *Location of Event:* Kansas City, Kansas.
- 7. *Employee's Role:* Speaker.
- 8. *Dates of Event:* 10/18-19/95.
- 9. *Travel Dates:* 10/18-19/95.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$771.00
2. Hotel Room		81.69
3. Meals		
4. Taxi		
		852.69

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* Roy J. Stewart.
Government Position: Chief, Mass Media Bureau.
- 3. *Event:* LAB Annual Convention.
- 4. *Sponsor of Event:* Louisiana Association Broadcasters—LAB.
- 5. *Sponsor Address:* 5425 Galeria Drive, Suite F, Baton Rouge, LA 70816.
- 6. *Location of Event:* Baton Rouge, Louisiana.
- 7. *Employee's Role:* Speaker.
- 8. *Dates of Event:* 03/28-30/96.
- 9. *Travel Dates:* 03/28-31/96.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$308.00
2. Hotel Room		108.00
3. Meals		
4. Taxi		
		416.00

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* Marcia Diamond.
Government Position: Attorney, Enforcement Division, Mass Media Bureau.
- 3. *Event:* Southeastern Gaming Business Expo Conference.
- 4. *Sponsor of Event:* MarketSouth Production.
- 5. *Sponsor Address:* Attn: Pat Casale, P.O. Box 12047, Jackson, MS 39236-2047.

- 6. *Location of Event:* Biloxi, Mississippi.
- 7. *Employee's Role:* Panelist.
- 8. *Dates of Event:* 08/01-04/95.
- 9. *Travel Dates:* 08/01-03/95.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		
2. Hotel Room		\$142.00
3. Meals		
4. Taxi		
		142.00

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* Richard M. Smith.
Government Position: Chief, Office of Engineering & Technology.
- 3. *Event:* Symposium Committee Meeting.
- 4. *Sponsor of Event:* Montreux International Television Symposium, Management.
- 5. *Sponsor Address:* Rue du Theatre 5, P.O. Box 1451, CH-1820 MONTREUX (Switzerland).
- 6. *Location of Event:* County Clare, Ireland.
- 7. *Employee's Role:* Committee Member.
- 8. *Dates of Event:* 01/20-21/96.
- 9. *Travel Dates:* 01/18-21/96.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$3,548.00
2. Hotel Room		606.00
3. Meals		
4. Taxi		
		4,154.00

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* William E. Kennard.
Government Position: General Counsel.
- 3. *Event:* NAB's Annual Conference.
- 4. *Sponsor of Event:* National Association of Broadcasters—NAB.
- 5. *Sponsor Address:* 2001 Pennsylvania Ave., NW., 11th Floor, Washington, DC 20006.
- 6. *Location of Event:* Las Vegas, Nevada.
- 7. *Employee's Role:* Panelist.

- 8. *Dates of Event:* 04/09-13/95.
- 9. *Travel Dates:* 04/07-12/95.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		
2. Hotel Room	\$349.86	
3. Meals		
4. Taxi	4.50	
	354.36	

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* Brian J. Carter.
Government Position: Legal Advisor to Commissioner Andrew C. Barrett.
- 3. *Event:* NAB Radio Show.
- 4. *Sponsor of Event:* National Association Broadcasters—NAB.
- 5. *Sponsor Address:* 1771 N Street, N.W., Washington, D.C. 20036.
- 6. *Location of Event:* New Orleans, Louisiana.
- 7. *Employee's Role:* Conference Attendee.
- 8. *Dates of Event:* 09/06-09/95.
- 9. *Travel Dates:* 09/06-09/95.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$382.00	
2. Hotel Room	225.78	
3. Meals	105.63	
4. Taxi	52.00	
	765.41	

- (b) *Non-Fed Source:* Same as No. 4.
- 1. *Agency:* Federal Communications Commission.
- 2. *Employee:* Larry D. Eads.
Government Position: Chief, Audio Services Division, Mass Media Bureau.
- 3. *Event:* NAB Radio Show.
- 4. *Sponsor of Event:* National Association Broadcasters—NAB.
- 5. *Sponsor Address:* 1771 N Street, N.W., Washington, D.C. 20036.
- 6. *Location of Event:* New Orleans, Louisiana.
- 7. *Employee's Role:* Speaker.
- 8. *Dates of Event:* 09/06-09/95.
- 9. *Travel Dates:* 09/06-09/95.
- 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$422.00	.....
2. Hotel Room	198.00	.....
3. Meals	127.50	.....
4. Taxi & Telephone	34.28	.....
	781.78	.....

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Julius Genachowski.
Government Position: Counsel to Chairman Reed E. Hundt.
 3. *Event*: NAB Radio Show.
 4. *Sponsor of Event*: National Association Broadcasters—NAB.
 5. *Sponsor Address*: 1771 N Street, N.W., Washington, D.C. 20036.
 6. *Location of Event*: New Orleans, Louisiana.
 7. *Employee's Role*: Observer—Accompanying the Chairman.
 8. *Dates of Event*: 09/06—09/95.
 9. *Travel Dates*: 9/07—08/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$422.00	.....
2. Hotel Room	66.00	.....
3. Meals	42.50	.....
4. Taxi and Telephone	22.16	.....
	552.66	.....

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Reed E. Hundt.
Government Position: Chairman.
 3. *Event*: NAB Radio Show.
 4. *Sponsor of Event*: National Association Broadcasters—NAB.
 5. *Sponsor Address*: 1771 N Street, N.W., Washington, D.C. 20036.
 6. *Location of Event*: New Orleans, Louisiana.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 09/06—09/95.
 9. *Travel Dates*: 09/07—08/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$422.00	.....

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room	66.00	.....
3. Meals	42.50	.....
4. Taxi	4.30	.....
	534.80	.....

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Michael L. Katz.
Government Position: Chief Economist, Office of Plans & Policy.
 3. *Event*: NAB Radio Show.
 4. *Sponsor of Event*: National Association Broadcasters—NAB.
 5. *Sponsor Address*: 1771 N Street, N.W., Washington, D.C. 20036.
 6. *Location of Event*: New Orleans, Louisiana.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 09/06—09/95.
 9. *Travel Dates*: 9/06—08/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$422.00	.....
2. Hotel Room	150.52	.....
3. Meals	68.00	.....
4. Taxi	60.00	.....
	700.52	.....

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Charles W. Kelley.
Government Position: Chief, Enforcement Division, Mass Media Bureau.
 3. *Event*: NAB Radio Show.
 4. *Sponsor of Event*: National Association Broadcasters—NAB.
 5. *Sponsor Address*: 1771 N Street, N.W., Washington, D.C. 20036.
 6. *Location of Event*: New Orleans, Louisiana.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 09/06—09/95.
 9. *Travel Dates*: 9/07—09/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$422.00	.....
2. Hotel Room	132.00	.....
3. Meals	85.00	.....

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
4. Taxi & Parking	40.00	.....
	679.00	.....

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: William E. Kennard.
Government Position: General Counsel.
 3. *Event*: NAB Radio Show.
 4. *Sponsor of Event*: National Association Broadcasters—NAB.
 5. *Sponsor Address*: 1771 N Street, N.W., Washington, D.C. 20036.
 6. *Location of Event*: New Orleans, Louisiana.
 7. *Employee's Role*: Panelist.
 8. *Dates of Event*: 09/06—06/95.
 9. *Travel Dates*: 9/06—08/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$382.00	.....
2. Hotel Room	132.00	.....
3. Meals	68.00	.....
4. Taxi & Telephone	95.50	.....
	677.50	.....

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Susan Ness.
Government Position: Commissioner.
 3. *Event*: NAB Radio Show.
 4. *Sponsor of Event*: National Association Broadcasters—NAB.
 5. *Sponsor Address*: 1771 N Street, N.W., Washington, D.C. 20036.
 6. *Location of Event*: New Orleans, Louisiana.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 09/06—09/95.
 9. *Travel Dates*: 9/06—07/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$422.00	.....
2. Hotel Room	66.00	.....
3. Meals	59.50	.....
4. Taxi & Telephone	49.78	.....
	597.28	.....

- (b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Maureen A. O'Connell.
Government Position: Legal Advisor, Commissioner James H. Quello.
 3. *Event*: NAB Radio Show.
 4. *Sponsor of Event*: National Association Broadcasters—NAB.
 5. *Sponsor Address*: 1771 N Street, N.W., Washington, D.C. 20036.
 6. *Location of Event*: New Orleans, Louisiana.
 7. *Employee's Role*: Panelist.
 8. *Dates of Event*: 09/06–09/95.
 9. *Travel Dates*: 9/06–08/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$394.00	.....
2. Hotel Room	132.00	.....
3. Meals	76.50	.....
4. Taxi	99.00	.....
	701.50	.....

- (b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: David R. Siddall.
Government Position: Legal Advisor to Commissioner Susan Ness.
 3. *Event*: NAB Radio Show.
 4. *Sponsor of Event*: National Association Broadcasters—NAB.
 5. *Sponsor Address*: 1771 N Street, N.W., Washington, D.C. 20036.
 6. *Location of Event*: New Orleans, Louisiana.
 7. *Employee's Role*: Advise Commissioner.
 8. *Dates of Event*: 09/06–09/95.
 9. *Travel Dates*: 9/06–07/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$422.00	.....
2. Hotel Room	66.00	.....
3. Meals	68.00	.....
4. Taxi & Telephone	20.00	.....
5. Mileage & Parking	34.09	.....
	610.09	.....

- (b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Roy J. Stewart.
Government Position: Chief, Mass Media Bureau.

3. *Event*: NAB Radio Show.
 4. *Sponsor of Event*: National Association Broadcasters—NAB.
 5. *Sponsor Address*: 1771 N Street, N.W., Washington, D.C. 20036.
 6. *Location of Event*: New Orleans, Louisiana.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 09/06–09/95.
 9. *Travel Dates*: 9/05–08/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$382.00	.....
2. Hotel Room	198.00	.....
3. Meals	119.00	.....
4. Mileage & Parking	40.50	.....
	739.50	.....

- (b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Susan Ness.
Government Position: Commissioner.
 3. *Event*: NJBA Annual Convention.
 4. *Sponsor of Event*: New Jersey Broadcasters Association—NJBA.
 5. *Sponsor Address*: Attn: Philip H. Roberts, 7 Centre Drive, Suite One, Jamesburg, NJ 08831.
 6. *Location of Event*: Atlantic City, New Jersey.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 06/12–14/95.
 9. *Travel Dates*: 6/12–13/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation .....	\$	.....
2. Hotel Room	96.32	.....
3. Meals	66.50	.....
4. Telephone & Supplies	20.80	.....
	183.62	.....

- (b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Peter Cowhey.
Government Position: Chief, Multilateral & Development Branch, Office International Bureau.
 3. *Event*: Northern Telecom Open.
 4. *Sponsor of Event*: Northern Telecom.
 5. *Sponsor Address*: Northern Telecom Plaza, 200 Athens Way, Nashville, TN 37228–1397.

6. *Location of Event*: Tuscon, Arizona.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 01/19–21/95.
 9. *Travel Dates*: 01/19–21/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$567.00	\$
2. Hotel Room .....	.....	380.00
3. Meals	6.00	66.45
4. Telephone & Taxi	47.93	.....
	620.93	446.45

- (b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Thomas P. Stanley.
Government Position: Chief Engineer, Office of Plans & Policy.
 3. *Event*: Third Annual Wireless University.
 4. *Sponsor of Event*: Northern Telecom.
 5. *Sponsor Address*: 1200 South Pine Island Road, Suite 800, Plantation, FL 33324–4402.
 6. *Location of Event*: Miami, Florida.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 04/04–05/95.
 9. *Travel Dates*: 04/03–05/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	\$304.00	\$
2. Hotel Room .....	.....	148.00
3. Meals	5.05	91.00
4. Taxi	38.00	.....
	347.05	239.00

- (b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Linda B. Dubroof.
Government Position: Acting Chief, Domestic Services Branch, Common Carrier Bureau.
 3. *Event*: 1995 Operator Services Forum.
 4. *Sponsor of Event*: Northern Telecom.
 5. *Sponsor Address*: 97 Humboldt Street, Rochester, NY 14609.
 6. *Location of Event*: Nashville, Tennessee.
 7. *Employee's Role*: Panelist.
 8. *Dates of Event*: 04/03–06/95.
 9. *Travel Dates*: 04/03–05/95.

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	1. Roundtrip Transportation	\$426.00
2. Hotel Room	210.47	.....
3. Meals	75.00	.....
4. Telephone & Taxi	63.90	.....
	775.37	.....

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Robert M. Pepper.
Government Position: Chief, Office of Plans & Policy.
 3. *Event*: PACC Annual Conference.
 4. *Sponsor of Event*: Pacific Advanced Communication Consortium—PACC.
 5. *Sponsor Address*: 2890 Emerald Street, Eugene, Oregon 97403.
 6. *Location of Event*: Eugene, Oregon.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 12/04/95.
 9. *Travel Dates*: 12/03–04/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	1. Roundtrip Transportation .....		$1,458.00
2. Hotel Room		70.00
3. Meals		30.00
4. Taxi .....		.....
		1,580.00

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Scott B. Harris.
Government Position: Chief, International Bureau.
 3. *Event*: SBCA Trade Show.
 4. *Sponsor of Event*: Satellite Broadcasting & Communications Association—SBCA.
 5. *Sponsor Address*: 225 Reinekers Lane, Suite 600, Alexandria, VA 22314.
 6. *Location of Event*: Las Vegas, Nevada.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 03/04–06/96.
 9. *Travel Dates*: 03/04–06/96.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	1. Roundtrip Transportation .....		$369.85

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	2. Hotel Room .....		230.00
3. Meals		28.00
4. Taxi .....		.....
		627.85

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Donald H. Gips.
Government Position: Deputy Chief, Office of Plans & Policy.
 3. *Event*: Technologic Mobil Conference.
 4. *Sponsor of Event*: Technologic Partners.
 5. *Sponsor Address*: 120 Wooster Street, New York, NY 10012.
 6. *Location of Event*: Burlingame, California.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 03/18/96.
 9. *Travel Dates*: 03/17–20/96.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	1. Roundtrip Transportation .....		$2,458.00
2. Hotel Room		297.00
3. Meals		123.50
4. Taxi .....		.....
		2,878.50

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Marian R. Gordon.
Government Position: General Attorney, Common Carrier Bureau.
 3. *Event*: 1996 TIA Part 68 Seminar "US/Canada Telecomm Market Access".
 4. *Sponsor of Event*: Telecommunications Industry Association—TIA.
 5. *Sponsor Address*: 2500 Wilson Boulevard, Suite 300, Arlington, VA 22201.
 6. *Location of Event*: Fort Myers, Florida.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 02/28–29/96.
 9. *Travel Dates*: 02/28–29/96.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	1. Roundtrip Transportation .....		$306.00

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	2. Hotel Room .....		248.50
3. Meals		68.00
4. Taxi		30.00
		652.50

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: William von Alven.
Government Position: Utility Specialist, Common Carrier Bureau.
 3. *Event*: 1996 TIA Part 68 Seminar "US/Canada Telecomm Market Access".
 4. *Sponsor of Event*: Telecommunications Industry Association—TIA.
 5. *Sponsor Address*: 2500 Wilson Boulevard, Suite 300, Arlington, VA 22201.
 6. *Location of Event*: Fort Myers, Florida.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 02/28–29/96.
 9. *Travel Dates*: 02/28–29/96.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	1. Roundtrip Transportation .....		$306.00
2. Hotel Room		248.50
3. Meals		68.00
4. Taxi		30.00
		652.50

(b) *Non-Fed Source*: Same as No. 4.
 1. *Agency*: Federal Communications Commission.
 2. *Employee*: Government Position: Dzung A. Vu, Electronic Engineer Common Carrier Bureau.
 3. *Event*: 1996 TIA Part 68 Seminar "US/Canada Telecomm Market Access".
 4. *Sponsor of Event*: Telecommunications Industry Association—TIA.
 5. *Sponsor Address*: 2500 Wilson Boulevard, Suite 300, Arlington, VA 22201.
 6. *Location of Event*: Fort Myers, Florida.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 02/28–29/96.
 9. *Travel Dates*: 02/28–29/96.
 10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$306.00
2. Hotel Room		248.50
3. Meals		68.00
4. Taxi		30.00
		652.50

- (b) *Non-Fed Source*: Same as No. 4.
1. *Agency*: Federal Communications Commission.
 2. *Employee*: Government Position: Gregory Rosston, Telecommunications Policy Analyst, Office of Plans & Policy.
 3. *Event*: International Telecommunications Society Workshop, "International & InterOperation: A Blueprint for Public Policy".
 4. *Sponsor of Event*: University of Auckland.
 5. *Sponsor Address*: School of Business & Economics, University of Auckland, Private Bag 92019, Auckland, New Zealand.
 6. *Location of Event*: Wellington, New Zealand.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 10/18–20/96.
 9. *Travel Dates*: 10/15–22/96.
 10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$5,889.60
2. Hotel Room		861.00
3. Meals		438.00
4. Taxi		
		7,198.60

- (b) *Non-Fed Source*: Same as No. 4.
1. *Agency*: Federal Communications Commission.
 2. *Employee*: Government Position: E. Bryan Clopton, Jr., Public Utility Specialist, Common Carrier Bureau.
 3. *Event*: USTA Three-Way Meeting.
 4. *Sponsor of Event*: United States Telephone Association—USTA.
 5. *Sponsor Address*: 1401 H Street, N.W., Suite 600, Washington, D.C. 20005–2164.
 6. *Location of Event*: Seattle, Washington.
 7. *Employee's Role*: Meeting Leader.
 8. *Dates of Event*: 03/18–21/96.
 9. *Travel Dates*: 03/18–21/96.
 10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$1,245.30
2. Hotel Room		340.79
3. Meals		131.00
4. Taxi		54.32
		1,771.41

- (b) *Non-Fed Source*: Same as No. 4.
1. *Agency*: Federal Communications Commission.
 2. *Employee*: Government Position: Fatina K. Franklin, Chief, Depreciation Rates Section, Common Carrier Bureau.
 3. *Event*: USTA Three-Way Meeting.
 4. *Sponsor of Event*: United States Telephone Association—USTA.
 5. *Sponsor Address*: 1401 H Street, N.W., Suite 600, Washington, D.C. 20005–2164.
 6. *Location of Event*: Seattle, Washington.
 7. *Employee's Role*: Meeting Leader.
 8. *Dates of Event*: 03/18–21/96.
 9. *Travel Dates*: 03/18–21/96.
 10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$1,245.30
2. Hotel Room		340.79
3. Meals		156.00
4. Taxi		54.33
		1,796.42

- (b) *Non-Fed Source*: Same as No. 4.
1. *Agency*: Federal Communications Commission.
 2. *Employee*: Keith Larson, Government Position: Assistant Chief for Engineering, Mass Media Bureau.
 3. *Event*: 2nd Annual Wireless Cable, Technical Symposium, the New Frontier.
 4. *Sponsor of Event*: Wireless Cable Association—WCA.
 5. *Sponsor Address*: Attn: Robert M. Unetich, 1140 Conn. Avenue N.W., Washington, D.C. 20036.
 6. *Location of Event*: San Antonio, Texas.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 02/03–05/96.
 9. *Travel Dates*: 02/03–05/96.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		\$194.40
2. Hotel Room		154.00
3. Meals		93.50
4. Taxi		
		441.90

- (b) *Non-Fed Source*: Same as No. 4.
1. *Agency*: Federal Communications Commission.
 2. *Employee*: Richard M. Smith, Government Position: Chief, Office of Engineering & Technology.
 3. *Event*: State of the Science Colloquium.
 4. *Sponsor of Event*: Wireless Technology Research—WTR.
 5. *Sponsor Address*: 1711 N Street, N.W., Suite 200, Washington, D.C. 20036.
 6. *Location of Event*: Rome, Italy.
 7. *Employee's Role*: Speaker.
 8. *Dates of Event*: 11/13–15/95.
 9. *Travel Dates*: 11/10–18/95.
 10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip transportation		\$1,057.85
2. Hotel room		195.95
3. Meals		
4. Taxi		
		1,263.80

- (b) *Non-Fed Source*: Same as No. 4.
- Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 96–16054 Filed 6–24–96; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Rescission of Statement of Policy on Time Limits for Filing Reports of Condition

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Rescission of statement of policy.

SUMMARY: As part of the FDIC's systematic review of its regulations and written policies under Section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994

(CDRI Act), the FDIC is rescinding its policy statement concerning time limits for filing Reports of Condition (Statement). The Statement, which was adopted in 1976, established a deadline for submitting the Consolidated Reports of Condition and Consolidated Reports of Income (Call Reports) required to be filed by FDIC-supervised banks, announced that these reports must be prepared as of the last day of each calendar quarter (report dates), and recited the statutory penalty then in effect for failing to file these reports by the deadline. The FDIC is rescinding the Statement because it is now outmoded. The submission deadlines and report dates for Call Reports are fully explained in the Call Report instructions now issued by the Federal Financial Institutions Examination Council (FFIEC). Efforts also are currently under way to reflect the submission deadlines in the FDIC's Rules and Regulations. In addition, the statutory penalty has been changed since the Statement's issuance. The civil money penalties that the FDIC currently may assess for the late filing of a Call Report are clearly set forth in the FDIC's regulations.

EFFECTIVE DATE: This Statement is rescinded effective June 25, 1996.

FOR FURTHER INFORMATION CONTACT: Robert F. Storch, Chief, Accounting Section, Division of Supervision, (202) 898-8906, or H. Andrea Gribble, Senior Counsel, Legal Division, (202) 736-3047, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI Act (12 U.S.C. 4803(a)) requires each federal banking agency to streamline and modify its regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. Section 303(a) also requires each federal banking agency to remove inconsistencies and outmoded and duplicative requirements from its regulations and written policies.

As part of this review, the FDIC has determined that the Statement is outmoded, and that the FDIC's written policies can be streamlined by its elimination.

The Statement was published on July 12, 1976 (41 FR 28583). One of the purposes of the Statement was to extend the submission deadline for Reports of Condition from ten to 30 days after the report date because the FDIC's Board of Directors (Board) had determined that FDIC-supervised banks needed

additional time to complete these reports. The Board also determined that the submission deadline for the Reports of Condition and the Reports of Income should be the same. Another purpose of the Statement was to announce that, by mutual agreement of the FDIC Chairman, the Comptroller of the Currency, and the Chairman of the Federal Reserve Board, the dates as of which Call Reports must be prepared each year would be March 31, June 30, September 30, and December 31. Previously, banks had been required to prepare their first and third Call Reports of each year as of varying dates that were other than March 31 and September 30. Finally, the Statement recited the statutory penalty that was then in effect for failing to file the Report of Condition by the submission deadline.

Subsequent to the issuance of the Statement, in 1978, Congress created the FFIEC, of which the FDIC is a member. Section 1006(c) of the FFIEC Act requires the FFIEC to develop uniform reporting standards for federally-supervised financial institutions. In 1988, the FFIEC took final action to define the term "submission date" for the Call Reports and to establish specific deadlines for submitting these reports by various delivery methods (53 FR 32104). This action was preceded by the FFIEC's solicitation of public comments on these matters (53 FR 11558). The FFIEC carefully considered the comments that were received before making its final decision. The definition of the term "submission date" and the specific deadlines themselves, as well as the calendar quarter-end report dates, have been incorporated into the *Instructions—Consolidated Reports of Condition and Income* issued by the FFIEC. Thus, the information in the policy statement on the timing for submitting Call Reports is no longer entirely accurate. Amending the policy statement would serve little purpose. Efforts are currently under way to amend the FDIC's Rules and Regulations to reflect the submission deadlines. The FDIC believes that it would be redundant for information that will be covered by regulation and is fully explained in the Call Report instructions to be repeated in a policy statement.

Section 911(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 amended section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) to increase the statutory penalty for a bank's failure to file the Call Report on time to amounts in excess of the amount cited in the Statement. The civil money

penalties that the FDIC currently may assess for the late filing of a Call Report or the filing of a false or misleading Call Report are also described in section 308.132(c)(2) of the FDIC's Rules and Regulations (12 C.F.R. § 308.132(c)(2)). The FDIC believes that it is unnecessary for a policy statement to restate penalties that are clearly set forth in its regulations.

For the above reasons, the Statement is hereby rescinded.

By order of the Board of Directors.

Dated at Washington, D.C., this 17th day of June, 1996.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96-16197 Filed 6-24-96; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1112-DR]

Illinois; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois, (FEMA-1112-DR), dated May 6, 1996, and related determinations.

EFFECTIVE DATE: June 14, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Illinois, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 6, 1996:

Champaign County for Individual Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96-16136 Filed 6-24-96; 8:45 am]

BILLING CODE 6718-02-P

[FEMA-1117-DR]**Kentucky; Amendment to Notice of a Major Disaster Declaration**

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Kentucky, (FEMA-1117-DR), dated June 1, 1996, and related determinations.

EFFECTIVE DATE: June 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Kentucky, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 1, 1996:

Owsley and Perry Counties for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96-16138 Filed 6-24-96; 8:45 am]

BILLING CODE 6718-02-P

[FEMA-1116-DR]**Minnesota; Amendment to Notice of a Major Disaster Declaration**

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Minnesota, (FEMA-1116-DR), dated June 1, 1996, and related determinations.

EFFECTIVE DATE: June 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Minnesota, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 1, 1996:

Aitkin, Clay, Clearwater and Pope Counties for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96-16137 Filed 6-24-96; 8:45 am]

BILLING CODE 6718-02-P

[FEMA-1113-DR]**Montana; Amendment to Notice of a Major Disaster Declaration**

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Montana (FEMA-1113-DR), dated May 16, 1996, and related determinations.

EFFECTIVE DATE: June 7, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 5, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96-16140 Filed 6-24-96; 8:45 am]

BILLING CODE 6718-02-P

[FEMA-1118-DR]**North Dakota; Major Disaster and Related Determinations**

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA-1118-DR), dated June 5, 1996, and related determinations.

EFFECTIVE DATE: June 5, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 5, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and

Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of North Dakota, resulting from severe storms, flooding, ice jams, and ground saturation due to high water tables beginning on March 12, 1996, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of North Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Lesli A. Rucker of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of North Dakota to have been affected adversely by this declared major disaster:

Barnes, Benson, Cass, Cavalier, Dickey, Eddy, Emmons, Foster, Grand Forks, Griggs, Kidder, LaMoure, Logan, McHenry, McIntosh, McLean, Nelson, Oliver, Pembina, Pierce, Ramsey, Ransom, Richland, Sheridan, Steele, Stutsman, Traill, Walsh and Wells Counties for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96-16134 Filed 6-24-96; 8:45 am]

BILLING CODE 6718-02-P

[FEMA-1099-DR]**Oregon; Amendment to Notice of a Major Disaster Declaration**

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oregon, (FEMA-1099-DR), dated February 9, 1996, and related determinations.

EFFECTIVE DATE: June 14, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Oregon, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1996:

The Lands of the Coquille Indian Tribe for Public Assistance and Hazard Mitigation. (Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,
Associate Director, Response and Recovery Directorate.

[FR Doc. 96-16135 Filed 6-24-96; 8:45 am]

BILLING CODE 6718-02-P

[FEMA-3117-EM]

Texas; Amendment to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Texas, (FEMA-3117-EM), dated February 23, 1996, and related determinations.

EFFECTIVE DATE: June 14, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the State of Texas, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of February 23, 1996:

Camp, Cherokee, Hardeman, Hardin, Houston, King, Liberty, Marion, Nacogdoches, Newton, Panola, Polk, San Augustine, Shelby, Trinity and Upshur Counties for emergency assistance as defined in the amended declaration letter of February 26, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,
Associate Director, Response and Recovery Directorate.

[FR Doc. 96-16139 Filed 6-24-96; 8:45 am]

BILLING CODE 6718-02-P

[FEMA-1115-DR]

West Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia (FEMA-1115-DR), dated May 23, 1996, and related determinations.

EFFECTIVE DATE: June 10, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 10, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,
Associate Director, Response and Recovery Directorate.

[FR Doc. 96-16132 Filed 6-24-96; 8:45 am]

BILLING CODE 6718-02-P

[FEMA-1115-DR]

West Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia (FEMA-1115-DR), dated May 23, 1996, and related determinations.

EFFECTIVE DATE: June 5, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 5, 1996, the President amended the major disaster declaration of May 23, 1996, under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), in a letter to James L. Witt, Director of the Federal Emergency Management Agency, as follows:

I have determined that the damage in certain areas of the State of West Virginia, resulting from flooding and heavy winds on May 15-21, 1996 is of sufficient severity and magnitude to warrant the expansion of the incident period to May 15, 1996, and continuing, and the incident type to include damage resulting from wind driven rain and mudslides in the major disaster declaration of May 23, 1996, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act").

All other conditions specified in the original declaration remain the same.

Please notify the Governor of the State of West Virginia and the Federal Coordinating Officer of this amendment to my major disaster declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96-16133 Filed 6-24-96; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of

interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 19, 1996.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Service Bancorp, MHC*, Medway, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Medway Savings Bank, Medway, Massachusetts.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Farmers State Bancshares, Inc.*, Mason City, Iowa; to become a bank holding company by acquiring 94.3 percent of the voting shares of Farmers State Bank, Northwood, Iowa.

2. *Great Lakes Financial Resources, Inc.*, ESOP, Matteson, Illinois; to acquire 52.2 percent of the voting shares of Great Lakes Financial Resources, Inc., Matteson, Illinois, and thereby indirectly acquire Bank of Homewood, Homewood, Illinois, Bank of Matteson, Matteson, Illinois, and First National Bank of Blue Island, Blue Island, Illinois.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Arkansas Banking Company*, Jonesboro, Arkansas; to acquire 100 percent of the voting shares of Mercantile Bank of Batesville, N.A., Batesville, Arkansas. Comments regarding this application must be received not later than July 16, 1996.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Texas Bancorp, Inc.*, San Angelo, Texas, and San Angelo Bancorp, Inc., Dover, Delaware; to become a bank holding companies by acquiring 100 percent of the voting shares of Texas State Bank, San Angelo, Texas.

Board of Governors of the Federal Reserve System, June 19, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-16087 Filed 6-24-96; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 19, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern National Corporation*, Winston-Salem, North Carolina; to engage *de novo* through its subsidiary, Money 24, Inc., Winston-Salem, North Carolina, in placing, in locations owned or leased by third parties, cash dispensing machines which would only be able to: (1) dispense cash, (2) render account balances, and (3) transfer funds between existing accounts, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to merge Central Computers, Inc., Victoria, Texas into Norwest Technical Services, Inc., Minneapolis, Minnesota, and thereby engage in data processing activities, pursuant to § 225.25(b)(7) of the Board's Regulation Y. This application represents a corporate reorganization.

Board of Governors of the Federal Reserve System, June 19, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-16088 Filed 6-24-96; 8:45 am]

BILLING CODE 6210-01-F

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 noon, Monday, July 1, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 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: June 21, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-16348 Filed 6-21-96; 3:28 pm]

BILLING CODE 6210-01-P

FEDERAL TRADE COMMISSION**Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules**

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires

persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 052096 AND 061496

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date Terminated
Gerald W. Schwartz, MascoTech, Inc., MascoTech Stamping Technologies, Inc	96-1703	05/20/96
Margaret Oung, Reebok International Ltd., AVIA Group International Inc	96-1850	05/20/96
Flowers Industries, Inc., The J.M. Smucker Company, Mrs. Smith's, Inc	96-1771	05/21/96
Gundersen Clinic, Ltd., Lutheran Health System-LaCrosse, Inc., Lutheran Health System-LaCrosse, Inc	96-1781	05/21/96
Woodrow A. Hall, Warren A. Hood, Jr., Southern Bag Corporation, Ltd	96-1806	05/21/96
William S. Morris III, John P. Morgan, Flashes Publishers, Inc	96-1824	05/21/96
William S. Morris III, Hendrik G. Meijer, Flashes Publishers, Inc	96-1825	05/21/96
Summit Ventures IV, L.P. Summit Investors III, L.P., Pacer Electronics, Inc., Pacer Electronics, Inc	96-1848	05/21/96
Bain Venture Capital, Roger S. Vail, Uhlmans, Inc	96-1853	05/21/96
American Radio Systems Corporation, D.T. Chase Enterprises, Inc., The Ten Eighty Corporation	96-1666	05/22/96
Precision Castparts Corp., Olofsson Corporation, Olofsson Corporation	96-1789	05/22/96
Harris Computer Systems Corporation, Concurrent Computer Corporation, Concurrent Computer Corporation	96-1716	05/23/96
SCI Systems, Inc., Apple Computers, Inc., Newco Sub	96-1823	05/23/96
Merrill Lynch & Co., Inc., The Prudential Insurance Company of America, Lender's Service, Inc	96-1836	05/23/96
Global Financial Information Corporation, Knight-Ridder, Inc., Knight-Ridder Financial, Inc	96-1839	05/23/96
Chemical Leaman Corporation, Voting Trust Agreement R/Shares of Bulk Materials, Inc., BMI Transportation, Inc./Fleet Transport Company, Inc	96-1844	05/23/96
Landry's Seafood Restaurants, Inc., Bayport Restaurant Group, Inc., Bayport Restaurant Group, Inc	96-1857	05/23/96
Boston Chicken, Inc., Einstein Bros. Bagels, Inc., Einstein Bros. Bagels, Inc	96-1903	05/23/96
Merck & Co., Inc., Systemed, Inc., Systemed, Inc	96-1790	05/24/96
Columbia/HCA Healthcare Corporation, The Cape Coral Medical Center, Inc., NEWCO	96-1925	05/24/96
Warburg, Pincus Capital Company, L.P., Keepco II, Keepco II	96-1710	05/26/96
Warburg, Pincus Capital Company, L.P., Keepco I, Keepco I	96-1711	05/26/96
Warburg, Pincus Capital Company, L.P., Panavision International, L.P., Panavision International, L.P	96-1721	05/26/96
North Star Universal, Inc., Michael Foods, Inc., Michael Foods, Inc	96-1594	05/28/96
Health Care Service Corp., a Mutual Legal Reserve Co., Advocate Health Care Network, Dreyer Health Plans	96-1730	05/28/96
Alan B. Miller, Ronald I. Dozoretz, M.D., First Hospital Corporation	96-1752	05/28/96
Woodmen Accident and Life Company, Foremost Corporation of America, Foremost Life Insurance Company	96-1754	05/28/96
First American Corporation, Zurich Insurance Company, INVEST Financial Corporation	96-1770	05/28/96
Provident Companies, Inc., Textron Inc., The Paul Revere Corporation	96-1814	05/28/96
Textron Inc., Provident Companies, Inc., Provident Companies, Inc	96-1815	05/28/96
National Geographic Society, Destination Cinema, Inc., Destination Cinema, Inc	96-1833	05/28/96
Olsten Corporation, Quantum Health Resources, Inc., Quantum Health Resources, Inc	96-1846	05/28/96
Citation Insurance Group, Physicians Insurance Company of Ohio, Physicians Insurance Company of Ohio	96-1855	05/28/96
The Ondaatje Corporation, Physicians Insurance Company of Ohio, Physicians Insurance Company of Ohio	96-1856	05/28/96
Hoechst Aktiengesellschaft, Benjamin C. Madey, Polymer Color, Inc. & Polymer Compounding, Inc	96-1858	05/28/96
Mr. Alejo Peralta y Diaz Ceballos, Mr. James A. Lash, Reading Tube Corporation	96-1866	05/28/96
GS Capital Partners II, L.P., Covenant Care, Inc., Covenant Care, Inc	96-1870	05/28/96
Essilor International (Compagnie Generale D'Optique), Duffens Optical, Inc., Duffens Optical, Inc	96-1871	05/28/96
FPA Medical Management, Inc., Physicians Corporation of America, Physicians First, Inc	96-1873	05/28/96
Golder, Thoma, Cressey, Rauner Fund IV, L.P., Memorial Hospital Foundation-Palestine, Inc., Palestine Hos- pital Foundation-Palestine, Inc	96-1878	05/28/96
D. James Bidzos, Security Dynamics Technologies, Inc., Security Dynamics Technologies, Inc	96-1882	05/28/96
Security Dynamics Technologies, Inc., Addison Fisher, RSA Data Security, Inc	96-1883	05/28/96
Addison Fischer, Security Dynamics Technologies, Inc., Security Dynamics Technologies, Inc	96-1884	05/28/96
Edward M. Snider, Ralph J. Roberts, Comcast Sports Venture, L.P. and Comcast Sport Ventures	96-1889	05/28/96
SunAmerica, Inc., The Eli and Edythe L. Broad 1980 Family Trust, Stanford Ranch, Inc	96-1891	05/28/96
International Wireless Incorporated, Sears, Roebuck and Co., Prodigy Services Company	96-1894	05/28/96
Alco Standard Corporation, Kevin J. Dwyer and Frank J. Martorana, as Vot. Trustees, Spiro-Wallach Com- pany, Inc	96-1895	05/28/96
The New York Times Company, Imperial Delivery Service, Inc., Imperial Delivery Service, Inc	96-1900	05/28/96
ABRY Broadcast Partners II, L.P., Diversified Communications, Inc., Diversified Communications, Inc	96-1904	05/28/96
The Interpublic Group of Companies, Inc., DraftDirect Worldwide, Inc., DraftDirect Worldwide, Inc	96-1906	05/28/96
Bell Atlantic Corporation, Horizon Cellular Telephone Company, L.P., Horizon Cellular Telephone Company of Dawson, L.P	96-1907	05/28/96
International Wireless Incorporated, International Business Machines Corporation, Prodigy Services Company	96-1908	05/28/96
Philipp Holzmann, AG, Henry B. Moree, Power Plant Maintenance, Inc	96-1909	05/28/96
Danka Business Systems, PLC, Leslie Supply Company, Inc., Leslie Supply Company, Inc	96-1915	05/28/96

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 052096 AND 061496—Continued

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date Terminated
Swarovski International Holdings A.G., Maurice J. Cuniffe, Radiac Abrasives, Inc	96-1929	05/28/96
UNC Incorporated, First Chicago NBD Corporation, CFC Aviation Services, L.P., d/b/a Garret Aviation Serv	96-1903	05/29/96
Mercury Radio Communications, L.P., Scott K. Ginsburg, Evergreen Media/Pyramid Holdings Corporation	96-1734	05/29/96
Lowell W. Paxson, John F. Tenaglia, TK Communications, L.C.	96-1741	05/29/96
Phillip Holzmann, AG, Henry Vogt Machine Co., Henry Vogt Machine Co.'s heat transfer division	96-1791	05/29/96
Laidlaw Inc., Scott's Hospitality Inc., Scott's Hospitality Inc	96-1808	05/29/96
Browning-Ferris Industries, Inc., Joseph J. Lostritto, Waste Management L.L.C	96-1877	05/29/96
Digicon Inc., Veritas Energy Services Inc., Veritas Energy Services Inc	96-1886	05/29/96
Herbert Simon, Edward J. DeBartolo, Jr., DeBartolo Properties Management, Inc	96-1902	05/29/96
Clear Channel Communications, Inc., Westinghouse Electric Corporation, CBS Inc	96-1912	05/29/96
Fedders Corporation, NYCOR, Inc., NYCOR, Inc	96-1916	05/29/96
EZ Communications, Inc., Par Broadcasting Company, Inc., Par Broadcasting Company, Inc	96-1812	05/30/96
Citation Insurance Group, PC Quote, Inc., PC Quote, Inc	96-1864	05/30/96
Mr. Thomas Schmidheiny, Koch Industries, Inc., Koch Industries, Inc	96-1905	05/30/96
ITOCHU Corporation, Granada Group PLC, Granada North America, Inc.	96-1911	05/30/96
Frontenac VI Limited Partnership, Lee A. Asseo, E.B. & A.C. Whiting Company	96-1554	05/31/96
Tejas Gas Corporation, Central and South West Corporation, Transok, Inc.	96-1874	05/31/96
Sanjay Subhedar, Cisco Systems, Inc., Cisco Systems, Inc.	96-1637	06/03/96
Richard M. Moley, Cisco Systems, Inc., Cisco Systems, Inc.	96-1676	06/03/96
Cisco Systems, Inc. StrataCom, Inc., StrataCom, Inc.	96-1677	06/03/96
Hollandsche Beton Groep nv, Henry Vogt Machine Co., Henry Vogt Machine Co.'s heat transfer division	96-1792	06/03/96
Citation Insurance Group, Fairfield Communities, Inc., Fairfield Communities, Inc.	96-1865	06/04/96
Deseret Management Corporation, Robert F.X. Sillerman, SFX Broadcasting, Inc.	96-1901	06/04/96
Hellman & Friedman Capital Partners III, L.P., The Brian and Jennifer Maxwell Living Trust, Powerfood, Inc.	96-1918	06/04/96
Genesis Health Ventures, Inc., National Health Care Affiliates, Inc, National Health Care Affiliates, Inc.	96-1920	06/04/96
Apollo Investment Fund, L.P., Proffitt's Inc., Proffitt's Inc.	96-1924	06/04/96
The Loewen Group Inc., Adrienne Trousdale, Associated Memorial Group, Ltd.	96-1926	06/04/96
The Loewen Group Inc., Tecon Corporation, Associated Memorial Group, Ltd.	96-1927	06/04/96
ProNet Inc., Teletouch Communications, Inc., Teletouch Communications, Inc.	96-1931	06/04/96
BankAmerica Corporation, ProNet, Inc., ProNet, Inc.	96-1932	06/04/96
Netscape Communications Corporation, TVsoft Corporation, TVsoft Corporation	96-1933	06/04/96
Erik Hvide Trust, Robert L. Moody, Seal Fleet, Inc., Ross Seal Partners. Ltd., Bengal Seal	96-1936	06/04/96
J. Steven Wilson, Wickes Lumber Company, Wickes Lumber Company	96-1937	06/04/96
Metromedia International Group, Inc., Bradley R. Krevoy, Motion Picture Corporation of America	96-1941	06/04/96
Raytheon Company, WMX Technologies, Inc., Rust Engineering & Construction Inc., National Industri	96-1942	06/04/96
A.F. Raimondo, Inland Southern Corporation, Inland Southern Corporation	96-1951	06/04/96
University of Maryland Medical System Corporation, Christ Lutheran Church of Baltimore City, Maryland, The Deaton Specialty Hospital and Home, Inc. and The Jo	96-1955	06/04/96
Horizon/CMS Healthcare Corporation, Medical Innovations, Inc., Medical Innovations, Inc.	96-1962	06/04/96
Kuala Lumpur Kepong Berhad, Cyrus I. Harvey, Jr., Crabtree & Evelyn, Ltd.	96-1967	06/04/96
Trivest Institution Fund Limited, Auburn Sportswear, Inc., Auburn Sportswear, Inc.	96-1973	06/04/96
General Electric Company, U.S. Media Holdings, Inc., U.S. Media Holdings, Inc.	96-1997	06/04/96
The EBS Partnership, Citicorp, Citicorp Dealing Resources Inc., Citicorp Dealing Reso	96-1885	06/05/96
Sonat Offshore Drilling Inc., Transocean ASA, Transocean ASA	96-1897	06/05/96
RPM, Inc., Cortec Group Fund, L.P., Okura Holdings, Inc.	96-1921	06/05/96
Memorial Healthcare System, Pasadena Health Care Management, Inc., Southmore Medical Center, Ltd., LT and Southmore Medical No	96-1819	06/06/96
Borg-Warner Automotive, Inc., Coltec Industries Inc., Holley Automotive Division	96-1837	06/06/96
Cablevision Systems Corporation, U.S. Cable Television Group, L.P., U.S. Cable Television Group, L.P.	96-1872	06/06/96
Fenway Partners Capital Funds, L.P., The Quaker Oats Company, The Quaker Oats Company	96-1954	06/06/96
DST Systems, Inc., Computer Sciences Corporation, Computer Sciences Corporation	96-1965	06/06/96
Computer Sciences Corporation, The Continuum Company, Inc., The Continuum Company, Inc	96-1966	06/06/96
Metrocall, Inc., A + Network, Inc., A + Network, Inc	96-1977	06/06/96
Robert F.X. Sillerman, Multi-Market Radio, Inc., Multi-Market Radio, Inc	96-2018	06/06/96
Sola International Inc., Maurice J. Cuniffe, American Optical Corporation	96-1384	06/07/96
The Rank Organization Plc, Peter A. Morton, Hard Rock Cafe Licensing Corporation, Hard Rock Cafe Am	96-1875	06/07/96
The Ondaatje Corporation, Citation Insurance Group, Citation Insurance Group	96-1896	06/07/96
Fund American Enterprises Holding, Inc., Financial Security Assurance Holdings, Ltd., Financial Security Assurance Holdings, Ltd	96-1910	06/07/96
Tyco International Ltd., William H. Binnie, Carlisle Plastics, Inc	96-1947	06/07/96
William H. Binnie, Tyco International Ltd., Tyco International Ltd	96-1948	06/07/96
The New York Times Company, Palmer Communications Incorporated, Palmer Communications Incorporated	96-1959	06/07/96
The James S. Copley Marital Trust, The Peoria Journal Star, Inc., The Peoria Journal Star, Inc	96-1971	06/07/96
Dominion Resources, Inc., Enron Corp., Richmond Power Enterprise, L.P	96-1974	06/07/96
Dominion Resources, Inc., Entergy Corporation, Richmond Power Enterprise, L.P	96-1975	06/07/96
Steven M. Rales, Sundance Broadcasting, Inc., Sundance Broadcasting, Inc	96-1979	06/07/96
Mitchell P. Rales, Sundance Broadcasting, Inc., Sundance Broadcasting, Inc	96-1980	06/07/96
Duke Power Company, VECTRA Technologies, Inc., VECTRA Technologies, Inc	96-1985	06/07/96
McCown De Leeuw & Co. II, L.P., Edward S. Rogers, Transkrit Corporation	96-1991	06/07/96
Jerry Warsky, New Valu, Inc., Outdoor Sports Headquarters, Inc	96-1992	06/07/96
Genesis Health System, Illini Hospital, Inc., Illini Hospital, Inc	96-1995	06/07/96

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 052096 AND 061496—Continued

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date Terminated
KN Energy, Inc., Amoco Corporation, Amoco Pipeline Company	96-2004	06/07/96
Cookson Group plc, Camelot Systems, Inc., Camelot Systems, Inc	96-2006	06/07/96
Sinclair Broadcast Group, Inc., ABRY Communications II, L.P., Cincinnati TV 64 Limited Partnership	96-2014	06/07/96
MedPartners/Mullikin, Inc., James E. George, M.D., Emergency Physician Associates, P.A	96-2020	06/07/96
Sega Enterprises, Ltd., JT Storage, Inc., JT Storage, Inc	96-2024	06/07/96
Atlantic Equity Partners International II, L.P., Atlantic Equity Partners L.P., BPC Holding Corporation	96-2026	06/07/96
First Chicago NBD Corporation, E.I. du Pont de Nemours and Company, E.I. du Pont de Nemours and Com- pany	96-2028	06/07/96
Martin H. Marcus, Welsh, Carson, Anderson & Stowe VI, L.P., Medifax, Inc	96-2029	06/07/96
PriCellular Corporation, Horizon Cellular Telephone Company, L.P., Horizon Cellular Telephone Company of Monongalia, L.P	96-2034	06/07/96
BISSELL Inc., Ryobi Limited, Ryobi Motor Products Corp	96-2036	06/07/96
D. Bryan Jones, Arnold Bay Farms, Inc., Arnold Bay Farms, Inc	96-2043	06/07/96
Chase Brass Industries, Inc., UNR Asbestors-Disease Claims Trust, Holco Corporation and Leavitt Structural Tubing Co	96-2044	06/07/96
SPS Technologies, Inc., Coats Viyella, Flexmag Industries, Inc	96-2049	06/07/96
Cookson Group plc (a British company) Entek/Amtek International LLC (a Delaware company), Entek/Amtek International LLC (a Delaware company)	96-2051	06/07/96
Tyco International Ltd., Thorn Security Group, Ltd., Thorn Security Group, Ltd	96-2052	06/07/96
PECO Energy Company, Allen Salmasi, NextWave Telecom Inc	96-2053	06/07/96
New Era Enterprises, Inc., I.C.H. Corporation (Debtor-in-Possession), Philadelphia American Life Insurance Company	96-2031	06/09/96
The Carpenters Pension Trust for Southern California, The Dexter Corporation, The Dexter Corporation	96-1945	06/11/96
Occidental Petroleum, Helmerich & Payne, Inc., Natural Gas Odorizing, Inc	96-2045	06/11/96
Raytheon Company, Chrysler Corporation, Chrysler Technologies Holding, Inc	96-1578	06/12/96
Cooper Cameron Corporation, Ingram Industries Inc., Ingram Cactus Company	96-1644	06/13/96
Incentive A/S, Thermadyne Holdings Corporation, Clarke Holding Corporation	96-1952	06/13/96
Vulcan Materials Company, Mayo Chemical Company, Inc., Mayo Chemical Company, Inc	96-1960	06/13/96
Warburg, Pincus Investors, L.P., Cablevision Systems Corporation, CSC Acquisition—MA, Inc	96-2009	06/13/96
Cable Systems Corporation, Warburg, Pincus Investors, L.P., WP Cable Inc., WP Nashoba Cable, Inc. and Framingham Ho	96-2010	06/13/96
HealthPlan Services Corporation, Consolidated Group, Inc., Consolidated Group, Inc	96-2041	06/13/96
HIG Investment Group, L.P., John Sheehan (debtor in possession), Johnstown Corporation	96-1831	06/14/96
Clear Channel Communications, Inc., General Electric Company, REP New England, G.P., REP Southeast G.P., REP Ft. Myer	96-1913	06/14/96
Mr. Klaus J. Jacobs, ECCO S.A., ECCO S.A	96-1939	06/14/96
Shamrock Holdings, Inc., Alberto-Culver Company, Alberto-Culver Company	96-1940	06/14/96
Boyd Gaming Corporation, Par-A-Dice Gaming Corporation, Par-A-Dice Gaming Corporation	96-1964	06/14/96
Robert G. Irvin, William F. Brooks, Jr., Forty Acres Ltd	96-2008	06/14/96
Security Capital Group Incorporated, Homestead Village Properties Incorporated, Homestead Village Prop- erties Incorporated	96-2016	06/14/96
James E. George, M.D., MedPartners/Mullikin, Inc., MedPartners/Mullikin, Inc	96-2019	06/14/96
The Carpenters Pension Trust for Southern California, Kinetic Concepts, Inc., Kinetic Concepts, Inc	96-2025	06/14/96
Komatsu Ltd., Cummins Engine Company, Inc., Cummins Engine Company, Inc	96-2035	06/14/96
OrNda HealthCorp, Cypress Fairbanks Medical Center, Inc., Cypress Fairbanks Medical Center, Inc	96-2087	06/14/96

FOR FURTHER INFORMATION CONTACT:

Sandra M. Peay or Renee A. Horton,
contact representatives, Federal Trade
Commission, Premerger Notification
office, Bureau of Competition, room
303, Washington, D.C. 20580 (202) 326-
3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96-16115 Filed 6-24-96; 8:45 am]

BILLING CODE 6750-01-M

[File No. 921-0050]

**New Balance Athletic Shoe, Inc.;
Proposed Consent Agreement with
Analysis to Aid Public Comment**

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the Boston, Massachusetts-based shoe manufacturer from fixing, controlling, or maintaining the resale prices at which retailers advertise, promote, or offer for sale any New Balance athletic or casual footwear. It also prohibits New Balance from coercing or pressuring any retailer to maintain or adopt any resale price and from attempting to secure their commitment to any resale price. This consent agreement settles allegations that New Balance entered into

agreements with some of its retailers to restrict price competition, thereby raising prices for consumers.

DATES: Comments must be received on or before August 26, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: William Baer, Federal Trade Commission, H-374, 6th and Pennsylvania Ave, NW, Washington, DC 20580. (202) 326-2932. Michael Bloom, Federal Trade Commission, New York Regional Office, 150 William Street, Suite 1300, New York, NY 10038. (212) 264-1201.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade

Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Cease and Desist

Commissioners: Robert Pitofsky, Chairman, Mary L. Azcuenaga, Janet D. Steiger, Roscoe B. Starek, III, Christine A. Varney.

The Federal Trade Commission having initiated an investigation of certain acts and practices of New Balance Athletic Shoe, Inc. and it now appearing that New Balance Athletic Shoe, Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from engaging in the acts and practices being investigated.

It is hereby agreed by and between New Balance Athletic Shoe, Inc., by its duly authorized officers, and its attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent New Balance Athletic Shoe, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts. The mailing address and principal place of business of proposed respondent is: 61 North Beacon Street, Boston, Massachusetts 02134.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. The proposed respondent waives:

- (a) Any further procedural steps;
- (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;
- (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and
- (d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the

Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's addresses as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. The proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. The proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered That for the purpose of this order, the following definitions shall apply:

(A) The term "New Balance" means New Balance Athletic Shoe, Inc., its predecessors, subsidiaries, divisions, groups, and affiliates controlled by New Balance Athletic Shoe, Inc., and its respective directors, officers, employees, agents, and representatives, and the respective successors and assigns of each.

(B) The term "respondent" means New Balance.

(C) The term "product" means any athletic or casual footwear item which is manufactured, offered for sale or sold under the brand name of "New Balance" to dealers or consumers located in the United States of America.

(D) The term "dealer" means any person, corporation or entity not owned by New Balance, or by any entity owned or controlled by New Balance, that in the course of its business sells any product in or into the United States of America.

(E) The term "resale price" means any price, price floor, minimum price, maximum discount, price range, or any mark-up formula or margin of profit used by any dealer for pricing any product. "Resale price" includes, but is not limited to, any suggested, established, or customary resale price.

II

It is further ordered That New Balance, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacturing, offering for sale, sale or distribution of any product in or into the United States of America in or affecting "commerce," as defined by the Federal Trade Commission Act, do forthwith cease and desist from:

(A) Fixing, controlling, or maintaining the resale price at which any dealer may advertise, promote, offer for sale or sell any product.

(B) Requiring, coercing, or otherwise pressuring any dealer to maintain, adopt, or adhere to any resale price.

(C) Securing or attempting to secure any commitment or assurance from any dealer concerning the resale price at which the dealer may advertise, promote, offer for sale or sell any product.

(D) For a period of ten (10) years from the date on which this order becomes final, adopting, maintaining, enforcing or threatening to enforce any policy, practice or plan pursuant to which respondent notifies a dealer in a

advance that: (1) The dealer is subject to warning or partial or temporary suspension or termination if its sells, offers for sale, promotes or advertises any product below any resale price designated by respondents, and (2) the dealer will be subject to a greater sanction if it continues or renews selling, offering for sale, promoting or advertising any product below any such designated resale price. As used herein, the phrase "partial or temporary suspension or termination" includes but is not limited to any disruption, limitation, or restriction of supply: (1) of some, but not all, products, or (2) to some, but not all, dealer locations or businesses, or (3) for any delimited duration. As used herein, the phrase "greater sanction" includes but is not limited to a partial or temporary suspension or termination of greater scope or duration than the one previously implemented by respondent, or complete suspension or termination.

Provided that nothing in this Order shall prohibit New Balance from establishing and maintaining cooperative advertising programs that include conditions as to the prices at which dealers offer products, so long as such advertising programs are not a part of a resale price maintenance scheme and do not otherwise violate this order.

III

It is further ordered That, for a period of five (5) years from the date on which this order becomes final, New Balance shall clearly and conspicuously state the following on any list, advertising, book, catalogue, or promotional material where it has suggested any resale price for any product to any dealer: Although New Balance may suggest resale prices for products, retailers are free to determine on their own the prices at which they will advertise and sell New Balance products.

IV

It is further ordered That, within (30) days after the date on which this order becomes final, New Balance shall mail by first class mail the letter attached as Exhibit A, together with a copy of this order, to all of its directors and officers, and to dealers, distributors, agents, or sales representatives engaged in the sale of any product in or into the United States of America.

V

It is further ordered That, for a period of two (2) years after the date on which this order becomes final, New Balance shall mail by first class mail the letter attached as Exhibit A, together with a copy of this order, to each new director,

officer, dealer, distributor, agent, and sales representative engaged in the sale of any product in or into the United States of America, within ninety (90) days of the commencement of such person's employment or affiliation with New Balance.

VI

It is further ordered That New Balance shall notify the Commission at least thirty (30) days prior to any proposed changes in New Balance such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of the order.

VII

It is further ordered That, within sixty (60) days after the date this order becomes final, and at such other times as the Commission or its staff shall request, New Balance shall file with the Commission a verified written report setting forth in detail the manner and form in which New Balance has complied and is complying with this order.

VIII

It is further ordered That this order shall terminate on July 15, 1996.

Exhibit A [New Balance Letterhead]

Dear Retailer: The Federal Trade Commission has conducted an investigation into New Balance's sales policies, and in particular New Balance's "Statement of Policy," which was announced in July 1991 and, with modifications, has remained in effect since then. To expeditiously resolve the investigation and to avoid disruption to the conduct of its business, New Balance has agreed, without admitting any violation of the law, to the entry of a Consent Order by the Federal Trade Commission prohibiting certain practices relating to resale prices. A copy of the Order is enclosed. This letter and the accompanying Order are being sent to all of our dealers, sales personnel and representatives.

The Order spells out our obligations in greater detail, but we want you to know and understand that you can sell and advertise our products at any price you choose. While we may send materials to you which contain suggested retail prices, you remain free to sell and advertise those products at any price you choose.

We look forward to continuing to do business with you in the future.

Sincerely yours,

President, New Balance Athletic Shoe, Inc.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from New Balance Athletic Shoe, Inc. ("New Balance").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

I. The Proposed Complaint

The Commission has issued a proposed complaint against New Balance that alleges that New Balance has entered into combinations, agreements and understandings with certain of its dealers to fix the resale prices at which dealers sell its athletic footwear. The complaint further alleges that this conduct violates Section 5 of the Federal Trade Commission Act.

To assist the public in understanding the circumstances under which the Commission may find a price agreement between a manufacturer and a retailer, the Commission's proposed complaint alleges price agreements in more detail than was contained in prior Commission resale price maintenance complaints. Specifically, the complaint alleges that New Balance engaged in various actions with the intent and effect of inducing certain of its dealers to enter into agreements with New Balance, pursuant to which the dealers agreed to raise retail prices on New Balance products, to maintain prices or price levels set by New Balance, or to refrain from discounting New Balance products. According to the complaint, these actions of New Balance included, among other things:

(a) Threatening to suspend or terminate shipments to discounting retailers and engaging in other coercive acts, such as surveillance of dealers' prices and demanding that discounting dealers raise their prices;

(b) Informing dealers that New Balance would act to secure similar price agreements with other dealers; and

(c) Securing price agreements from discounting dealers after warning them that continued or subsequent selling of New Balance products at prices below those set by New Balance would result in discontinuation of sales to the dealer pursuant to New Balance's written

policy stating that it will give a "one-time warning" to a dealer who sells its products below designated prices, and that in the event of continued or subsequent violation of its policy New Balance will discontinue selling to that dealer.

The complaint alleges that the purpose, tendency, or effect of the described New Balance actions is and has been to restrain trade unreasonably and to hinder competition in the sale of athletic footwear in the United States, depriving consumers of the benefits of price competition among retail dealers with respect to the sale of New Balance products and increasing prices to consumers of those products. The complaint concludes that the described acts and practices constitute unfair methods of competition and are illegal.

II. Description of Practices Giving Rise to the Alleged Violations of the Federal Trade Commission Act

New Balance, a Massachusetts corporation, is a prominent seller of athletic footwear. New Balance athletic shoes are available in a wider range of widths than many other athletic shoes, as a result of which New Balance has a loyal following among customers who wear non-standard widths.

In 1991, New Balance adopted a policy (hereinafter referred to as New Balance's "one-time warning" policy) under which retailers would first be warned, then terminated if they sold certain New Balance products at more than 20% below New Balance's suggested resale prices. Other versions of the one-time warning policy with minor changes came into effect at the start of 1993 and 1994.

Instead of enforcing this one-time warning policy through termination of non-complying retailers, New Balance on occasion used the policy as a means to enter into agreements with discounting retailers with respect to resale prices. For example, New Balance urged retailers to comply, sought expressions of consent, and negotiated the terms on which certain retailers would comply. As a result of these actions by New Balance some retailers have raised their retail prices.

As alleged in the complaint, New Balance induced retailers to enter into these agreements through coercive acts, including surveillance of retailer prices, threatening to suspend or terminate shipments to discounting retailers, and demanding that discounting retailers raise their prices. In addition, New Balance assured retailers that New Balance would secure similar price agreements from other, competing retailers or otherwise prevent

unapproved discounting of New Balance athletic shoes.

New Balance, by using the means described, was successful in inducing recalcitrant retailers to agree to charge prices preferred by New Balance, irrespective of the pricing preferences of each retailer. The result of New Balance's actions was to restrict price competition among retailers of New Balance athletic shoes, increasing New Balance athletic shoe prices to consumers. Entry into such price agreements constitute *per se* violations of the antitrust law prohibition of agreements in restraint of trade and violate Section 5 of the Federal Trade Commission Act.

III. Explanation of the Proposed Consent Order

New Balance has signed an agreement containing an order to cease and desist from engaging in the acts and prices under investigation. The agreement provides that it is for settlement purposes only and does not constitute an admission by New Balance that the law has been violated or that the facts alleged in the complaint (other than jurisdictional facts) are true. The proposed order requires New Balance to cease and desist from continuing or renewing the acts and practices alleged in the complaint, which affected both advertised and in-store prices. Specifically, Section II(A) of the proposed order requires New Balance to cease and desist from fixing, controlling, or maintaining the resale prices at which any dealer may advertise, promote, offer for sale or sell any New Balance product.

The law generally permits a manufacturer unilaterally to adopt, announce, and implement a policy of refusing to deal with resellers who sell at prices other than those preferred by the manufacturer. *United States v. Colgate & Co.*, 250 U.S. 300 (1919). The manufacturer may not, however, seek and obtain a reseller's agreement to adhere to the manufacturer's price preferences. *United States v. Parke, Davis & Co.*, 362 U.S. 29 (1960). To prevent New Balance from seeking and obtaining resellers' agreements to adhere to its pricing preferences, Sections II (B) and (C) of the order prohibit New Balance from requiring, coercing, or otherwise pressuring any dealer to maintain, adopt, or adhere to any resale price, and from securing or attempting to secure any commitment or assurance from any dealer concerning the resale price at which the dealer may advertise, promote, offer for sale, or sell any product.

Section II(D) addresses New Balance's improper use of its one-time warning policy. To prevent New Balance from using this policy as a means to enter into price agreements with non-complying retailers, the proposed order prohibits New Balance, for a period of ten years from the date on which the order becomes final, from adopting, maintaining, threatening to enforce, or enforcing any policy, practice, or plan under which New Balance notifies a reseller in advance that the reseller is subject to partial or temporary suspension or termination if it sells or advertises any product below a resale price designated by New Balance, and that the dealer will be subject to a greater sanction if it continues or renews selling or advertising any product below a designated resale price. The order does not prohibit New Balance from announcing suggested resale prices in advance and unilaterally refusing to deal with those who fail to comply.

The proposed order does not prohibit New Balance from establishing and maintaining cooperative advertising programs that include conditions as to the prices at which dealers offer products, so long as such advertising programs are not a part of a resale price maintenance scheme and do not otherwise violate this order.

The proposed order also contains provisions that are intended to restore competitive conditions in the market(s) affected by New Balance's unlawful actions. Section III of the proposed order requires New Balance, for a period of five years from the date on which the order becomes final, to place on any material in which it suggests resale prices a statement that the reseller is free to determine the prices at which it will sell New Balance products. Section IV of the proposed order requires New Balance, within thirty days after the date on which the order becomes final, to mail a letter, together with a copy of the order, to its directors, officers, dealers, sales representatives, and specified others, to inform them that resellers of New Balance products can advertise and sell New Balance products at any price they choose. Section V of the order, for a period of two years from the date on which the order becomes final, imposes a similar requirement with respect to prospective directors, officers, dealers, sales representatives.

Section VI of the proposed order requires New Balance to provide the Commission with notice of changes in New Balance, such as the creation or dissolution of subsidiaries, that may affect its order compliance obligations. Section VII requires New Balance to file

a detailed report of the manner and form of its compliance with the order within sixty days of its becoming final and at such other times as the Commission may request.

The proposed order provides that the order shall terminate 20 years after the date of its issuance by the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order to modify in any way their terms.

Donald S. Clark,
Secretary.

Concurring Statement of Commissioner Mary L. Azcuenaga in New Balance Athletic Shoe, Inc., File No. 921-0050

There is some evidence that New Balance went beyond permissible communications with its dealers and entered the realm of unlawful resale price maintenance. An order is, therefore, appropriate. I write separately to make clear my understanding that the proposed complaint does not challenge the announcement or implementation by a supplier of a structured termination policy, although I view Paragraph 4(c) of the complaint as ambiguous, the essence of the charge is that New Balance would not impose sanctions on them. New Balance did not implement its structured termination policy, and the proposed complaint and order do not address the lawfulness of that policy.

Dissenting Statement of Commissioner Roscoe B. Starek, III In the Matter of New Balance Athletic Shoe, Inc., File No. 921-0050

As I did in *Reebok International, Ltd.*, Docket No. C-3592, I find reasons to believe that the target of the present investigation—New Balance Athletic Shoe, Inc. (“New Balance”)—has entered into agreements with retailers to restrain retail prices and has thereby violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45. However, I dissent from the Commission’s decision to accept the consent agreement in this matter because certain provisions of the proposed Commission order are not required to prevent unlawful conduct and may instead unnecessarily restrain procompetitive conduct by New Balance.

As in *Reebok International*, the fencing-in restrictions in the proposed order relating to resale price advertising (specifically, the minimum advertised

price provisions)¹ and to New Balance’s “structured termination policy.”² are unjustifiably broad and likely to deter efficient conduct. Indeed, the order even goes beyond the provisions I found over inclusive, and therefore unacceptable, in the *Reebok* order: the current order omits language that appeared in Paragraph II of the *Reebok* order that expressly recognized the respondent’s *Colgate* rights.³

In the interests of fairness and efficiency, injunctive relief ordered to address resale price maintenance should be strictly tailored to the per se unlawful conduct alleged. Because the proposed order in this case mandates excessive restrictions upon the conduct of New Balance, I respectfully dissent.

[FR Doc. 96-16113 Filed 6-24-96; 8:45 am]

BILLING CODE 6750-01-M

[File No. 951-0124]

Precision Moulding Company, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the Cottonwood, California-based company from requesting, suggesting, urging, or advocating that any competitor raise, fix, or stabilize price levels. This consent agreement settles allegations that Precision, the leading supplier of wood products used to construct frames for artists’ canvases, attempted to fix prices and restrain trade in the market for these products, known as stretcher bars.

DATES: Comments must be received on or before August 26, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Michael Antalics, Federal Trade Commission, S-2627, 6th and Pennsylvania Ave, NW, Washington, DC 20580. (202) 326-2821.

¹ The unnecessary provisions relating to price advertising appear in Paragraphs II(A), II(B), and III and in Exhibit A to the proposed order.

² See Paragraph IV(C) of the proposed complaint and Paragraph II(D) of the proposed order.

³ See *United States v. Colgate & Co.*, 250 U.S. 300 (1919).

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission’s Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission’s Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of Precision Moulding Co., Inc., a corporation, hereinafter sometimes referred to as “proposed respondent,” and it now appearing that Precision Moulding Co., Inc. is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Precision Moulding Co. Inc., by its duly authorized officer, and its attorney, and counsel for the Commission that:

1. Proposed respondent Precision Moulding Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal place of business located at 3308 Cyclone Court, Cottonwood, California 96022, and its mailing address at P.O. Box 406, Cottonwood, California 96022.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission’s decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be

placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint, or that the facts as alleged in the complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. Proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of this order, the following definitions shall apply:

A. "Respondent" means Precision Moulding Co., Inc., its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, and groups, and affiliates controlled by Precision Moulding Co., Inc., and the respective directors, officers, employees, agents and representatives, successors, and assigns of each.

B. "Stretcher bar products" means an art supply wood product which when assembled comprises a rectangular frame over which a canvas used for painting is stretched, and includes any size of stretcher bar.

II

It is ordered that respondent, directly or indirectly, through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of any stretcher bar products, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

A. Requesting, suggesting, urging, or advocating that any competitor raise, fix or stabilize prices or price levels, or engage in any other pricing action; and

B. Entering into, attempting to enter into, adhering to, or maintaining any combination, conspiracy, agreement, understanding, plan or program with any competitor to fix, raise, establish, maintain or stabilize prices or price levels.

Provided, that nothing in this order shall prohibit respondent from: (1) agreeing to sell or distribute its stretcher bar products to its competitors, and (2) negotiating or agreeing upon the price which any of its stretcher bar products will be sold to its competitors.

It is further ordered That respondent shall:

A. Within thirty (30) days of the date on which this order becomes final, provide a copy of this order to all of its directors, officers, and management employees;

B. For a period of three (3) years after the date on which this order becomes final, and within ten (10) days after the date on which any person becomes a director, officer, or management employee of respondent, provide a copy of this order to such person; and

C. Require each person to whom a copy of this order is furnished pursuant to subparagraphs III.A. and B. of this

order to sign and submit to Precision Moulding Co., Inc. within thirty (30) days of the receipt thereof a statement that: (1) acknowledges receipt of the order; (2) represents that the undersigned has read and understands the order; and (3) acknowledges that the undersigned has been advised and understands that non-compliance with the order may subject Precision Moulding Co., Inc. to penalties for violation of the order.

IV

It is further ordered That respondent shall:

A. Within sixty (60) days from the date on which this order becomes final, and annually thereafter for three (3) years on the anniversary date of this order, and at such other times as the Commission may be written notice to the respondent require, file with the Commission a verified written report setting forth in detail the manner and form in which respondent has complied and is complying with this order;

B. For a period of three (3) years after the order becomes final, maintain and make available to the staff of the Federal Trade Commission for inspection and copying, upon reasonable notice, all records of communications with competitors of respondent relating to any aspect of pricing for stretcher bar products, and records pertaining to any action taken in connection with any activity covered by parts II, III and IV, of this order; and

C. Notify the Commission at least thirty (30) days prior to any change in respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of this order.

V

It is further ordered That this order shall terminate on _____, 2016.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Precision Moulding Company, Inc., a manufacturer of stretcher bars¹ with its principal place of business located at 3308 Cyclone Court, Cottonwood, California.

The proposed consent order has been placed on the public record for 60 days for reception of comments by interested

¹ A stretcher bar is an art supply wood product which when assembled comprises a rectangular frame over which a canvas used for painting is stretched.

persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that two representatives of Precision Moulding Co., Inc. visited one of its competitors and invited the competitor to raise its prices for stretcher bars. The complaint alleges that the invitation to collude, if accepted, would constitute an agreement in restraint of trade.

Solicitations to collude have been condemned as unlawful under Section 2 of the Sherman Act (attempted monopolization), under the wire and mail fraud statutes,² and under Section 5 of the FTC Act. In this case, the structure of the stretcher market is not conducive to prosecution under Section 2 of the Sherman Act. Market structure does not affect whether an alleged solicitation to collude can be prosecuted under the wire fraud or mail fraud statutes. However, those statutes do not apply in this case, because there is no evidence that Precision Moulding Company, Inc. used either the telephone (or another form of wire communication) or the mail to invite its competitor to collude. Thus, if not prosecuted under Section 5 of the FTC Act, the conduct would go unpunished.

Solicitations to collude have been alleged to be unfair methods of competition that violate Section 5 of the FTC Act, which reaches anticompetitive activities that may not violate the Sherman Act.³ During the past several years, the Commission has entered into several consent agreements involving invitations to collude that could not be reached under the wire and mail fraud statutes. See *YKK, C-3345* (1993); *Quality Trailer Products, C-3403* (1992) ("Quality"); *A.E. Clevite, Inc., C-3429* (1993). The Commission has condemned invitations to collude where the evidence is unambiguous, regardless of market power. Section 5 provides an appropriate vehicle for relief where the conduct falls short of criminal liability.

² See 18 U.S.C.A. §§ 1341, 1343 (mail and wire fraud).

³ See *Fashion Originators' Guild v. FTC*, 312 U.S. 457, 466 (1941); *FTC v. Brown Shoe Co.*, 384 U.S. 316, 321 (1966) (Commission could "ban trade practices which conflict with the basic policies of the Sherman and Clayton Acts even though such practices may not actually violate those laws"); *FTC v. Cement Institute*, 333 U.S. 683, 708 (1948) (Commission was intended to "restrain practices as 'unfair' which, although not yet having grown into Sherman Act dimensions would most likely do so if left unrestrained").

The alleged conduct engaged in by Precision Moulding Co., Inc. and the terms of the proposed consent order are similar to the conduct alleged and the relief obtained in *Quality Trailer Products, C-3403* (1992). In *Quality*, according to the Commission complaint, two representatives of a firm visited the headquarters of a competitor and met with an officer of the firm. During the course of the meeting, they invited the competitor to fix prices. As in *Quality*, the visit here was uninvited, and the solicitor informed its competitor in a private conversation that its prices were too low. See *Quality* (Concurring Statement of Commissioner Azcuenaga) (Nov. 5, 1992).

The proposed consent order prohibits Precision Moulding Co., Inc. from requesting, suggesting, urging, or advocating that any other producer or seller of stretcher bars raise, fix or stabilize prices or price levels, or engage in any other pricing action. The proposed consent order also prohibits Precision Moulding Co., Inc. from entering into, adhering to, maintaining, or carrying out any combination, conspiracy, agreement, understanding, plan or program with any other producer or seller of stretcher bars to fix, raise, establish, control, maintain or stabilize prices or price levels. The provisions of the order apply to stretcher bar products of any size.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.
Donald S. Clark,
Secretary.
[FR Doc. 96-16114 Filed 6-24-96; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Robert J. Altman, M.D., University of California at San Francisco (UCSF): Based on an investigation conducted by the institution as well as information obtained by ORI during its oversight review, ORI found that Robert J. Altman,

M.D., Research Fellow, Department of Obstetrics, Gynecology, and Reproductive Sciences, UCSF, committed scientific misconduct by fabricating and falsifying data in research supported by two National Institutes of Health grants.

Specifically, Dr. Altman fabricated an experiment related to an ovarian cell line injected intraperitoneally into 12 nude mice. The resulting data were reported in (1) a manuscript in page proof entitled "Inhibiting vascular endothelial growth factor arrests growth of ovarian cancer in an intraperitoneal model" (Journal of the National Cancer Institute); (2) a manuscript entitled "Vascular endothelial growth factor is essential for human ovarian carcinoma growth in vivo," submitted to the Journal of Clinical Investigation (JCI manuscript); and (3) a published abstract entitled "Vascular endothelial growth factor is essential for ovarian cancer growth in vivo" (Society for Gynecologic Investigation, abstract #079). Further, in the JCI manuscript, Dr. Altman (1) falsified the number of subjects with ovarian tumors from whom he obtained sections of tissue for examination of the expression of vascular endothelial growth factor (VEGF) purportedly by both *in situ* hybridization and immunohistochemistry, and (2) falsely reported that VEGF expression was examined by *in situ* hybridization and immunohistochemistry in papillary serous- (n=7) and mucinous- (n=5) cystadenocarcinomas, when the number of surgical cases involving papillary serous tumors was four and the number of mucinous tumors was zero. Dr. Altman examined VEGF expression in only three papillary serous tumor specimens, one specimen both *in situ* and by immunohistochemistry and the remaining two solely by immunohistochemistry.

Dr. Altman has entered into a Voluntary Exclusion Agreement with ORI in which he has voluntarily agreed, for the three (3) year period beginning June 11, 1996, to exclude himself from:

(1) Any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 C.F.R. Part 76 (Debarment Regulations), and (2) Serving in any advisory capacity to the Public Health Service (PHS), including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

The above voluntary exclusion shall not apply to Dr. Altman's future training

or practice of clinical medicine whether as a medical student, resident, fellow, or licensed practitioner, as the case may be, unless that practice involves research or research training.

FOR FURTHER INFORMATION CONTACT:
 Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852.
 Chris B. Pascal,
Acting Director, Office of Research Integrity.
 [FR Doc. 96-16102 Filed 6-24-96; 8:45 am]
BILLING CODE 4160-17-P

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Comprehensive Child Development Program Management Information System.

OMB No.: 0980-0226.

Description: The Comprehensive Child Development Program (CCDP) provides comprehensive services to

low-income families through 19 grantees. Data on the feasibility and management of the program will be collected through the management information (MIS) submitted here. The data will be collected from CCDP grantee agencies and will continue to be used for (1) research, (2) federal monitoring, and (3) internal project management.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
CCDP MIS	11,212	16.2	.14	25,935

Estimated Total Annual Burden Hours: 25,935.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by title.

In addition, requests for copies may be made and comments forwarded to the Reports Clearance Officer over the Internet by sending message to rsargis@acf.dhhs.gov. Internet messages must be submitted as an ASCII file without special characters or encryption.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: June 19, 1996.
 Larry Guerrero,
Director, Office of Information System Services.
 [FR Doc. 96-16049 Filed 6-24-96; 8:45 am]
BILLING CODE 4184-01-M

Submission for OMB Review; Comment Request

Title: Objective Evaluation Report (OER), Administration for Native Americans.

OMB No.: 0980-0144.

Description: The project self-evaluation information collected by the Objective Evaluation Report about a grantee's project is needed to meet ANA's legislatively required evaluation of grantee locally-determined financial assistance grant objective. The report is used in the following Administration for Native American's Program's competitive areas grants—Social and Economic Development Strategies (SEDS), ANA Regulatory Environmental Enhancement, ANA Native American Languages Preservation and Enhancements, and ANA Mitigation of Environmental Impacts to Indian Lands due to Department of Defense Activities. The information, when aggregated, is used to evaluate and monitor the grant project.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
OWP	250	1	2	500

Estimated Total Annual Burden Hours: 500.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should

be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated June 19, 1996.
 Larry Guerrero,
Director, Office of Information Management Services.
 [FR Doc. 96-16050 Filed 6-24-96; 8:45 am]
BILLING CODE 4184-01-M

Submission of OMB Review; Comment Request

Title: Objective Work Plan, ANA Program Narrative, Application for Federal Assistance.

OMB No.: 0980-0204.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
OWP	571	1	29.5	17,800

Estimated Total Annual Burden Hours: 17,800.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the

proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: June 19, 1996.
 Larry Guerrero,
Director, Office of Information Management Services.
 [FR Doc. 96-16051 Filed 6-24-96; 8:45 am]
BILLING CODE 4184-01-M

Submission for OMB Review; Comment Request

Title: Objective Progress Report (OPR), Administration for Native Americans.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
OPR	250	2	2	1,000

Estimated Total Annual Burden Hours: 1,000.

Additional Information: Copies of the proposed collection may be obtained by

writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management

Description: The information collected by Program Narrative; Application for Federal Assistance, the Objective Work Plan, is needed to properly administer and monitor the Administration for Native Americans' (ANA) Program's competitive areas—Social and Economic Development Strategies (SEDS), ANA Reservation and Enhancement, and ANA Mitigation of Environmental Impacts to Indian Lands Due to Department of Defense Activities by providing information in an application for a grant award. This data is used by legislative-mandated Native American review panels, and ANA, as the basis for recommendations for the decisions to award competitive ANA grants.

Respondents: State, Local or Tribal Govt.

OMB No.: 0980-0155.

Description: The information collected by the Objective Progress Report on an ANA grantee's project progress is needed to properly administer and monitor the progress of Administration for Native American' competitive areas grants—Social and Economic Development Strategies (SEDS), ANA Environmental Enhancement, and ANA Mitigation of Environment Impacts to Indian Lands due to Department of Defense Activities. This information is used to perform legislatively required Federal financial and program management oversight functions.

Respondents: State, Local and Tribal Govt.

Services, 370 L'Enfant Promenade, SW., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: June 19, 1996.

Larry Guerrero,

Director, Office of Information Management Services.

[FR Doc. 96-16070 Filed 6-24-96; 8:45 am]

BILLING CODE 4184-01-M

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1-800-741-8138 or 301-443-0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. July 10 and 11, 1996, 8 a.m., Holiday Inn—Bethesda, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Closed committee deliberations, July 10, 1996, 8 a.m. to 10 a.m., open committee discussion, 10 a.m. to 3:45 p.m.; open public hearing, 3:45 p.m. to 4:30 p.m., unless public participation does not last that long; closed committee deliberations, July 11, 1996, 8 a.m. to 8:45 a.m.; open committee discussion, 8:45 a.m. to 12 m.; open public hearing, 12 m. to 12:30 p.m., unless public participation does not last that long; open committee discussion, 12:30 p.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 3:30 p.m.; Nancy T. Cherry or Sandy M. Salins, Center for Biologics Evaluation and Research (HFM-21), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301-827-0314, or FDA Advisory Committee Information Hotline, 1-800-741-8138 (301-443-0572 in the Washington, DC area), Vaccines and Related Biological Products Advisory Committee, code 12388. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 3, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On July 10, 1996, the committee will review safety and efficacy data pertaining to a diphtheria/tetanus/acellular pertussis vaccine manufactured by SmithKline Beecham. On July 11, 1996, the committee will review safety and comparative immunogenicity data pertaining to a liquid version of an Haemophilus b conjugate vaccine manufactured by Merck & Co. The committee will also hear a briefing on proposed changes in the polio vaccine recommendations, and a briefing on a

research program in the Division of Viral Products.

Closed committee deliberations. On July 10 and 11, 1996, the committee will review trade secret and/or confidential commercial information relevant to pending product licensing applications or amendments. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)). On July 11, 1996, the committee will also review data of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(6)).

Circulatory System Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. July 15, 1996, 7:30 a.m., Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD. A limited number of overnight accommodations have been reserved at the Courtyard by Marriott, 2500 Research Blvd., Rockville, MD. Attendees requiring overnight accommodations may contact the hotel at 301-670-6700, and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Shirley Meeks, Conference Management, 301-594-1283, ext. 113. The availability of appropriate accommodations cannot be assured unless prior notification is received.

Type of meeting and contact person. Closed committee deliberations, 7:30 a.m. to 8:30 a.m.; open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 3:30 p.m.; Ramiah Subramanian, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-443-8320, or FDA Advisory Committee Information Hotline, 1-800-741-8138 (301-443-0572 in the Washington, DC area), Circulatory System Devices Panel, code 12625. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data,

information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 1, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss and vote on a premarket approval application (PMA) for a pacemaker lead. The committee will also discuss issues related to the draft guidance for Automatic Implantable Pacer Cardioverter Defibrillator (AIPCD) submissions, primarily focusing on new suggested labeling changes. Single copies of the draft guidance document are available from the Division of Small Manufacturers Assistance, Center for Devices and Radiological Health (HFZ-220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 1-800-638-2041 or 301-443-6597.

Closed committee deliberations. FDA staff will present to the committee trade secret and/or confidential commercial information relevant to investigational device exemption applications and PMA's for cardiovascular system devices. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. July 25, 1996, 8:30 a.m., Gaithersburg Hilton, Ballroom, 620 Perry Pkwy., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the hotel. Attendees requiring overnight accommodations may contact the hotel at 301-977-8900 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Shirley Meeks, Conference Management, 301-594-1283, ext. 113. The availability of appropriate accommodations cannot be assured unless prior notification is received.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4 p.m.; closed committee deliberations, 4 p.m. to 5 p.m.; Mary J. Cornelius, Center for Devices and Radiological Health (HFZ-

470), Food and Drug Administration, 9200 Corporate Blvd. Rockville, MD 20850, 301-594-2194, or FDA Advisory Committee Information Hotline, 1-800-741-8138 (301-443-0572 in the Washington, DC area), Gastroenterology and Urology Devices Panel, code 12523. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 16, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss general issues related to a premarket approval application for a device intended to manage female urinary incontinence.

Closed committee deliberations. FDA staff will present to the committee trade secret and/or confidential commercial information regarding medical devices. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Ophthalmic Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. July 26, 1996, 8:30 a.m., Gaithersburg Hilton, Ballroom, 620 Perry Pkwy., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the hotel. Attendees requiring overnight accommodations may contact the hotel at 301-977-8900 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Joanne Choy, Conference Management, 301-594-1283, ext. 105. The availability of appropriate accommodations cannot be assured unless prior notification is received.

Type of meeting and contact person. Closed presentation of data, 8:30 a.m. to 9 a.m.; open committee discussion (first session), 9 a.m. to 10:30 a.m.; open public hearing, 10:30 a.m. to 11:30 a.m., unless public participation does not last that long; open committee discussion

(second session), 11:30 a.m. to 5 p.m.; Sara M. Thornton, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-2053, or FDA Advisory Committee Information Hotline, 1-800-741-8138 (301-443-0572 in the Washington, DC area), Ophthalmic Devices Panel, code 12396. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 12, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. First Session—The Vitreoretinal and Extraocular Devices Branch will present a summary report of public comments received on the proposed rule that published in the Federal Register of April 1, 1996 (61 FR 14277), for reclassification of contact lens care products. The committee will review and recommend the classification status for currently unclassified devices which may include corneal storage media and external eyelid weights. Second Session—FDA staff will present to the committee the regulatory status of lasers for the correction of refractive error currently in use in the United States and FDA's policies and regulations regarding those lasers.

Closed presentation of data. FDA staff will present to the committee trade secret and/or confidential commercial information relevant to investigational device exemption applications and premarket approval applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions

will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI-35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A-16, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday

through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from

public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: June 19, 1996.
Michael A. Friedman,
Deputy Commissioner for Operations.
[FR Doc. 96-16174 Filed 6-24-96; 8:45 am]
BILLING CODE 4160-01-F

Health Resources and Services Administration

Project Grants for Renovation or Construction of Non-Acute Health Care Facilities

AGENCY: Health Resources and Services Administration.
ACTION: Correction.

SUMMARY: The Notice of Availability of Funds, Project Grants for Renovation or Construction of Non-Acute Health Care Facilities, which was published on June 13, 1996, at 61 FR 30077, is corrected to include the following areas in Puerto Rico that were not on the original list:

Appendix I—Metropolitan Areas

Puerto Rico (part):
Loiza Municipio
Luquillo Municipio
Manati Municipio
Mayaguez Municipio
Moca Municipio
Naranjito Municipio
Ponce Municipio
Quebradillas Municipio
Rio Grande Municipio
San German Municipio
San Juan Municipio
San Lorenzo Municipio
Toa Alta Municipio
Toa Baja Municipio
Trujillo Alto Municipio
Vega Alta Municipio
Vega Baja Municipio

Dated: June 20, 1996.
Ciro V. Sumaya,
Administrator.
[FR Doc. 96-16183 Filed 6-24-96; 8:45 am]
BILLING CODE 4160-15-P

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Demonstration and Education Research Grant Applications and Dietary Patterns, Sodium Intake, and Blood Pressure (DiPSIBoP).

Date: July 16–17, 1996.

Time: 9:00 a.m.

Place: Washington National Airport Hilton Arlington, Virginia.

Contact Person: Louise P. Corman, Ph.D., Two Rockledge Center, Room 7180, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0270.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Angiogenesis and Vascular Remodeling in the Microvasculature.

Date: July 22–23, 1996.

Time: 7:30 p.m.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washington Boulevard, Gaithersburg, Maryland 20878.

Contact Person: Jon Ranhand, Ph.D., Two Rockledge Center, Room 7093, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0280.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. (Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: June 18, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–16177 Filed 6–24–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Committee Name: National Institute of General Medical Sciences Special Emphasis Panel—Program Project Review.

Date: July 18, 1996.

Time: 1:30 p.m.—adjournment.

Place: Club House Inn & Conference Center, 930 Broadway, Nashville, TN 37203.

Contact Person: Irene B. Glowinski, Ph.D., Scientific Review Administrator, NIGMS, 45

Center Drive, Room 1AS–19K, Bethesda, MD 20892–6200.

Purpose: To review and evaluate a program project application relating to the determinants of individual responsiveness to drugs.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS]).

Dated: June 18, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–16178 Filed 6–24–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: June 28, 1996.

Time: 10:30 a.m.

Place: River Inn, 924 25th Street NW., Washington, DC 20037.

Contact Person: Phyllis D. Artis, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: June 18, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–16179 Filed 6–24–96; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Date: July 15, 1996.

Time: 9:00 a.m. to 12:00 p.m.

Place: Executive Plaza South, Room 400C, Bethesda, MD (telephone conference call).

Contact Person: Marilyn Semmes, Ph.D., Acting Chief, Scientific Review Administrator, NIDCD/DEA/SRB, EPS Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda MD 20892–7180, 301–496–8683.

Purpose/Agenda: To review and evaluate grant applications. The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code. The applications and/or proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related of Deafness and Communication Disorders)

Dated: June 18, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–16180 Filed 6–24–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 18, 1996.

Time: 10 a.m.

Place: Parklawn Building, Room 9C-18, 5600 Fishers Lane, Rockville, MD. 20857.

Contact Person: Michael D. Hirsch, Parklawn Building, Room 9C-18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443-1000.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. (Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: June 18, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96-16181 Filed 6-24-96; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: July 12, 1996.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 5196, Telephone Conference.

Contact Person: Ms. Carol Campbell, Scientific Review Administrator, 6701 Rockledge Drive, Room 5196, Bethesda, Maryland 20892, (301) 435-1257.

Name of SEP: Behavioral and Neurosciences.

Date: July 17-19, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Samuel C. Rawlings, Scientific Review Administrator, 6701 Rockledge Drive, Room 5160, Bethesda, Maryland 20892, (301) 435-1243.

Name of SEP: Biological and Physiological Sciences.

Date: July 25-26, 1996.

Time: 8:00 a.m.

Place: Ramada Inn, Rockville, MD.

Contact Person: Dr. Anthony Carter, Scientific Review Administrator, 6701 Rockledge Drive, Room 5108, Bethesda, Maryland 20892, (301) 435-1167.

Name of SEP: Chemistry and Related Sciences.

Date: July 28-30, 1996.

Time: 8:00 p.m.

Place: University Silver Cloud Inn, Seattle, WA.

Contact Person: Dr. Marjam Behar, Scientific Review Administrator, 6701

Rockledge Drive, Room 5218, Bethesda, Maryland 20892, (301) 435-1180.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Microbiological and Immunological Sciences.

Date: July 13, 1996.

Time: 11:00 a.m.

Place: Bellevue Hilton, Bellevue, WA.

Contact Person: Dr. Mohindar Poonian, Scientific Review Administrator, 6701 Rockledge Drive, Room 4198, Bethesda, Maryland 20892, (301) 435-1218.

Name of SEP: Multidisciplinary Sciences.

Date: July 29, 1996.

Time: 10:00 a.m.

Place: Georgetown Inn, Washington, DC.

Contact Person: Dr. Paul Parakkal, Scientific Review Administrator, 6701 Rockledge Drive, Room 5118, Bethesda, Maryland 20892, (301) 435-1172.

The meetings will be closed in accordance with the 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 Nos. 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Date: June 18, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96-16182 Filed 6-24-96; 8:45 am]

BILLING CODE 4140-01-M

Administration for Children and Families

Availability of Discretionary Grants for Services to Newly Arriving Refugees, Including: Promoting Increased Placement of Newly Arrived Refugees¹ in Preferred Communities; Responding to Unanticipated Arrivals or Significant Increases in Arrivals of Refugees to Communities Where Adequate or Appropriate Services Do Not Exist; Providing Orientation Services in Local Communities; Providing Mental Health Services on Behalf of Refugees in Local Communities. In Addition, There is Available Discretionary Grants for Technical Assistance for the Orientation Projects

AGENCY: Office of Refugee Resettlement, ACF, HHS.

¹In addition to persons who meet all requirements of 45 CFR 400.43, Requirements for documentation of refugee status, eligibility for refugee social services also includes: (1) Cuban and Haitian entrants, under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. No. 96-

SUMMARY: This ORR standing announcement invites submission of grant applications for funding, on a competitive basis, in five categories: (1) to promote the increase of refugee placements in communities where they have ample opportunities for early employment and sustained economic independence; (2) to provide services to unanticipated arrivals, i.e., refugees who have arrived without prior notice in communities where adequate or appropriate services for these refugees do not exist; (3) to provide ethnically- and linguistically-matched orientation services to newly arriving refugees in the local communities; (4) to provide technical assistance to the grantees including those funded under Category 3, orientation; and (5) to provide mental health orientation, staff development, and technical expertise to improve services for newly arriving refugee populations.

This notice revises previous publications. The programs numbered (1) and (2) above were first published as Categories 1 and 2 of the notice published in the Federal Register on May 18, 1994 (59 FR 25929). The notice was revised January 17, 1995 (60 FR 3416). A Category 3, added in the revision of January 17, 1995, was canceled as published in the Federal Register on February 15, 1996 (61 FR 6018). New categories, which are added to this standing announcement, are numbered 3. Orientation, 4. Orientation Technical Assistance, and 5. Mental Health Services.

This announcement supersedes all prior announcements of the same name.

The categories are summarized as follows:

Category 1

Preferred Communities: To increase placement of arriving refugees in preferred communities where refugees have

422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. No. 100-202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100-461), 1990 (Pub. L. No. 101-167), and 1991 (Pub. L. No. 101-513). For convenience, the term refugee is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

Refugees admitted to the U.S. under admissions numbers set aside for private-sector-initiative admissions are not eligible to be served under the social service program (or under other programs supported by Federal refugee funds) during their period of coverage under their sponsoring agency's agreement with the Department of State—usually two years from their date of arrival or until they obtain permanent resident alien status, whichever comes first.

opportunities to attain early employment and sustained economic independence without public assistance. Eligible applicants are agencies which resettle refugees under a Reception and Placement Cooperative Agreement with the Department of State or the Department of Justice. Preferred communities awards will be Cooperative Agreements. ORR's involvement will include: review and approval of preferred community sites and review and approval of the design of program reports on progress toward project goals and outcomes.

Category 2

Unanticipated Arrivals: To provide services for significant numbers of, or increases in, the number of unanticipated refugees who have arrived in communities that are unable to provide adequate or appropriate services. The arrivals may be new populations to the U.S., or new to the location requesting additional resources. The arrivals may also be a significant and unanticipated additional number of a particular ethnic group in a community. Awards in this category will be grants.

Category 3

Orientation: To provide funds for grantees to serve newly arriving refugees through orientation services that are ethnically- and linguistically-matched to the targeted refugee population.

Under Category 3, applications will be accepted for orientation programs designed to provide newly arriving refugees with information on local resources, community services and institutions, American mores, customs, laws, responsibilities associated with being new residents of their communities, and other appropriate topics.

Applications will be accepted from prospective grantees to provide services in communities where new refugees are arriving and where available orientation materials are not appropriate or adequate. Awards in this category will be made as grants.

Category 4

Technical Assistance to Orientation grantees: To provide technical assistance to orientation projects awarded under Category 3 and other orientation programs serving refugees.

Category 5

Mental health services: To improve services to newly arrived populations who have been made vulnerable in their resettlement by having suffered mental and/or physical torture prior to or during their escape. Applications are encouraged from agencies that support resettlement services by providing staff development consultation to staff who work directly with traumatized populations. In addition, and if appropriate to the newly arriving refugee populations, projects may be funded to develop technical knowledge concerning particular groups and the clinical interventions that effectively treat them. The knowledge and experience gained by these projects will be made available throughout the refugee resettlement program.

Categories 1, 3, 4, and 5 solicit applications for project periods up to three years. Awards, on a competitive basis, will be for one-year

budget periods. Applications for continuation grants, to extend activities beyond the one-year budget period, will be entertained on a noncompetitive basis in subsequent years within the three year project period, subject to the availability of funds, timely and successful completion of activities during the budget period, and determination that such continuations would be in the best interest of the Government.

Awards for Category 2 will be for a single 17-month budget period. Applicants should view these resources as a temporary solution to an emergency created by unanticipated arrivals. ORR expects that by the end of the project period, States will have incorporated services for these particular refugees into their refugee services network funded by ORR social service formula allocations.

Projects and services allowed under this announcement for each category are described below. *Each application will be considered for one category only and must state specifically for which category the application is being submitted.* An applicant may apply for more than one category; however, each category must be applied for in a separate application.

Available Funds

In FY 1996, ORR expects to make individual new grant awards in amounts ranging from approximately \$20,000 to \$150,000. Amounts in subsequent years will depend upon the availability of funding, need, and the best interests of the Government. Approximately \$800,000 will be available for awards under *Preferred Communities*; \$500,000 under *Unanticipated Arrivals*; \$400,000 for *Orientation*; \$250,000 under *Orientation Technical Assistance*; and \$400,000 for *Mental Health Projects*.

The Director reserves the right to award more or less than the funds described above depending upon the quality of the applications, or such other circumstances as may be deemed to be in the best interest of the Government.

Authorization

Authority for this activity is contained in Section 412(c)(1)(A) of the Immigration and Nationality Act, which authorizes the Director "to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed— * * * (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services." In addition, section 412(a)(2)(B)–(C) gives the Director the responsibility to promote and encourage refugee resettlement in communities where the prospects for early self-sufficiency are good and the history of welfare utilization is low.

Application Submission

This announcement contains forms and instructions for submitting an application. *Applications must stipulate the category for which funding is being sought.* Applicants may submit applications for more than one category; however, each category must be applied for in a separate application.

Standing Announcement

This is a standing announcement, effective until canceled or modified by the Director of the Office of Refugee Resettlement. The Director will observe the following closing dates for all categories: August 15 the first year; and January 15 and July 15 of each subsequent year.

Organization of This Announcement

This standing announcement consists of two parts: Part I. the program categories under which grants will be awarded and Part II. the general application information and guidance.

Eligible Applicants

For categories 2, 3, 4, and 5, eligible applicants are public and private non-profit organizations.

For category 1, eligible applicants are public and private non-profit agencies which currently resettle newly arriving refugees under a Reception and Placement cooperative agreement with the Department of State or with the Department of Justice. This announcement is restricted to these agencies because placements of new arrivals occur under the terms of the cooperative agreements, and no other agencies place new arrivals or participate in determining their resettlement sites. Applications shall include documentation that the applicant is a recipient of a Reception and Placement Grant. Applications lacking this documentation will not be considered.

For Further Information Contact: Concerning Categories 1, *Preferred Communities*; 2, *Unanticipated Arrivals*; 5, *Mental Health Services*, contact: Ms. Marta Brenden, Program Officer, Administration for Children and Families, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW 6th Floor, Washington, DC 20447, Tel: (202) 205-3589, E-mail: mbrenden@acf.dhhs.gov.

Concerning Category 3, *Orientation* and 4, *Orientation Technical Assistance*, contact: Ms. Kathy Do, Administration for Children and Families, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW 6th Floor, Washington, DC 20447,

(202) 401-4719, E-mail:
kdo@acf.dhhs.gov.

PART I—PROGRAM CATEGORIES UNDER WHICH GRANTS WILL BE AWARDED

Category 1: Preferred Communities:
Grants to Support Preferred
Communities

A. Purpose and Scope

The purpose is to provide funds to be applied toward the costs associated with increasing the numbers of refugees placed in preferred communities and with reducing the numbers of refugees placed in high impact sites.

A proposed preferred community should have the following: (1) favorable circumstances described below, (2) services that meet the needs of arriving refugees for achieving self-sufficiency, and (3) reception of a minimum of 100 new refugees annually. ORR will consider exceptions to the annual standard where the applicant provides substantial justification for the request and documents the community's history of arrivals, the period of time needed to reach a level of 100 new refugees, and the record of outcomes for achieving self-sufficiency soon after arrival.

Applicants must plan within their own network for improved placements. They may also consider planning cooperatively with other prospective applicants to create cost-effective, co-located resettlement services where, for example, the pool of newly arriving refugees for each network is too small to warrant individual offices.

Preferred Community sites refer to those localities where refugees have the best opportunities to achieve early employment and sustained economic independence without public assistance. Preferred communities should have a history of low welfare utilization by refugees. In addition, refugees should have the potential for earned income at a favorable level relative to the cost of living and to public assistance benefits in such communities. These communities should also have a moderate cost of living; good employment opportunities in a strong, entry-level labor market; affordable housing; low out-migration rates for refugees; religious facilities, if important to the refugees; local community support; receptive school environments; and other related community features that contribute to a favorable quality of life for arriving refugees.

Applicants may wish to consider the following "arrival" categories of refugees for preferred community sites:

a. Free cases: Those refugees who are determined in the allocation process to

be "free cases," that is, unrelated or without family ties to persons already living in the communities.

b. New refugee populations: Refugees who have no or few existing communities in the United States.

c. Other refugees: The applicant may identify refugees in the reception process who would accept the opportunity for resettlement in a preferred community: e.g., refugees who would otherwise be resettled under the rubric of "family reunification," but who in fact are distant relatives and friends. These refugees may elect placement in a preferred community where there are opportunities described above.

B. Preferred Community Site Selection

ORR recognizes that changes in the selection of resettlement sites of refugees may result in changes to an applicant agency's network and should be preceded by careful attention and planning. Thus, as part of the application preparation, it will be incumbent upon the applicant to: (1) consult with ORR about prospective preferred sites; (2) propose sites that are either already listed within the applicant's Cooperative Agreement with the Department of State (DOS) or that will be proposed for DOS approval; (3) coordinate with other voluntary agencies whose local affiliates place refugees in the same sites; (4) inform and coordinate with State governments for site selection, adequate services, and program strategies to be developed; and (5) plan and coordinate locally with community resources, such as schools and public health agencies.

The application must, for the first budget year, specify the sites selected with a description of each site and the rationale for its selection. Applicants are encouraged to include planning activities in their application. The application should specify one or more preferred communities and should also propose to include one or more unspecified sites to be determined following planning activities during the course of each budget year. There should also be a description of coordination activities that occurred prior to the selection, and the ongoing evaluation and planning for placement in preferred communities. Additional sites proposed under approved applications during the period of the project will require ORR's concurrence under the terms of the Cooperative Agreement.

Preferably, the selected sites should be those that have had successful refugee placements and have the capacity for additional successful

placements. However, the sites may be ones where refugees have not previously been placed, but which have all the elements of a successful refugee resettlement community, listed in section e. 2, below.

Allowable activities for the preferred communities include services that would otherwise be provided through the State formula social services. ORR formula social services funding is awarded to States proportionate to the number of refugee arrivals during the previous three years and does not take into account newly arrived refugees. Grantees should view Preferred Communities award as a *temporary solution* to the increase in refugee placements in preferred communities.

Therefore, planning for the application and implementing the program must be done in concert with State Refugee Coordinators to assure an orderly transition and complement of services. The applicant shall describe and document this coordination and planning in the application. ORR anticipates that ORR formula social service funds provided to the States will reflect, over time, the increase in arrivals.

C. Allowable Activities

ORR will accept applications for the following activities: (1) services needed for the increased placements in the preferred communities, (2) project planning and coordination activities, and (3) national and local project management costs associated with these activities.

D. Application Content

The application must include the following:

1. Description of the proposed program. Include the rationale for meeting the goals of this Announcement: i.e., the increased placement of refugees in preferred communities and the diversion of refugees from communities with histories of extended use of welfare. Descriptions should include anticipated improved resettlement opportunities; the employment services available in the new location, including those to be funded under this grant, if awarded; and the cost implications in both the impacted and preferred sites for the population shifts in local resettlement services.

2. A description and rationale for sites from which placements will be diverted. A list of the designated and potential sites and the rationale for each site with respect to the following criteria:

—Local community support (e.g., letters, financial and in-kind

donations, news clippings that the community supports the placement of these refugees in their area);

- State consultation (e.g., copies of letters; notes of planning/coordination meetings);
- Evidence of availability of entry level and other appropriate employment opportunities (e.g., letters from current and repeating employers of refugees);
- History of low out-migration rates for proposed sites, with documentation for the last two years;
- Moderate cost of living (e.g., needs and payment standards from AFDC programs from the State, statements of voluntary agency affiliates, statements from refugees);
- Low welfare benefit levels relative to earnings potential;
- Qualified staff: give job descriptions and resumes, as available, and show how staff will be linguistically and culturally aligned with the prospective refugees;
- Affordable housing: provide average rental costs for apartments of a specified number of bedrooms and describe access to and distance from services and potential employment.

3. A description of the caseload: e.g., free cases, ethnicity, new or existing ethnic group, interventions to be used to promote stability of placements, proposed numbers, proposed placement schedule, and back-up strategy should the proposed placement schedule fail.

4. A description of national and local project management. A statement of expected outcomes, e.g., refugee arrivals and participants in social services, such as, employment. Number expected to enter employment; 90 day retention rates and/or welfare avoidance, reductions, and terminations; expected hourly wage and the number of jobs with health benefits. Projected outcomes must include the increase in placements in Preferred Communities and the diversion of placements from communities where there is a history of extended welfare use.

5. A description of the national and local planning process, of coalitions formed to support the new placements, and the consultative process used to support the implementation. If several local agencies are planning a coordinated project, e.g., placing refugees from the same ethnic groups in the same designated sites, describe the coordination of these plans. Include discussion of anticipated outcomes of the placement strategy for new arrivals.

6. Budget, including line items and a narrative justification for each line. Clearly state the costs for national and

local planning and project coordination. Discuss relationship between costs proposed for this grant and costs (e.g., for services) which will be covered by existing refugee or mainstream funding.

E. Review Criteria

Preferred Communities applications will be reviewed, scored and ranked utilizing the following criteria:

1. Clarity of description of proposed program and soundness of rationale for achieving the goals of the Announcement. Reasonableness of cost implications in both the impacted and preferred communities. Adequacy of the anticipated improved resettlement opportunities as well as the diversion of placements from sites with histories of extended welfare usage. Soundness of refugee social services in the new community and choice of services to be funded by this grant. (20 Points)

2. Clear and comprehensive description of the preferred sites proposed in terms of community support, Federal, State, and local government consultation, and linkages, cost-of-living, out-migration history, housing, and employment availability, welfare benefit levels relative to potential earnings, and quality of life features, such as school environment and available religious facilities. Adequacy of description of sites from which refugees will be diverted and the rationale for diverting cases from them. (25 Points)

3. Appropriateness to the targeted population of the proposed shift, and strategies to be used to promote stability of placements. (15 Points)

4. Adequacy of national and local management, including objectives and outcomes, reporting procedures, outcome measures, data collection and monitoring. (10 Points)

5. Adequacy of planning process and reasonableness of anticipated outcomes. (15 Points)

6. Reasonableness of the budget and adequacy of line item narrative; coordination of these grant funds with other funds. (15 Points)

Category 2: Unanticipated Arrivals or Increases in Arrivals of Refugees to Communities Where Adequate or Appropriate Services do Not Exist

A. Purpose and Scope

This grant program is intended to provide an emergency response capability by enhancing existing services for unanticipated new arrivals who, because of their recent entry into the U.S., are not included in ORR's services formula allocation. The funds may be used to enable communities to

respond to the following situations: (1) the arrival of new ethnic populations of refugees and entrants in communities where the existing services' system does not have appropriate bilingual capacity, or where the arrivals of such populations are in communities where refugee services do not presently exist; or (2) significant increases in arrivals of an already existing ethnic group where the service capacity is not sufficient to accommodate them.

Applications will be accepted only for proposals for services in communities which have received, or expect to receive, minimally 100 or more persons annually as an unexpected population to a single local community. This is a minimum, not a standard. The reasonableness of the proposal will depend on the number of unanticipated arrivals relative to the anticipated number. The applicant must establish that the unanticipated number is statistically significant relative to the resident population by documenting all arrivals, both anticipated and unanticipated. Applications which do not satisfactorily document all arrivals will not be considered.

ORR encourages the formation of coalitions of organizations which propose to serve the new population(s) jointly, with one agency designated as grantee, responsible for administration of the project.

As noted above, grantees should view these resources as a temporary solution to the challenge of program transition. This grant program is intended to supplement a State's existing refugee services network by responding to unmet needs of new refugee populations, with the expectation that the State will have incorporated services for these new populations into its refugee services network, funded by formula social service dollars, by the end of the grant project period.

B. Allowable Services

ORR will accept applications under this announcement for the type of activities generally funded by States under their social services formula allocation, in accordance with section 412(c)(1) of the Immigration and Nationality Act for refugee social services. In general, such service categories are defined as employment services, language training, and other support services. Applications under this section should contain references to the provision of appropriate bilingual and bicultural service delivery. Services provided by all grantees, whether private or public, must comport with the regulations at 45 CFR sections 400.147, 400.150, and 400.153-.156

regarding eligibility for services, scope of services, and priorities for services.

C. Application Content

1. A description of the applicant agency's qualifications, including key personnel, to carry out the proposed activities for the target population.

2. A discussion of the characteristics of the target population and the needs which cannot be addressed by the existing refugee program. Include a letter from the sponsoring national voluntary agency or agencies substantiating that there will be an unanticipated arrival of at least 100 or more refugees or entrants from the target population.

3. A description of the planning process used in developing the proposal, the names and roles of the organizations participating in this process, as well as the roles of all organizations which will be involved in serving the population.

4. A description of the strategy to be used and services to be provided. If the proposal was developed by a consortium or other combination of entities, the role of each agency must be detailed. The applicant must describe the specific geographic area(s) and client group(s). Include a letter from the State verifying that the services are needed, not currently available, and not fundable from existing resources; and discussing whether the State intends to integrate these services into the State refugee services network.

5. A description of the anticipated outcomes, including the number of job placements, 90-day employment retention, and the anticipated evidence of welfare avoidance, reduction and termination.

6. A management plan for oversight, monitoring, and submission of reports.

7. A line-item budget with narrative justification for each line, including a description of the staffing plan.

D. Application Review Criteria

Applications in the *Unanticipated Arrivals* category will be reviewed, scored, and ranked in accordance with the following criteria:

1. Qualifications of the applicant agency to carry out the proposed activities for the target population to be served. (15 Points)

2. Adequate discussion of the unique characteristics of the target population to demonstrate that the applicant understands the characteristics requiring the additional services. (10 Points)

3. Demonstration that the planning process leading to development of the proposal was appropriate. (15 Points)

4. Appropriateness of the strategy and operational plan in meeting the needs of the target population, including joint planning activities and leveraging of other refugee programs or mainstream service providers. (20 Points)

5. Appropriateness of the projected outcome measures and level of achievement expected. If employment services are a part of the plan, project the numbers of refugees to: be active participants; enter employment; and reach 90 day retention. (15 Points)

6. Adequacy of management plan. (10 points)

7. Appropriateness, cost-effectiveness, and reasonableness of the budget, including the staffing plan and qualifications of key personnel. (15 Points)

Category 3: Community Orientation Activities and Assistance Program Grants for Local Communities

A. Purpose and Scope

Since 1992, the majority of refugee arrivals in the United States represent ethnically diverse populations from such countries as Russia, Somalia, Bosnia, Croatia, and Iraq. Compared to the pre-1992 refugees, mainly Southeast Asians who were provided overseas classroom orientation training, the majority of the post-1992 refugees have not attended a pre-departure formal cultural orientation program in preparation for their new life in the United States.

Funding constraints and restrictive conditions at some transit and departure locations, where refugees are processed for entry into the U.S., contribute to the lack of preparation for life in a new country. This is particularly evident where new refugee arrivals do not have access to pre-departure orientation organized by resettlement agencies funded under the auspices of the U.S. Department of State, Bureau for Population, Refugees, and Migration.

In addition to scarce, pre-arrival orientation, there are few communities in the U.S. where new arrivals can join members of their own ethnic group. Notwithstanding, information about American life and resources is usually provided through friends or through word-of-mouth. Service providers who come into contact with new arrivals may not be sufficiently knowledgeable of the culture and values of the new arrivals. Furthermore, limited bilingual and bicultural resources further exacerbate the assistance effort as well as the new arrivals' process of integration into their communities.

ORR is aware that to assist these new arrivals to become economically self-

sufficient and self-reliant within their newly resettled communities, a comprehensive, culturally and linguistically appropriate orientation program is key. Additionally, a cross-cultural training and orientation program for local refugee and mainstream service providers may enhance their assistance efforts with newly arriving refugees and reduce the conflict or friction of cultural and social misunderstandings.

B. Objectives of ORR

a. To provide comprehensive culturally and linguistically appropriate orientation training to new refugee arrivals families through bilingual, bi-cultural staff representative of the new arrivals' cultural and linguistic make-up.

b. To identify sub-groups (e.g., home-bound women, the elderly, and youth) of new arrivals who are more likely to face significant cultural obstacles to their transition to a new life and to provide them specialized orientation training customized to their specific needs.

c. To provide orientation and cross-cultural training to refugee and mainstream service providers on new refugee populations.

d. To provide training to refugee caseworkers and interpreters to improve their ability to deliver culturally and linguistically appropriate services to new refugee populations.

e. To provide the mainstream community with information about new refugee populations resettled in their community.

f. To provide new ethnic communities with small amounts of funds to form advisory groups for the purpose of community and grass roots organizing.

C. Allowable Orientation Activities for

1. Newly Arriving Refugee Populations

Conducting outreach (for example, home visits and ethnic group meetings) to new arrivals to determine needs.

Convening a local work group/task force on orientation. The composition of the group must include representatives of the ethnic composition of new arrivals. The primary purpose of the orientation work group is to plan and consult with local new arrivals and ethnic communities on the type of orientation materials, services, and training design which best fit their needs.

Adapting, if necessary, existing orientation materials to ensure that materials are culturally appropriate for the target population.

Designing and implementing an orientation and cross-cultural training

program by bilingual and bicultural staff for the newly arriving refugee population, taking into consideration training customized to the specific informational needs of each group, for example, heads of households, home-bound women, youth, and the elderly.

Designing and implementing a mechanism of ensuring customer feedback and assessment of each training session. Customers' feedback must be incorporated for improvement of future training.

Compiling records and materials of training activities into a training package for replication with other new arrivals.

2. Refugee and Mainstream Service Providers and the Community-at-Large

Planning and consulting with refugee and mainstream service providers on their need for information on new arrivals, and providing training to service providers, caseworkers, and interpreters to improve their ability to deliver culturally and linguistically appropriate services to new refugee populations.

Designing a mechanism of ensuring customer feedback and conducting assessment of each training session. Customers' feedback will be incorporated into future training.

Compiling records and materials of training activities into a training package for future replication with other new arrivals.

Conducting public relations activities, such as providing information via a newsletter, informational brochures or video, and attending community meetings to provide to the community-at-large information about new refugee arrivals resettled in their community.

3. Ethnic Community Groups

Convening or assisting in convening, members of newly arriving ethnic communities to form their own advisory board for self-help purposes.

Recording all community assistance activities in the form of reports and case studies for future use by other ethnic communities in community organizing and development.

D. Application Content

Applications for the Community Orientation and Assistance Program should contain a detailed description of proposed activities and a plan of action, including a timetable for implementation, and anticipated measurable outcomes and benefits which directly meet the needs of the target population to be served. These areas should be addressed:

1. An understanding and knowledge of the unique characteristics, cultural background, and needs of the target groups to be served, including discussion of the service methodology that would be linguistically and culturally appropriate for each target group.

2. An understanding of the domestic and overseas orientation services as well as how linkage and coordination can be established between the overseas and domestic service providers to maintain continuity of services to meet the orientation needs of the new arrivals.

3. Planning and consultation with the target population, e.g., new arrivals and refugee and mainstream service providers, to design and implement an orientation program that best fits their needs. How the applicant proposes to provide a comprehensive and coordinated project design, implementation timelines, and achieving measurable outcomes.

4. Convening, or assist in convening, members of the newly arriving ethnic groups in their effort toward organizing for self-help. Description of how the proposed advisory groups are to be established.

5. Public relations activities with the community-at-large focusing on mutual understanding and good will between the refugees and local communities.

6. Customer feedback and assessment of the training as well as the project's progress, and how the results of customers' feedback will be used.

E. Application Review Criteria

1. Demonstrated knowledge of the unique characteristics of the various populations to be served; demonstrated experience in the provision of orientation service and/or training; and knowledge of which service modality best fits each target population. (25 points)

2. Demonstrated understanding of overseas and domestic orientation services, and the appropriateness of the proposed plan for linkage and coordination. (10 points)

3. Adequacy and applicability of the project management plan in the areas of planning, designing, implementing, timelines, and proposed measurable outcomes. Qualifications of the applicant to carry out all the proposed activities successfully. (25 points)

4. Demonstrated reasonableness and cost effectiveness in the budget with reference to the use of bilingual and bicultural staff in all professional capacities, the staffing plan, and qualifications of key personnel. (15 points)

5. Demonstrated knowledge of refugee ethnic communities, and experience in community organizing and development. (10 points)

6. Appropriateness of proposed project's measurable outcomes. (15 points)

Category 4: National Technical Assistance Project in Refugee Orientation, Cross-cultural Training and Alliance Building

A. Purpose and Availability of Funds

This section announces the availability of Fiscal Year 1996 funds for a national technical assistance project for refugee orientation, cross-cultural training, and alliance building in communities heavily impacted by recent refugee arrivals. The purpose of this category is to respond to the immediate needs of States, refugee and/or local service agencies, and mainstream agencies; for training and technical assistance in cross-cultural awareness and knowledge; for skills enhancement in resolving and mediating cross-cultural conflict between and among refugee and non-refugee groups; and for providing culturally and linguistically appropriate service methodologies to refugee communities.

The successful applicant will provide group training and technical assistance in approximately twelve (12) sites identified as impacted by new refugee arrivals, and may include the grantees funded under Category 3 of this announcement. Partnerships with ORR customers, e.g., States, other grantees, community-based organizations (CBOs), and other Federal agencies, will be initiated to coordinate nationally in the areas of conflict resolution and mediation and to enhance knowledge of cross-cultural understanding and alliance building.

ORR anticipates funding one project through the mechanism of a cooperative agreement. ORR will be closely involved in the review and approval of the following: site selection criteria, sites and recipients of the technical assistance and training, training curricula, assessment tools, on-site training and technical assistance sessions and materials, and all project-related reports.

B. Allowable Activities

Proposed activities should be tailored to reflect the orientation, cross-cultural and mediation needs of local communities.

The types of activities which ORR may fund include, but are not limited to, the following:

- Convening a national training and technical assistance work group for project consultation and design, to identify expert trainers, and to develop strategies for dissemination of project outcomes;
 - Identifying proven best practices in cross-cultural conflict resolution and alliance building for the purpose of adapting them to the training and technical assistance needs of the project participants;
 - Identifying the needs of State and local agencies for assistance in orientation, conflict resolution and mediation strategies, and culturally and linguistically appropriate service delivery;
 - Developing a training plan of orientation, conflict resolution and mediation for local communities which includes expanding the involvement and participation of non-refugee local agencies through such activities as group training and on-site individualized sessions for all agencies which interface with newly arrived refugees;
 - Developing assessment and evaluation tools, and conducting assessment of project activities;
 - Developing a list of training and technical resources, and devising a system for updating and transferring training technology for future use;
 - Establishing an electronic medium for dissemination of information and refugee training resources for use by other practitioners.
- C. Application Content*

1. A discussion of the purpose of the technical assistance and training activities to be conducted under the scope of the grant.
2. A comprehensive description of the plan for providing coordination of project activities at the local, state, and regional levels.
3. A comprehensive list of proposed sites for the technical assistance OR a comprehensive list of criteria for site selection.
4. A discussion of the proposed plan for technical assistance and training for each site and target group.
5. A description of the process to form a national training and technical assistance workgroup. A list of the criteria for selection of the task force members.
6. A description of the management of the plan for implementation of all project activities.
7. A description of the expected measurable outcomes for each project activity.
8. A list of the proposed project's key personnel and/or consultants.

9. A proposed budget with narrative justifying each line item.

D. Application Review Criteria

Applications will be reviewed and scored on a competitive basis against the following evaluative criteria. Points are awarded only to applications which respond to this competitive area and to these criteria:

1. The extent to which the purpose of the project is met, including how the training and technical assistance needs of local sites are identified and proposed to be met, and the benefits (measurable outcomes vs. process outcomes) to be gained by each target group. (15 points)
2. The comprehensiveness of the proposed plan for coordination of project services at the local, state, and regional level. The extent to which the proposed sites (or site characteristics, if specific sites have not been selected) are appropriate and directly related to the objectives of the project. (10 points)
3. The criteria for selection (e.g., qualifications and experience in working with refugees, and in fields related to the objectives of the project) of proposed members of the national training and technical assistance workgroup. (5 points)
4. The quality of the plan of operation and management. The extent to which the plan of management ensures implementation of project activities and customer feedback, the adequacy of proposed resources, and the ability of the applicant to deliver the services in a timely manner. (20 points)
5. The quality of the proposed training and technical assistance plan for each site and target group, the appropriateness of training and personnel resources, and the degree to which the training will increase the capacity of the trainees to provide quality services to their refugee clients and/or increase the capability of the trainees to design and implement cross-cultural and conflict resolution strategies. (20 points)
6. The qualifications and experiences of key personnel and/or consultants in working with the target population and in fields related to the objectives of the project. (10 points)
7. The quality of the proposed plan of assessment of project activities, and appropriateness of proposed project measurable outcomes (versus process outcomes). (10 points)
8. The cost-effectiveness and reasonableness of the proposed budget, and budget narrative. (10 points)

Category 5: Mental Health Services

A. Purpose and Scope

The condition of a refugee's physical and mental health is a major factor affecting resettlement and socio-economic adjustment. The most serious mental health conditions, such as depression, anxiety-related disorders, and post traumatic stress disorders are often seen in refugees who have experienced severe trauma, physical abuse, and torture.

Most refugees receive pre- and post-arrival health screening at the time of their entry into the United States. It is through screenings that physical health conditions are diagnosed and treated. Serious mental health conditions are sometimes identified by health screeners and service providers, but more frequently they are not diagnosed until much later in the resettlement process. These mental health conditions interfere with a refugee's progress toward economic self-sufficiency. Especially vulnerable are refugees who have experienced traumatic events, such as the death of relatives, loss of home, and witnessing of atrocities, either before they leave their country of origin and/or during migration. Some have experienced physical and psychological torture, deprivation, hunger, isolation, and violence. In addition, refugees are often further traumatized during the resettlement process because their cultural backgrounds are in sharp contrast with mainstream American social and cultural practices.

For many, resettlement means mastering a new language and adjusting to U.S. society and its economy, its expectations, customs, and cultural values, which may be significantly different from their own. These challenges confront all refugees, but are more difficult for those who suffered major physical, social, economic and political losses.

Less serious, but also a barrier to economic self-sufficiency, are transitory emotional difficulties which can be characterized as social adjustment problems. If not adequately addressed, these may accumulate over time and hamper the resettlement process. Often these problems are handled by supportive bilingual resettlement staff and ESL teachers who have an understanding of the refugees' plight and are sensitive to the challenges and difficulties refugees face. This support often facilitates the refugees' transition to their adoptive country and lessens the impact of migration-related stressors, contributing to the refugees' progress towards self-sufficiency.

Beyond the support from resettlement staff, volunteers, and ESL teachers, refugees frequently do not receive mental health services. Most community mental health services do not have bilingual staff who match the local refugee groups. Also, refugees are often not receptive to mental health services because of the stigma attached to mental illness. Direct service workers can become overwhelmed by working with individuals who have experienced torture and other trauma. Regular consultation for direct case workers from experienced mental health professionals can provide useful feedback to improve services to refugees disabled by trauma and supportive professional relationships.

B. Mental Health Services

ORR seeks to provide resources to local community organizations to address the need for mental health interventions in the refugees' communities in the following ways: staff development training for bilingual caseworkers, ESL teachers, and volunteers; orientation of refugees to promote understanding and utilization of supportive assistance; and orientation of mainstream mental health providers to the refugee program, to arriving refugee populations, and to multi-cultural perspectives for effective treatment of refugees. It is ORR's intent that direct service workers, such as bilingual case managers, ESL teachers, and volunteers who often provide important support to refugees, have the benefit of regular consultation for the purpose of increasing their effectiveness in working with refugees who are experiencing the results of torture and social adjustment issues due to migration.

Also, ORR seeks to promote the increase of knowledge in mental health services for newly arriving refugee populations that have experienced significant trauma. In addition to staff development and orientation, it is permissible as part of this project to provide direct clinical services to refugee patients in order to expand knowledge and technical expertise related to refugee groups that have experienced torture and other trauma. The technical knowledge of each group and the effective treatment strategies gained through each project shall be made available through written reports and oral presentations to the ORR refugee resettlement program at conferences convened by ORR, to the mental health community projects funded by ORR, and to the Community Mental Health Services, SAMHSA. However, the main objective of this

category is the expansion and dissemination of information on effective treatment to direct workers providing services to the particular refugee group with associated trauma.

C. Allowable Activities

ORR will accept applications under this Category for the following activities: (1) ongoing mental health professional consultation, supervision, and training for bilingual caseworkers, ESL teachers, and volunteers in working with refugees who are in the process of resettlement and exhibiting extreme behaviors; (2) orientation to U.S. mental health services for newly arriving refugees; (3) orientation of mental health professionals to newly arriving refugees and the programs of resettlement; and (4) development of a body of technical knowledge and expertise concerning newly arriving refugees who have experienced severe trauma and the clinical interventions that are therapeutically effective with them.

D. Application Content

1. A description of the target population(s) and their need for the proposed project activities: i.e., orientation; staff development; or development of technical assistance.

2. A description of the planning process used in developing the application: the names of the organizations and the roles played in the planning; a comprehensive list of all organizations in the community working with the target population; and the manner by which all direct service professional staff will benefit from the project's orientation, consultation and training services.

3. A description of the project strategy: orientation; staff development; and development of technical assistance to address the target populations' need for mental health services as listed under "allowable activities."

4. A statement of the status of need for services and the projected outcomes expected from the services provided.

5. A description of the management plan providing oversight, monitoring, and program reports, including the applicant agency's qualifications to carry out the proposed activities; and key personnel, including consultants for professional mental health services.

6. A line-item budget with narrative justification for each item.

E. Application Review Criteria

1. Adequacy of the description of the target population(s) and the need for proposed activities. (10 points)

2. Demonstration that the planning process is community-wide and

comprehensive in addressing the needs of direct service staff for ongoing professional consultation, supervision, and training in working with refugees exhibiting needs for mental health services. (20 points)

3. Appropriateness and adequacy of the strategy of services proposed. (30 points)

4. Relevance and appropriateness of the proposed program outcomes to the project's objectives. (20 points)

5. Adequacy of the management plan, monitoring plan, and proposed program reports. Appropriateness of key personnel and consultants implementing the project. (10 points)

6. Reasonableness of the budget; the completeness of the line-item narrative. Cost-effectiveness of the budget in providing for the services. (10 points)

PART II. GENERAL APPLICATION INFORMATION AND GUIDANCE

The Director may award more or less than the funds described for each category, subject to the quality of the applications or other circumstances as may be deemed in the best interest of the government.

In making awards, the Director of ORR may award less for individual projects than the maximums described in the "Available Funds" section above. No applicant is guaranteed an award.

Eligible applicants may apply for more than one project and may apply in more than one of the categories as described above. However, an applicant must submit a full project application for each category separately.

Awards for Categories 1, 3, 4, and 5, on a competitive basis, will be for one-year budget periods, although project periods may be for 3 years. Applications for continuation grants funded under these awards beyond the one-year budget period, but within the 3 year project period, will be entertained in the subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government.

Category 2, Unanticipated Arrivals, has one project period of up to 17 months.

A. Deadlines and Mailing Instructions

The initial closing date for submission of applications is August 15, 1996. Closing dates for subsequent years applications, beginning in 1997, are January 15 and July 15. Applications postmarked after the appropriate closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced

deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: 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: Ms. Shirley Parker.

Applicants must ensure that a legibly dated U.S. Postal Service postmark, or a legibly dated, machine produced postmark of a commercial mail service appears on the envelope/package containing the application(s). An acceptable postmark from a commercial carrier is one which includes the carrier's logo/emblem and shows the date the package was received by the commercial mail service. Private Metered postmarks shall not be acceptable as proof of timely mailing.

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.

B. 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.

C. Extension of Deadlines

ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, widespread disruption of the mails, or when it is anticipated that many of the applications will come from rural or remote areas. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

D. Process for Review of Application

Applicants will be reviewed competitively and scored by an independent review panel of experts in accordance with ACF grants policy and the criteria stated below. The results of the independent review panel scores and explanatory comments will assist the Director of ORR 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 the reviewers. Highly ranked applications are not guaranteed funding since other factors are taken into consideration, including: comments of reviewers and of ACF/ORR officials; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; and investigative reports. Final funding decisions will be made by the Director of ORR.

The application *must stipulate the category for which funding is being sought*. Where the category is not clearly stipulated, the project will not be considered and will not be completed.

The two letter designation for the standing announcement Discretionary Grants is for: category 1. RP; category 2 RU; category 3 RO; category 4 is RA; and category 5 is RM. On the face page of the SF 424, block #11, the applicant should identify each application accordingly.

E. Application Submission: Forms, Certifications, Assurances, and Disclosure

Applicants requesting financial assistance for a non-construction project must file the Standard Form 424B, "Assurances: Non-Construction Programs." Applicants must sign and return the Standard Form 424B with their applications.

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 with their applications.

Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the applications, applicants

are providing the certification and need not mail back the certification with the applications.

Copies of the certifications and assurance are located at the end of this announcement.

4. SPOC Notification: 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 Program and Activities."

As of February, 1996, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions need take no action in regard to E.O. 12372:

Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Virginia, Washington, American Samoa, and Palau.

All remaining jurisdictions participate in the E.O. process and have established Single Points of Contact (SPOCs).

Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them to the prospective applications and receive 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. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8 (a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included as Appendix A of this announcement.

F. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Pub. Law 104-13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and record keeping requirements in regulations, including program announcements. All information required by this is covered under the following OMB Approval Nos:

- SF 424 OMB Clearance No. 0348-0043 Application for Federal Assistance Standard Form 424.
- SF 424A OMB Clearance No. 348-044 Budget Information.
- SF 424B OMB Clearance No. 0348-040 Assurances—Non Construction Programs.
- SF ORR-6 Revised 9/05/95 OMB Clearance No. 0970-0036. Quarterly Performance Report.

This program announcement meets all information collection requirements approved for ACF grant applications under OMB Control Number 0970-0139.

G. Applicable Regulations

Applicable HHS regulations will be provided to grantees upon award.

H. Reporting Requirements

Grantees are required to file Financial Status (SF-269) every 6 months and Program Progress Reports on a quarterly basis. Funds issued under these awards must be accounted for and reported upon separately from all other grant activities.

The official receipt point for all program performance and financial status reports is the Division of Discretionary Grants. The original and two copies of each report shall be submitted to the Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

The final Financial and Program Progress Reports shall be due 90 days after the budget expiration date or termination of grant support.

The Catalog of Federal Domestic Assistance (CFDA) number assigned to this announcement is 93.576.

Date: June 18, 1996.

Lavinia Limon,

Director, Office of Refugee Resettlement.

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 & 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. & 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 Contract, 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 25304, 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

BILLING CODE 4184-01-P

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 (for State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

- “New” means a new assistance award.
- “Continuation” means an extension for an additional funding/budget period for a project with a projected completion date.
- “Revision” means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

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-M

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		Total (g)
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$
SECTION B - BUDGET CATEGORIES						
Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY					
	(1)	(2)	(3)	(4)	Total (5)	
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		\$	\$	\$	\$	

Standard Form 424A (4-88)
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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 Line 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.

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 CFR 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290dd-3 and 290ee-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 Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of

underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of authorized certifying official

Title

Applicant organization

Date submitted

BILLING CODE 4184-01-M

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 change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code) _____

Check if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

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 or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant,

loan or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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-M

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.)

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change</p> <p>For Material Change Only: year _____ quarter _____ date of last report _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:</p> <p>Congressional District, if known:</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District, if known:</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> <p>CFDA Number, if applicable: _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p> <p>\$ _____</p>	
<p>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):</p> <p>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):</p> <p style="text-align: center;"><i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i></p>		
<p>11. Amount of Payment (check all that apply):</p> <p>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>	<p>13. Type of Payment (check all that apply):</p> <p><input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____</p>	
<p>12. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____</p>		
<p>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:</p> <p style="text-align: center;"><i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i></p>		
<p>15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>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.</p>	<p>Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____</p>	
<p>Federal Use Only:</p>		<p>Authorized for Local Reproduction Standard Form - LLL</p>

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 \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

[FR Doc. 96-16187 Filed 6-24-96; 8:45 am]

BILLING CODE 4184-01-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. FR-3917-N-99]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* August 26, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT:

Kerry J. Mulholland, Telephone number (202) 708-0614, Ext. 2649 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Preservation/Technical Assistance Payment Voucher.

OMB Control Number: 2502-0487.

Description of the need for the information and proposed use: The Notice of Funding Availability for the Preservation Technical Assistance Planning Grant Funds was published in the Federal Register on September 3, 1992. These funds have been made available to support resident-supported purchases of projects eligible for incentives under the Preservation Program. The form assists grant recipients in making requests for disbursement of funds through the automated Line of Credit Control/Voice Response System, which will expedite the disbursement of funds to the recipient. The form also allows HUD field staff to verify requests for funds.

The form will be used by grantees so that they may be reimbursed for funds spent under the Preservation Technical Assistance Grant. This information will be used by the Department to assure that grantees voucher for eligible activities under the grant and to monitor funds spent.

Agency form numbers, if applicable: HUD-9738.

Members of affected public: Approximately 120 grants to be awarded

under the NOFA. This estimate assumes all grantees receive the maximum award.

An estimation of the total numbers of hours needed to prepare the information collection is .25 hours, the number of respondents is 120, frequency of response is 10, and the hours of response is 300.

Status of the proposed information collection: Extension with change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 19, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96-16084 Filed 6-24-96; 8:45 am]

BILLING CODE 4210-27-M

[Docket No. FR3384-N-03]

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: August 26, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Kerry Mulholland, Telephone number (202) 708-0614, Ext. 2649 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Preservation of Multifamily Low Income Housing, FR 3384.

OMB Control Number: 2502-0495.

Description of the need for the information and proposed use: The Department requests extension of information collection required to implement parts of Title II of the Housing and Community Development Act of 1992 (the Statute). The Statute amends the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPHRA).

The interim rule includes one case of information collection. These requirements are Notification requirements which were added by Title III so that affected parties are aware of an owner's intentions for a property. The Statute at Section 313(a) and the regulations at Section 248.211 and 248.213 require owners proceeding under the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA) to file Notices of Intent and Plans of Action and any Plan of Action revisions with the tenants and State or local governments (except proprietary information). The regulation at Section 248.213 intends to make ELIHPA regulations identical to LIHPHRA regulations on this requirement by requiring that any Plan of Action submission be filed in a synopsis form with a tenant representative or made available to all tenants if any tenant representative exists.

Agency form numbers, if applicable: N/A.

Members of affected public: Approximately 54 owners of ELIHPA projects located throughout the Continental United States.

An estimation of the total numbers of hours needed to prepare the information collection is 2 hours, the number of

respondents is 54, frequency of response is 1, and the hours of response is 10.8.

Status of the proposed information collection: Extension with change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 19, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96-16085 Filed 6-24-96; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-957-1420-00]

Idaho: Filing of Plats of Survey; Idaho

The plats of the following described land were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m. June 12, 1996.

The plat representing the dependent resurvey of portions of the west boundary and subdivisional lines, and the subdivision of section 30, T. 36 N., R. 1 W., Boise Meridian, Idaho, Group No. 917, was accepted, June 12, 1996.

The plat representing the dependent resurvey of a portion of the subdivisional lines, T. 31 N., R. 4 E., Boise Meridian, Idaho, Group No. 935, was accepted June 12, 1996.

These surveys were executed to meet certain administrative needs of the Nez Perce Tribe, at Lapwai, Idaho.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706-2500.

Dated: June 12, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96-16142 Filed 6-24-96; 8:45 am]

BILLING CODE 4310-GG-M

[ID-933-1430-01; IDI-31824]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed an application to withdraw 20.00 acres of National Forest System land for protection of the Nez Perce Indian

Chinook Salmon Rearing Ponds. Publication of this notice in the Federal Register will close the land for up to two years from location and entry under the United States mining laws. The land will remain open to all uses, other than the mining laws.

DATE: Comments and requests for a meeting should be received on or before September 23, 1996.

ADDRESSES: Comments and meeting requests should be sent to the Idaho State Director, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706-2500.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706-2500, 208-384-3166.

SUPPLEMENTARY INFORMATION: On May 28, 1996, the United States Department of Agriculture, Forest Service, filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), subject to valid existing rights:

Boise Meridian

T. 35 N., R. 6 E.,

Sec. 1, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described above contains 20.00 acres in Idaho County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Idaho State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Idaho State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the Federal Register and a newspaper in the general vicinity of the land to be withdrawn at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the Federal Register, the land will be segregated as specified above unless the application is denied or canceled or the

withdrawal is approved prior to this date. The temporary uses which may be permitted during this segregation period are leases, licenses, permits, rights-of-way, etc.

The temporary segregation of the lands in connection with this withdrawal application shall not affect administrative jurisdiction over the land, and the segregation shall not have the effect of authorizing any use of the land by the Department of Agriculture.

Dated: June 13, 1996.

Jimmie Buxton,

Branch Chief, Lands and Minerals.

[FR Doc. 96-16143 Filed 6-24-96; 8:45 am]

BILLING CODE 4310-GG-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 15, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by July 10, 1996.

Carol D. Shull,

Keeper of the National Register.

ARIZONA

Cochise County

Kinjockity Ranch, 10047 E. AZ 92, Hereford, 96000759

Coconino County

Ammunition Magazine, Building No. 330 (World War II Resources at Camp Navajo) S of 2nd St., between W. Area Rd. and Reservoir Rd., Camp Navajo, Bellemont vicinity, 96000756

Headquarters Building, Building No. 1 (World War II Resources at Camp Navajo), Hughes Ave., jct. with McRoberts Dr., Camp Navajo, Bellemont vicinity, 96000757

Trestle Bridge No. 393 (World War II Resources at Camp Navajo) E. Area Rd., E of jct. with Juniper Rd., Camp Navajo, Bellemont vicinity, 96000755

Maricopa County

Squaw Peak Inn, 4425 E. Horseshoe Rd., Phoenix, 96000760

ARKANSAS

Faulkner County

Young Memorial, 1601 Harkrider Dr., N of Reynolds Science Hall, Conway, 96000758

CALIFORNIA

San Mateo County

South San Francisco Hillside Sign, Sign Hill Park, N of Park Way, South San Francisco, 96000761

KANSAS

Stafford County

Henderson, Sarah L., House, 518 W. Stafford St., Stafford, 96000763

Washington County

Washington County Jail and Sheriff's Residence, 23 Commercial St., Washington, 96000762

MISSOURI

St. Francois County

St. Francois County Jail and Sheriff's Residence, 11 N. Franklin St., Farmington, 96000764

NEBRASKA

Douglas County

Kimball, Mary Rogers, House, 2236 St. Mary's Ave., Omaha, 96000765
Omaha Rail and Commerce Historic District, Roughly bounded by Jackson, 15th, 8th Sts., and UP Main Line, Omaha, 96000769
Rose Realty—Securities Building, 305 S. 16th St., Omaha, 96000766
Swoboda Bakery, 1422 William St., Omaha, 96000768
The Berkeley Apartments, 649 S. 19th Ave., Omaha, 96000767

TENNESSEE

Maury County

Rippavilla, US 31, approximately 1.5 mi. S of jct. with Kedron Rd., Spring Hill, 96000773
Webster Farm (Historic Family Farms in Middle Tennessee) 3166 Hampshire Pike, Cross Bridges vicinity, 96000770

Moore County

Lynchburg Historic District, Roughly bounded by Majors, Main, Elm, and Wall Sts., Lynchburg, 96000771

Sumner County

Rascoe—Harris Farm (Historic Family Farms in Middle Tennessee) 1135 Liberty Ln., Liberty vicinity, 96000772
The following properties are being considered for proposed moves:

VIRGINIA

Buckingham County

Mount Ida, VA 610, New Canton vicinity, 87000624

FLORIDA

Sarasota County

Sanderling Beach Club, 105 Beach Rd., Sarasota, 94000618

[FR Doc. 96-16116 Filed 6-24-96; 8:45 am]

BILLING CODE 4310-70-P

Notice of Intent to Repatriate a Cultural Item in the Possession of the Modoc National Forest, United States Forest Service, Alturas, CA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate a cultural item in the possession of the United States Forest Service which meets the definition of "sacred object" under Section 2 of the Act.

The cultural item is a volcanic stone pipe with incised lines at one end. There is burnt residue coating the interior of the pipe.

In 1985, this pipe was removed from the surface in the vicinity of Goose Creek in the Warner Mountains during a legally-authorized archeological survey.

The area from which the pipe was removed is well within the ethnographic territory of the Gidutikadu Band of the Northern Paiute, now part of the Ft. Bidwell Indian Community of California. Evidence presented by representatives of the Ft. Bidwell Indian Community indicate this pipe was used for certain religious ceremonies and rites held by the Northern Paiute people, and is needed to continue the practice of traditional Paiute religion by present-day adherents.

Based on the above-mentioned information, officials of the United States Forest Service have determined that, pursuant to 25 U.S.C. 3001 (3)(C), this cultural item is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the United States Forest Service 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 these items and the Ft. Bidwell Indian Community.

This notice has been sent to officials of the Ft. Bidwell Indian Community. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Diane Henderson-Bramlette, Forest Supervisor, Modoc National Forest, United States Forest Service, 800 W. 12th Street, Alturas, CA 96101, telephone (916) 233-5811 before July 25, 1996. Repatriation of these objects to the Ft. Bidwell Indian Community may

begin after that date if no additional claimants come forward.

Dated: June 19, 1996.

Francis P. McManamon,

*Departmental Consulting Archeologist,
Chief, Archeology and Ethnography Program.*

[FR Doc. 96-16090 Filed 6-24-96; 8:45 am]

BILLING CODE 4310-70-F

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Nye County, NV, in the Control of the Nevada Test Site, Nevada Operations Office, Department of Energy, Las Vegas, NV

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects in the control of the Nevada Test Site, Nevada Operations Office, Department of Energy, Las Vegas, NV.

A detailed assessment of the human remains was made by DOE Nevada Test Site professional staff and Nevada State Museum professional staff in consultation with representatives of the Benton Paiute Tribe, Big Pine Paiute Tribe, Bishop Paiute Tribe, the Chemehuevi Paiute Tribe, the Colorado River Indian Tribes, the Duckwater Shoshone Tribe, the Ely Shoshone Tribe, the Fort Independence Indian Community of Paiute Indians, the Lone Pine Paiute Tribe, the Las Vegas Paiute Tribe, the Kaibab Paiute Tribe, the Moapa Band of Paiutes, the Paiute Indian Tribe of Utah, the Timbisha Shoshone Tribe, and the Yomba Shoshone Tribe. The Pahrump Paiute Indian Tribe, the Las Vegas Indian Center and Owens Valley Board of Trustees, three non-Federally recognized Native American groups, were also consulted.

In 1964, human remains representing one individual was donated to the Nevada State Museum by Frederick C. Worman, Los Alamos Scientific Laboratory. These human remains were recovered from the Pahute Mesa area within the Nevada Test Site by workers at the site and turned over to the Nye County Sheriff's office. No known individuals were identified. The 1,318 associated funerary objects include basketry fragments, a chert flake, glass seed beads, two quartz crystals, and unworked bone.

Archeological surveys on and around Pahute Mesa have identified numerous

archeological sites reflecting activities of Shoshone/Paiute family groups. Additional ethnographic work and archeological reconstructions have shown at least eight Shoshone/Paiute family groups residing in the Pahute Mesa region during the late nineteenth century. The basketry fragments found with the burials are consistent with other Shoshone/Paiute basketry found in other archeological sites in the Pahute Mesa region. Consultation with traditional religious leaders and tribal representatives confirms the talus burials are a traditional manner of interment. Consultation evidence presented by traditional religious leaders and tribal representatives also indicates the funerary objects are consistent with traditional burial practices.

Based on the above mentioned information, officials of the Nevada Test Site, Nevada Operations Office, Department of Energy have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Nevada Test Site, Nevada Operations Office, Department of Energy have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 1,318 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Nevada Test Site, Nevada Operations Office, Department of Energy have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Benton Paiute Tribe, Big Pine Paiute Tribe, Bishop Paiute Tribe, the Chemehuevi Paiute Tribe, the Colorado River Indian Tribes, the Duckwater Shoshone Tribe, the Ely Shoshone Tribe, the Fort Independence Indian Community of Paiute Indians, the Lone Pine Paiute Tribe, the Las Vegas Paiute Tribe, the Kaibab Paiute Tribe, the Moapa Band of Paiutes, the Paiute Indian Tribe of Utah, the Timbisha Shoshone Tribe, and the Yomba Shoshone Tribe.

This notice has been sent to officials of the Benton Paiute Tribe, Big Pine Paiute Tribe, Bishop Paiute Tribe, the Chemehuevi Paiute Tribe, the Colorado River Indian Tribes, the Duckwater Shoshone Tribe, the Ely Shoshone Tribe, the Fort Independence Indian Community of Paiute Indians, the Lone Pine Paiute Tribe, the Las Vegas Paiute Tribe, the Kaibab Paiute Tribe, the

Moapa Band of Paiutes, the Paiute Indian Tribe of Utah, the Timbisha Shoshone Tribe, and the Yomba Shoshone Tribe; and the Pahrump Paiute Tribe, the Las Vegas Indian Center, and Owens Valley Board of Trustees, three Native American groups. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Robert C. Furlow, NAGPRA Compliance Program Manager, Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193-8518; telephone: (702) 295-0845, before July 25, 1996. Repatriation of the human remains and associated funerary objects to the Benton Paiute Tribe, Big Pine Paiute Tribe, Bishop Paiute Tribe, the Chemehuevi Paiute Tribe, the Colorado River Indian Tribes, the Duckwater Shoshone Tribe, the Ely Shoshone Tribe, the Fort Independence Indian Community of Paiute Indians, the Lone Pine Paiute Tribe, the Las Vegas Paiute Tribe, the Kaibab Paiute Tribe, the Moapa Band of Paiutes, the Paiute Indian Tribe of Utah, the Timbisha Shoshone Tribe, and the Yomba Shoshone Tribe may begin after that date if no additional claimants come forward.

Dated: June 19, 1996.

Francis P. McManamon,

*Departmental Consulting Archeologist,
Chief, Archeology and Ethnography Program.*

[FR Doc. 96-16091 Filed 6-24-96; 8:45 am]

BILLING CODE 4310-70-F

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 as Amended

In accordance with Department of Justice policy, 28 C.F.R. 50.7, notice is hereby given that a proposed consent decree in *United States v. Freeman, et al.*, Civil No. 86-CV-748A, was lodged on June 17, 1996, with the United States District Court for the Western District of New York. The decree resolves claims against Garlock, Inc. and Unisys Corp. in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") for contamination at the Byron Barrel and Drum Superfund Site in Genesee County, New York (the "Site"). In the proposed consent decree, the settling defendants agree to reimburse the Environmental Protection

Agency ("EPA") for \$1,250,000 in past response costs incurred by EPA at the Site, pay up to \$250,000 in oversight costs, and perform the remedial design and remedial action at the Site.

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, D.C. 20530, and should refer to *United States v. Freeman, et al.*, DOJ Ref. Number 90-11-2-139.

The proposed consent decree may be examined at the Office of the United States Attorney, 138 Delaware Avenue, Buffalo, New York 14202; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, NY 10278; and the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$22 for the Consent Decree without the attachments or \$77.50 for the Consent Decree with the attachments (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96-16151 Filed 6-24-96; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

United States v. Baroid Corporation, et al., Civil Action No. 93-2621 (D.D.C.); Proposed Modification of Final Judgment

Notice is hereby given that the Department of Justice ("Department") and Smith International Inc. ("Smith") have filed with the United States District Court for the District of Columbia, a joint motion to modify the judgment in *United States v. Baroid Corporation, et al.*, Civil Action No. 93-2621, and that the Department, in a stipulation also filed with the Court, has consented to modification of the Judgment but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The complaint in this case (filed December 23, 1993) alleged that the merger of Dresser Industries, Inc.

("Dresser") and Baroid Corporation ("Baroid") might substantially lessen competition in the United States in the manufacture and sale of two oil field service products, including drilling fluids, in violation of Section 7 of the Clayton Act. At the time the Judgment was entered, Dresser and Baroid were two of the three major U.S. producers of drilling fluids.

On April 12, 1994, a Judgment was entered that resolved the merger's effect on the drilling fluids business by requiring Dresser to divest either its 64 percent partnership interest in M-I Drilling Fluids Company ("M-I") or Baroid's wholly owned subsidiary, Baroid Drilling Fluids Inc. Pursuant to the divestiture requirement, Dresser sold its partnership interest in M-I to Smith.

Paragraph IV.F. of the Final Judgment states that the purchaser of the divested drilling fluids business cannot combine that business with any one of four named companies. One of the four named companies is Anchor Drilling Fluids ("Anchor").

The joint motion to modify the final judgment would permit M-I to acquire Anchor subject to a divestiture agreement set forth in the joint motion to modify under which M-I would sell the United States operation of Anchor within a specified period of time. If M-I does not complete the divestiture by the allotted time, a trustee will be appointed to complete the divestiture.

The divestiture agreement between the Department and Smith specifies the assets to be included in the divestiture package. Those assets include the right of the purchaser to obtain crude barite ore from M-I for a period of five years, with an option to extend that right for another five years. Barite is an essential ingredient in drilling fluids. The divestiture assets also include the right to use the Anchor name in the United States and the right to manufacture and sell Anchor brand drilling fluid products.

The Department has filed with the Court a memorandum setting forth the reasons why the Government believes the modification of the Judgment would serve the public interest. Copies of the Complaint and Judgment, the Joint Motion to Modify Final Judgment and Divestiture Agreement, the Stipulation containing the Government's consent, the Department's memorandum, and all further papers filed with the Court in connection with this motion will be available for inspection at Room 215, Antitrust Division, U.S. Department of Justice, 325 7th St., N.W., Washington, D.C. 20530 and at the Office of the Clerk of the United States District Court for

the District of Columbia, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed modification of the decree to the Government. Such comments must be received by the Antitrust Division within sixth (60) days and will be filed with the Court by the Government. Comments should be addressed to Roger W. Fones, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, Suite 500, 325 7th Street, N.W., Washington, D.C. 20530, (202-307-6351).

Constance K. Robinson,

Director of Operations.

[FR Doc. 96-16141 Filed 6-24-96; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Semiconductor Research Corporation

Notice is hereby given that, on June 11, 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"), Semiconductor Research Corporation ("SCR") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. 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. Specifically, SCR has added MicroUnity Systems Engineering, Inc., Sunnyvale, CA and SiBond L.L.C., Hopewell Junction, NY as affiliate members. DesignAid, Inc., Emergent Technologies Corporation, Integrated Silicon Systems, Inc., Process Technology Limited, Q-Metrics, Inc., and SRI International have withdrawn as members.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Semiconductor Research Corporation intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, Semiconductor Research 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 January 30, 1985 (50 FR 4281).

The last notification was filed with the Department on March 25, 1996. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on April 22, 1996 (61 FR 17728).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96-16152 Filed 6-24-96; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Correction

On March 4, 1996, a Notice of Application for Johnson Matthey, Inc. (Johnson Matthey), Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066, was published in the Federal Register requesting registration as a bulk manufacturer of Schedules I and II controlled substances. See 61 FR 8303. The notice invited that comments or objections be filed by May 3, 1996. A correction was subsequently published on June 5, 1996, deleting meperidine (9230) from the list of controlled substances for which Johnson Matthey made application to manufacture in bulk. See 61 FR 28597.

However, Johnson Matthey does wish to be registered as a bulk manufacturer of meperidine. Therefore, meperidine is hereby added to the list of controlled substances for which Johnson Matthey made application to manufacture in bulk.

Any other such applicant and any person who is presently registered with DEA to manufacture meperidine may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 26, 1996.

Dated: June 18, 1996.

Gene R. Haislip,

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

[FR Doc. 96-16053 Filed 6-24-96; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Notification of Methane Detected in Mine Atmosphere

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed reinstatement of the information collection related to the Notification of Methane Detected in Mine Atmospheres. MSHA is particularly interested in comments which:

- * Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- * Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- * Enhance the quality, utility, and clarity of the information to be collected; and

- * Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Submit written comments to the office listed in the ADDRESSES section below on or before August 26, 1996.

ADDRESSES: Written comments shall be mailed to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203-1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235-1910 (voice) or (703) 235-5551 (facsimile).

FOR FURTHER INFORMATION CONTACT:

George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203-1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235-8378 (voice), or (703) 235-1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Sections 103 (c), (i), and (j) of the Federal Mine Safety and Health Act of 1977 authorized the recordkeeping and reporting requirements implemented in 30 CFR Part 57, Subpart T—Safety Standards for Methane in Metal and Nonmetal mines. Methane is a flammable gas found in underground mining. Methane is a colorless, odorless, tasteless gas, and it tends to rise to the roof of a mine because it is lighter than air. Although methane itself is nontoxic, its presence reduces the oxygen content by dilution when mixed with air, and consequently can act as an asphyxiant when present in large quantities. Methane mixed with air is explosive in the range of 5 to 15 percent, provided that 12 percent or more oxygen is present. The presence of dust containing volatile matter in the mine atmosphere may further enhance the explosion potential of methane in a mine.

Metal and Nonmetal mine operators are required to notify MSHA when: (a) There is an outburst that results in 0.25 percent or more methane in the mine atmosphere; (b) there is a blowout that results in 0.25 percent or more methane in the mine atmosphere; (c) there is an ignition of methane; (d) air sample results indicate 0.25 percent or more methane in the atmosphere of a Subcategory I-B, I-C, II-B, V-B, or Category VI mine, or (e) methane reaches 2.0 percent in a Category IV mine. MSHA investigates the occurrence to determine that the mine is placed in the proper category to follow appropriate precautionary standards.

II. Current Actions

MSHA is seeking to continue the certification and notification of methane detected in mine atmosphere.

Type of Review: Reinstatement (without change).
Agency: Mine Safety and Health Administration.
Title: Notification of Methane Detected in Mine Atmosphere.

OMB Number: 1219-0103.
Recordkeeping: Certification of examinations shall be kept for at least one year.
Affected Public: Business or other for-profit

Cite/reference	Total respondents	Frequency	Total responses	Average time/response	Burden hours
57.22004	1	Annual	1	1 hour	1
57.22229 and 57.22230	7	Weekly	364	5 min	30
Totals	8	.....	365	1.083 hour ...	31

Estimated Total Burden Cost: \$2,496.
 Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 17, 1996.
 Donald Henderliter,
Acting Director, Program Evaluation and Information Resources.
 [FR Doc. 96-16162 Filed 6-24-96; 8:45 am]
BILLING CODE 4510-43-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440]

The Cleveland Electric Illuminating Company, et al.; Perry Nuclear Power Plant, Unit No. 1, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval of the transfer of Facility Operating License No. NPF-58, issued to The Cleveland Electric Illuminating Company, et al., the licensees, for operation of the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio.

Environmental Assessment

Identification of the Proposed Action

The proposed action would consent to the transfer of the license with respect to Ohio Edison Company's (Ohio Edison) 12.58-percent ownership interest in the "common facilities" of the Perry plant to its wholly owned subsidiary, OES Nuclear, Inc. (OES).

The proposed action is in accordance with Ohio Edison's request for approval dated December 29, 1995.

The Need for the Proposed Action

The proposed action is required to obtain the necessary consent to the

transfer of the license discussed above. The underlying transaction is needed to allow Ohio Edison to reduce its current operating costs.

Environmental Impacts of the Proposed Action

The Commission has reviewed the proposed action and concludes that there will be no changes to the facility or its operation as a result of the proposed action. Accordingly, the NRC staff concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the NRC staff concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

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 Perry Nuclear Power Plant, Units 1 and 2, documented in NUREG-0884.

Agencies and Persons Consulted

In accordance with its stated policy, on June 5, 1996, the staff consulted with the Ohio State official, C. O'Clare of the Ohio Emergency Management Agency, 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 Ohio Edison submittal under cover of letter from Shaw, Pittman, Potts and Trowbridge, dated December 29, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 19th day of June 1996.

For the Nuclear Regulatory Commission.
 Jon B. Hopkins, Sr.
Project Manager, Project Directorate III-3, Division of Reactor Projects-III/IV, Office of Nuclear Reactor Regulation.
 [FR Doc. 96-16100 Filed 6-24-96; 8:45 am]
BILLING CODE 7590-01-P

Sunshine Act Meeting

DATE: Weeks of 24, July 1, 8, and 15, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 24

Tuesday, June 25

10:00 a.m.

Briefing on Operating Reactors and Fuel Facilities (Public Meeting)
 (Contact: Victor McCree, 301-415-1711)

Wednesday, June 26

11:30 a.m.

Affirmation Session (Public Meeting) (if needed)
2:30 p.m.
Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)
(Contact: John Larkins, 301-415-7360)

Friday, June 28

10:30 a.m.
Briefing by Executive Branch (Closed—Ex. 1) (Tentative)

Week of July 1—Tentative

Tuesday, July 2

10:00 a.m.
Briefing on Alternatives for Regulating Fuel Cycle Facilities (Public Meeting)
(Contact: Ted Sherr, 301-415-7218)

Wednesday, July 3

10:00 a.m.
Briefing on BPR Project on Redesigned Material Licensing Process (Public Meeting)
(Contact: Pat Rathbun, 301-415-7178)
11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

Week of July 8—Tentative

There are no meetings scheduled for the week of July 8.

Week of July 15—Tentative

Monday, July 15

10:00 a.m.
Briefing on Status of Staff Actions on Industry Restructuring and Deregulation (Public Meeting)
(Contact: Scott Newberry, 301-415-1183)
2:00 p.m.
Briefing by DOE on Status of High level Waste Program (Public Meeting)

Tuesday, July 16

10:00 a.m.
Briefing on EEO Program (Public Meeting)
2:00 p.m.
Briefing on Status of Risk Harmonization (Public Meeting)
(Contact: Mike Webber, 301-415-7297)
3:30 p.m.
Affirmation Session (Public Meeting)

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415-1292.

CONTACT PERSON FOR MORE INFORMATION:
Bill Hill (301) 415-1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/SECY/smj/schedule.htm>.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301) 415-1963.

In addition, distribution of this meeting notice over the internet system

is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or dkw@nrc.gov.

* * * * *

Dated: June 21, 1996.

William M. Hill, Jr.,
SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96-16329 Filed 6-21-96; 2:17 pm]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Revision:

Form 8-A, SEC File No. 270-54, OMB Control No. 3235-0056
Form 10-K, SEC File No. 270-48, OMB Control No. 3235-0063
Form 10-Q, SEC File No. 270-49, OMB Control No. 3235-0070
Form 20-F, SEC File No. 270-156, OMB Control No. 3235-0288
Form 10-QSB, SEC File No. 270-369, OMB Control No. 3235-0416
Form 10-KSB, SEC File No. 270-368, OMB Control No. 3235-0420

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget requests for approval of modifications to the following Forms:

Form 8-A is a registration statement used by issuers that are already reporting under the Securities Exchange Act of 1934 ("Exchange Act") to register a class of securities under the Exchange Act. This Form permits issuers to incorporate by reference documents that are already filed with the Commission. The Commission proposes to permit issuers to register concurrently a public offering under the Securities Act of 1933 and a class of securities under the Exchange Act by filing a single Securities Act form that would cover both registrations. This proposal would reduce the number of filings that are made on Form 8-A from 1,940 to 776, and would reduce the estimated total annual burden hours from 14,550 hours to 5,820 hours.

Forms 10-K and 10-Q are filed by issuers to satisfy their annual and

quarterly periodic reporting obligations, respectively, pursuant to Section 13 and Section 15(d) of the Exchange Act. "Small business issuers," as defined by Exchange Act Rule 12b-2, are permitted to use Forms 10-KSB and 10-QSB to satisfy their annual and quarterly periodic reporting obligations, respectively, under Section 13 and Section 15(d) of the Exchange Act. In addition, "foreign private issuers," as defined in Exchange Act Rule 3B-4(c), may file Form 20-F to satisfy their annual Exchange Act periodic reporting obligations. The information required to be disclosed in these Forms permits verification of compliance with securities law requirements, and assures the public availability and dissemination of material information concerning an issuer.

The Commission proposed eliminating Form SR, which is filed by issuers to report the use of proceeds following an initial public offering, and requiring that the information currently required by that Form be included in the first periodic report filed by first-time public issuers under the Exchange Act. The use of proceeds information would be reported on Forms 10-K, 10-Q, 10-KSB, 10-QSB and, for foreign private issuers, on Form 20-F. The Commission's proposal would marginally increase the burden hours associated with filing such Forms. However, this increase is expected to result in the provision of important information regarding the use of proceeds and the progress of an offering within a filing that is more commonly monitored by investors.

Each year, approximately 6,051 issuers file 6,051 Form 10-Ks, and approximately 6,282 issuers file 18,216 Form 10-Qs. As a result of the Commission's proposal, an estimated 490 issuers would be required to include the proposed use of proceeds disclosure in their Forms 10-K and 10-Q. The average burden hours for the Forms 10-K and 10-Q that would contain the proposed disclosure item is expected to increase by 5.5 hours for each Form submission. The total annual burden hours for Form 10-K would increase from 10,416,318 hours to 10,419,013 hours, and the total annual burden hours for Form 10-Q would increase from 2,623,104 hours to 2,631,189 hours.

Approximately 545 foreign private issuers file 545 Form 20-Fs each year. An estimated 100 of these issuers are expected to include the proposed use of proceeds information in their Form 20-Fs, and the burden hours for such Form 20-Fs would increase by an average 5.5 hours per submission. The total annual

burden hours for Form 20-F would increase 550 hours as a result of the Commission's proposal.

An estimated 3,031 small business issuers file 9,093 Form 10-QSBs each year. Approximately 265 such issuers are expected to include the proposed disclosure item in their Form 10-QSBs, and the burden hours for such Form 10-QSBs would increase by an average 5.5 hours per submission. The total annual burden hours for Form 10-QSB will increase from 1,191,183 hours to 1,195,555.5 hours.

Approximately 2,790 small business issuers file Form 10-KSB each year, and approximately 265 of these issuers are expected to include the proposed use of proceeds information in their Form 10-KSBs. The burden hours for the affected Form 10-KSBs would increase by an average 5.5 hours per submission. The total annual burden hours for Form 10-KSB will increase from 3,389,850 hours to 3,391,307.5 hours.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: June 18, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-16168 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Abatix Environmental Corp., Common Stock, \$0.001 Par Value) File No. 1-10184

June 19, 1996.

Abatix Environmental Corp. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and

registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, as of the April 30, 1996, the Company had 2,088,964 shares of Security outstanding. The Security constitutes the sole class of voting securities of the Company. Each share of Security entitles the holder thereof to one vote on all matters to come before a meeting of stockholders.

The trades of the Company's Security on the BSE since 1989 have been minimal. In addition to the indirect costs (filing of period reports, etc.) related to being listed on the BSE, the Company pays \$1,000 per year in direct fees.

The Security is currently listed on The Nasdaq SmallCap Market tier of The Nasdaq Stock Market. The issuer cannot justify the expense of being listed on an exchange and the Nasdaq SmallCap system and thereby, wishes to withdraw from the BSE.

Any interested person may, on or before July 11, 1996 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96-16060 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (CenterPoint Properties Corporation, Common Stock, \$0.001, Par Value; 8.22% Convertible Subordinated Debentures Due 2004) File No. 1-12630

June 19, 1996.

CenterPoint Properties Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule

12d2-2(d) promulgated thereunder to withdraw the above specified securities ("Securities") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, it has listed the Security with the New York Stock Exchange, Inc. ("NYSE"). In making the decision to withdraw the Securities from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of the Securities on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of the Securities and believes that dual listing would fragment the market for its Securities.

Any interested person may, on or before July 11, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96-16061 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-22029; International Series Release No. 995; File No. 812-10176]

The Chase Manhattan Bank, N.A. and Chemical Bank; Notice of Application

June 19, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Chase Manhattan Bank, N.A. ("Chase") and Chemical Bank ("Chemical").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from section 17(f) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would amend a

prior order that permits Chase, as custodian or subcustodian of registered U.S. investment company assets, to deposit such assets in foreign banks and foreign securities depositories. The requested order would substitute the entity surviving the anticipated merger of Chase and Chemical as the party to which relief is granted. Chemical will survive the merger and change its name to "The Chase Manhattan Bank."

FILING DATE: The application was filed on June 3, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing a writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 11, 1996 by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Daniel L. Goelzer, Esq., Baker & McKenzie, 815 Connecticut Avenue, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942-0574, or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Chase is a national banking association, regulated by the Comptroller of the Currency under the National Bank Act. At December 31, 1995, Chase has shareholders' equity in excess of \$8.065 billion. Through its Global Securities Services division, Chase provides custody and related services to global institutional investors, including U.S. Investment Companies.¹

2. Chemical Bank is a banking institution, organized under the laws of the State of New York. It is regulated as

a bank by the Superintendent of Banks of New York, and is a member bank of the Federal Reserve System. At December 31, 1995, Chemical had shareholders' equity in excess of \$8.18 billion.

3. On March 31, 1996, Chase's parent holding company, The Chase Manhattan Corporation, and Chemical's parent holding company, Chemical Banking Corporation, merged. Chemical Banking Corporation was the surviving entity in the merger, and it has changed its name to "The Chase Manhattan Corporation." During July 1996, it is anticipated that Chase will be merged into Chemical (the "Merger"). Chemical will survive the Merger, and will change its name to "The Chase Manhattan Bank" ("New Chase"). New Chase will succeed by operation of law to the rights and obligations of Chase, including Chase's obligations under the various custody agreements with U.S. Investment Companies or their custodians.

4. Applicants request an order under section 6(c) for an exemption from section 17(f) that would amend a prior order (the "Prior Order").² The Prior Order granted an exemption to Chase to permit it, as custodian or subcustodian of such U.S. Investment Company assets, to deposit such assets in foreign banks and foreign securities depositories. Applicants request that New Chase be substituted for Chase as the party to which relief is granted. The amendment will permit New Chase to place U.S. Investment Company assets in the custody of foreign subcustodians under the same terms and conditions as Chase under the Prior Order.

5. The Prior order permits Chase to place U.S. Investment Company assets in the custody of foreign subcustodians under terms which include, among other things: (a) A subcustodian must be an "eligible foreign custodian," as defined in rule 17f-5(c)(2);³ (b) Chase must maintain a Bankers Blanket Bond for assets held outside the U.S. if such coverage is available at reasonable cost

² Investment Company Act Release Nos. 12002 (Oct. 23, 1981) (notice) and 12053 (Nov. 20, 1981) (order). The order was granted before the adoption of rule 17f-5 under the Act. Following the adoption of rule 17f-5, the order was amended to conform it to certain conditions in the rule. Investment Company Act Release Nos. 14133 (Sept. 7, 1984) (notice) and 14184 (Oct. 9, 1984) (order).

³ The rule defines the term "Eligible Foreign Custodian" to include (i) a banking institution or trust company, organized under the laws of a country other than the U.S., that is regulated by that country's government or an agency thereof, and that has shareholders; equity in excess of \$200,000,000, or (ii) a majority-owned direct or indirect subsidiary of a qualified U.S. bank or bank-holding company that is organized under the laws of a country other than the U.S. and that has shareholders' equity in excess of \$100 million.

or, if such coverage is discontinued, must advise its U.S. Investment Company customers; and (c) the custody agreement must contain specific provisions including, among other things: (i) Assets will be identified on Chase's books as belonging to the U.S. Investment Company, and on the foreign bank's books and records as belonging to Chase, as agent for the U.S. Investment Company—Chase and its subcustodians must allow access to their books and records to the U.S. Investment Company; (ii) Chase will furnish auditor's reports (and similar reports concerning each foreign bank and foreign securities depository) to its U.S. Investment Company customers; (iii) securities will be held in an account containing only assets held by Chase for its customers, subject to the instructions of Chase or its agents; (iv) securities will not be subject to any right or other claim in favor of the foreign entity, except for charges for safe custody or administration; (v) Chase will exercise reasonable care in the performance of its duties; (vi) the law of New York will be the governing law of the contract; and (vii) Chase will indemnify and hold its U.S. Investment Company customer harmless from and against any loss that may occur as the result of the failure of a foreign bank or securities depository to the same extent as if Chase itself were holding such securities in New York.

Applicants' Legal Analysis

1. Section 17(f) of the Act requires every registered management investment company to place and maintain its securities and similar investments in the custody of certain entities, including "banks" having aggregate capital, surplus and undivided profits of at least \$500,000. A "bank," as defined in section 2(a)(5) of the Act, includes (a) A banking institution organized under the laws of the U.S.; (b) a member of the Federal Reserve System; and (c) any other banking institution or trust company doing business under the laws of any state or of the U.S., and meeting certain requirements. Therefore, the only entities located outside the U.S. which section 17(f) authorizes to serve as custodians for registered management investment companies are the overseas branches of U.S. banks.

2. Rule 17f-4 under the Act, at the time of the Prior Order, permitted U.S. Investment Company assets to be deposited with securities depositories registered with the SEC under section 17A of the Securities Exchange Act of 1934. However, no foreign depository was registered under section 17A, and therefore rule 17f-4 did not authorize

¹ As used herein, "U.S. Investment Company" means any management investment company registered under the Act, other than an investment company registered under section 7(d) of the Act.

the use of securities depositories outside the U.S.⁴ Because of the limitations imposed by section 17(f) and rule 17f-4, Chase was required to obtain exemptive relief in order to utilize foreign banks and foreign securities depositories as subcustodians for the assets of U.S. Investment Companies.

3. Section 6(c) of the Act provides, in relevant part, that the SEC may exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

4. Applicants believe that the requested amendment is necessary and appropriate in the public interest to permit U.S. Investment Companies for which Chase serves as custodian or subcustodian to continue relying on the Prior Order after the Merger. Applicants state that the Merger, a transaction undertaken for reasons unrelated to the terms of Chase's foreign custody arrangements, should not have the unintended effect of terminating the ability of New Chase and its U.S. Investment Company customers to rely on the Prior Order. Chase has numerous longstanding contractual relationships with its U.S. Investment Company customers, and with numerous foreign subcustodians, predicated on the Prior Order. Applicants believe that, while the terms of these contracts do not differ materially from the requirements of rule 17f-5 (except in ways that are more favorable to U.S. Investment Companies), it would be administratively burdensome and expensive to amend these contracts to delete references to the Prior Order and to conform the contracts to rule 17f-5.

5. Applicants believe that the assets to which the Prior Order relates will be as effectively protected by New Chase as they have been by Chase. Following the Merger, New Chase will be required to indemnify U.S. Investment Companies for losses to the same extent that Chase is currently required to do so under the Prior Order. Applicants believe that, in certain respects, the Prior Order imposes more stringent requirements, and therefore provides a higher level of protection for U.S. Investment Company assets, than does rule 17f-5. Applicants state that this application does not seek to change in any manner the terms and protections applicable to U.S.

Investment Company assets held in custody under the Prior Order.

6. Applicants state that the Prior Order is consistent with the purposes of section 17(f) and of rule 17f-5. The purpose of the section is to ensure that U.S. Investment Companies hold securities in a safe manner that protects the interests of their shareholders. The purpose of the rule is to relieve U.S. Investment Companies of the expense and inconvenience of transferring assets to the custody of a U.S. bank or other qualified custodian outside the jurisdiction in which the primary trading market for those assets is located and to reduce the risks inherent in maintaining assets outside the U.S. Applicants state that the requested amendment would permit New Chase and the U.S. Investment Companies for which it acts as custodian or subcustodian to continue relying on the Prior Order under the same terms and conditions of the Prior Order and is therefore consistent with these purposes.

7. Applicants state that in granting the Prior Order, the SEC determined that the arrangements which that order permits satisfy the standards of section 6(c). Applicants believe that the substitution of New Chase for Chase as the party to which the terms and conditions of the Prior Order applies in no way detracts from the continuing validity of the SEC's determination. Therefore, applicants believe the requested order satisfies these standards.

Condition

Applicants agree that the order granting the requested relief shall be subject to the condition that, following the merger of Chase and Chemical, New Chase will comply with all of the terms and conditions of the Prior Order as if such order had been granted to New Chase.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-16169 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Release No. 22032; International Series Release No. 997; 812-10172]

Commonwealth Bank of Australia; Notice of Application

June 19, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Commonwealth Bank of Australia ("CBA").

RELEVANT ACT SECTIONS: Order under section 6(c) of the Act for an exemption from section 17(f) of the Act.

SUMMARY OF APPLICATION: CBA requests an order that would permit registered investment companies other than investment companies registered under section 7(d) (a "U.S. Investment Company"), for which CBA serves as custodian or subcustodian, to maintain foreign securities and other assets in Australia with CBA Nominees Limited ("CBA Nominees Ltd."), a wholly-owned subsidiary of CBA.

FILING DATE: The application was filed on May 30, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 15, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant: 48 Martin Place, Sydney, New South Wales, 2000, Australia; cc: Thomas J. Rice, Esq., Coudert Brothers, 1114 Avenue of the Americas, New York, NY 10036-7703.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942-0562, or Alison E. Baur, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. CBA is a bank organized and existing under the laws of Australia. CBA is authorized and regulated in Australia by the Reserve Bank of Australia, an agency of the Commonwealth Government, under the Banking Act of 1959. CBA carries out a

⁴Rule 17f-4 was amended in 1984 (after the adoption of rule 17f-5) to permit the use of certain foreign securities depositories in accordance with rule 17f-5. Investment Company Act Release No. 14132 (Sept. 7, 1984).

wide range of banking, financial, and related activities in Australia and internationally. CBA offers trustee and custodial services in Australia through CBA Nominees Ltd. because the Reserve Bank of Australia's prudential guidelines provide that such activities be kept separate from CBA in its capacity as a bank. CBA is the second largest bank in Australia in terms of total domestic assets. At June 30, 1995, CBA had consolidated shareholders' equity in excess of \$5 billion.

2. CBA Nominees Ltd., a wholly-owned subsidiary of CBA, was organized in 1965 and exists under the laws of New South Wales, Australia. CBA Nominees Ltd. does not have any employees, rather, its work is carried out by CBA employees.

3. CBA requests an order to permit CBA, CBA Nominees Ltd., any U.S. Investment Company, and any custodian for a U.S. Investment Company to maintain foreign securities, cash, and cash equivalents (collectively, "Assets") in the custody of CBA Nominees Ltd. as delegate for CBA. For the purposes of this application, "foreign securities" includes: (a) securities issued and sold primarily outside the United States by a foreign government, a national of any foreign country, or a corporation or other organization incorporated or organized under the laws of any foreign country; and (b) securities issued or guaranteed by the Government of the United States or by any state or any political subdivision thereof or by any agency thereof or by any entity organized under the laws of the United States or of any state thereof which have been issued and sold primarily outside the United States.

Applicant's Legal Analysis

1. Section 17(f) of the Act requires every registered management investment company to place and maintain its securities and similar investments in the custody of certain enumerated entities, including a bank having at all times aggregate capital, surplus, and undivided profits of at least \$500,000. A "bank", as that term is defined in section 2(a)(5) of the Act, includes: (a) a banking institution organized under the laws of the United States; (b) a member bank of the Federal Reserve System; and (c) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any state or of the United States, a substantial portion of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks, which is supervised or examined

by state or federal authority having supervision over banks, and which is not operated for the purposes of evading the Act.

2. The only entities located outside the United States that section 17(f) authorizes to serve as custodians for registered management investment companies are the overseas branches of qualified U.S. banks. Rule 17f-5, however, expands the group of entities that are permitted to serve as foreign custodians. The rule defines the term "Eligible Foreign Custodian" to include a banking institution or trust company, incorporated or organized under the laws of a country other than the United States, that is regulated as such by that country's government or an agency thereof and that has shareholders' equity in excess of \$200,000,000 or its equivalent. CBA is an Eligible Foreign Custodian under the rule.

3. CBA Nominees Ltd. is not an Eligible Foreign Custodian under rule 17f-5 because it is not a banking institution or trust company incorporated or organized under the laws of a country other than the United States and does not have shareholders' equity in excess of \$200,000,000. Absent exemptive relief, therefore, it could not serve as a custodian for U.S. Investment Company Assets.

4. Section 6(c) provides, in relevant part, that the SEC may, conditionally or unconditionally, by order, exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. CBA believes that its request satisfies this standard.

Applicant's Conditions

Applicant agrees that any SEC order granting the requested relief shall be subject to the following conditions:

1. The foreign custody arrangements proposed with respect to CBA Nominees Ltd. will satisfy the requirements of rule 17f-5 in all respects, except insofar as CBA Nominees Ltd.: (a) is not a banking institution or trust company incorporated or organized under the laws of a country other than the United States; and (b) does not have shareholders' equity in excess of \$200,000,000.

2. CBA, when providing custody services to a U.S. Investment Company, will deposit Assets with CBA Nominees Ltd. only in accordance with one of the two contractual arrangements described below, which arrangement will remain in effect at all times during which CBA

Nominees Ltd. fails to satisfy the criteria of an Eligible Foreign Custodian in rule 17f-5.

a. *The Three-Party Agreement Arrangement.* Under this arrangement, the agreement will be a three-party agreement (the "Agreement") among (i) CBA, (ii) CBA Nominees Ltd., and (iii) the U.S. Investment Company, or the custodian for a U.S. Investment Company pursuant to which CBA will undertake to provide specified custody or subcustody services, and will delegate to CBA Nominees Ltd. such of the duties and obligations of CBA as will be necessary to permit CBA Nominees Ltd. to hold in custody the U.S. Investment Company's Assets. The Agreement further will provide that CBA will be liable for any loss, damage, cost, expense, liability, or claim arising out of or in connection with the performance by CBA Nominees Ltd. of its responsibilities under the Agreement to the same extent as if CBA had itself been required to provide custody services under the Agreement, except for such loss, damage, cost, expense, liability, or claim as may result from political risk and those as may result from other risks of loss (excluding bankruptcy or insolvency of CBA Nominees Ltd.) for which neither CBA nor CBA Nominees Ltd. would be liable under rule 17f-5.

b. *The Custody Agreement/Subcustody Agreement Arrangement.* Under this arrangement, Assets will be deposited with CBA Nominees Ltd. in accordance with the Custody Agreement and Subcustody Agreement defined below.

i. The Custody Agreement will be between CBA and the U.S. Investment Company or any custodian for a U.S. Investment Company. In that agreement, CBA will undertake to provide specified custody or subcustody services, and the U.S. Investment Company (or its custodian) will authorize CBA to delegate to CBA Nominees Ltd. such of CBA's duties and obligations as will be necessary to permit CBA Nominees Ltd. to hold in custody the U.S. Investment Company's Assets. The Custody Agreement further will provide that CBA will be liable for any loss, damage, cost, expense, liability, or claim arising out of or in connection with the performance by CBA Nominees Ltd. of its responsibilities to the same extent as if CBA had itself been required to provide custody services under the Custody Agreement, except for such loss, damage, cost, expense, liability, or claim as may result from political risk and those as may result from other risks of loss (excluding bankruptcy or insolvency of CBA Nominees Ltd.) for

which neither CBA nor CBA Nominees Ltd. would be liable under rule 17f-5.

ii. A Subcustody Agreement will be executed by CBA and CBA Nominees Ltd. Pursuant to this agreement, CBA will delegate to CBA Nominees Ltd. such of CBA's duties and obligations as will be necessary to permit CBA Nominees Ltd. to hold Assets in custody in Australia. The Subcustody Agreement will explicitly provide that (i) CBA Nominees Ltd. is acting as a foreign custodian for Assets that belong to a U.S. Investment Company pursuant to the terms of an exemptive order issued by the SEC and (ii) the U.S. Investment Company or its custodian (as the case may be) that has entered into a Custody Agreement will be entitled to enforce the terms of the Subcustody Agreement and can seek relief directly against CBA Nominees Ltd. The Subcustody Agreement will be governed by the law of Australia and CBA shall obtain an opinion of counsel in Australia opining as to the enforceability of the rights of a third party beneficiary under the laws of that country.

3. CBA currently satisfies and will continue to satisfy the requirements set forth in rule 17f-5(c)(2).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-16164 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-22027; 811-5491]

Nuveen California Municipal Income Fund, Inc.; Notice of Application

June 19, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Nuveen California Municipal Income Fund, Inc.

RELEVANT ACT SECTIONS: Order requested under section 8(f).

FILING DATES: The application was filed on May 17, 1996.

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by

mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 15, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 333 West Wacker Drive, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Staff Attorney, at (202) 942-0571, or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered closed-end management investment company organized as a Minnesota corporation. On March 4, 1988, applicant filed a Notification of Registration on Form N-8A pursuant to section 8(a) of the Act and a registration statement on Form N-1A under section 8(b) of the Act and under the Securities Act of 1933. The registration statement became effective on April 19, 1988, and the initial public offering commenced soon thereafter.

2. On July 26, 1995, applicant's board of directors unanimously approved the Agreement and Plan of Reorganization and Liquidation (the "Agreement"), under which substantially all of the assets of applicant would be transferred to Nuveen California Municipal Value Fund, Inc. (the "Acquiring Fund"), a Minnesota corporation registered under the Act as a closed-end management investment company, in exchange for shares of the Acquiring Fund. Following receipt of the shares of the Acquiring Fund, applicant would distribute those shares to its shareholders in complete liquidation of applicant. In accordance with rule 17a-8 under the Act,¹ applicant's board of directors determined that the proposed reorganization was in the best interest of

¹ Rule 17a-8 provides an exemption from section 17(a) of the Act for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers.

applicant and that the interests of the existing shareholders of applicant would not be diluted as a result of the proposed reorganization.

3. The proposed reorganization was approved by applicant's shareholders at the annual shareholder meeting on November 16, 1995.

4. Pursuant to the Agreement, on January 8, 1996, applicant transferred substantially all of its assets to the Acquiring Fund. In exchange for applicant's assets, the Acquiring Fund transferred the number of Acquiring Fund shares having an aggregate net asset value equal to the value of applicant's net assets to applicant and assumed substantially all of applicant's liabilities. Following this exchange, applicant distributed the shares of the Acquiring Fund received in connection with the reorganization to its shareholders on a *pro rata* basis (the "Reorganization"). On the date of Reorganization, applicant had 5,209,911 shares of beneficial interest outstanding, having an aggregate net asset value of \$61,944,963.96 and a net asset value per share of \$11.89.

5. Applicant and the Acquiring fund together have incurred, in the aggregate, expenses of \$161,604 in connection with the Reorganization. The aggregate expenses include legal fees, audit fees and expenses, printing expenses, mailing expenses, proxy solicitation expenses, and filing fees. The expenses resulting from the Reorganization were allocated between applicant and the Acquiring Fund based upon estimated savings to each as a result of expected reduced operating expenses following the Reorganization. Estimated expenses relating to the Reorganization were accrued prior to the effective time of the Reorganization, with applicant paying a total of \$95,661 and the Acquiring Fund paying a total of \$65,943.

6. Applicant has retained cash to pay certain liabilities accrued in connection with the Reorganization. As of May 1, 1996, the amount of such cash was \$39,660.56.

7. As of the date of the application, applicant had no shareholders. Applicant is not a party to any litigation or administrative proceeding. Applicant is neither engaged nor proposes to engage in any business activities other than those necessary for the winding-up of its affairs.

8. Applicant intends to file a certificate of dissolution in accordance with the law of the State of Minnesota.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-16069 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-22028; 811-5493]

Nuveen New York Municipal Income Fund, Inc.; Notice of Application

June 19, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Nuveen New York Municipal Income Fund, Inc.

RELEVANT ACT SECTIONS: Order requested under section 8(f).

FILING DATES: The application was filed on May 17, 1996.

SUMMARY OF APPLICATION: Application requests on order declaring that it has ceased to be an investment company.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 15, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 333 West Wacker Drive, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Staff Attorney, at (202) 942-0571, or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered closed-end management investment company

organized as a Minnesota corporation. On March 4, 1988, applicant filed a Notification of Registration on Form N-8A pursuant to section 8(a) of the Act and a registration statement on Form N-1A under section 8(b) of the Act and under the Securities Act of 1933. The registration statement became effective on April 19, 1988, and the initial public offering commenced soon thereafter.

2. On July 26, 1995, applicant's board of directors unanimously approved the Agreement and Plan of Reorganization and Liquidation (the "Agreement"), under which substantially all of the assets of applicant would be transferred to Nuveen New York Municipal Value Fund, Inc. (the "Acquiring Fund"), a Minnesota corporation registered under the Act as a closed-end management investment company, in exchange for shares of the Acquiring Fund. Following receipt of the shares of the Acquiring Fund, applicant would distribute those shares to its shareholders in complete liquidation of applicant. In accordance with rule 17a-8 under the Act,¹ applicant's board of directors determined that the proposed reorganization was in the best interest of applicant and that the interests of the existing shareholders of applicant would not be diluted as a result of the proposed reorganization.

3. The proposed reorganization was approved by applicant's shareholders at the annual shareholder meeting on November 16, 1995.

4. Pursuant to the Agreement, on January 8, 1996, applicant transferred substantially all of its assets to the Acquiring Fund. In exchange for applicant's assets, the Acquiring Fund transferred the number of Acquiring Fund shares having an aggregate net asset value equal to the value of applicant's net assets to applicant and assumed substantially all of applicant's liabilities. Following this exchange, applicant distributed the shares of the Acquiring Fund received in connection with the reorganization to its shareholders on a *pro rata* basis (the "Reorganization"). On the date of Reorganization, applicant had 2,521,957 shares of beneficial interest outstanding, having an aggregate net asset value of \$28,973,266.50 and a net asset value per share of \$11.49.

5. Applicant and the Acquiring Fund together have incurred, in the aggregate, expenses of \$139,521 in connection

¹ Rule 17a-8 provides an exemption from section 17(a) of the Act for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers.

with the Reorganization. The aggregate expenses include legal fees, audit fees and expenses, printing expenses, mailing expenses, proxy solicitation expenses, and filing fees. The expenses resulting from the Reorganization were allocated between applicant and the Acquiring Fund based upon estimated savings to each as a result of expected reduced operating expenses following the Reorganization. Estimated expenses relating to the Reorganization were accrued prior to the effective time of the Reorganization, with the applicant paying a total of \$75,444 and the Acquiring Fund paying a total of \$64,077.

6. Applicant has retained cash to pay certain liabilities accrued in connection with the Reorganization. As of May 1, 1996, the amount of such cash was \$33,582.90.

7. As of the date of the application, applicant had no shareholders. Applicant is not a party to any litigation or administrative proceeding. Applicant is neither engaged nor proposes to engage in any business activities other than those necessary for the winding-up of its affairs.

8. Applicant intends to file a certificate of dissolution in accordance with the law of the State of Minnesota.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-16068 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (Struthers Industries, Inc., Common Stock, \$.10 par Value) File No. 1-10942

June 19, 1996.

Struthers Industries, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, on March 27, 1996, the Company received a letter from the Exchange stating that the Exchange was considering delisting the securities of Struthers because the

Exchange believed that the Company's had fallen below certain of the Exchange's continued listing guidelines. The Company's responded to the letter with two detailed submissions to the Exchange dated May 9, 1996 and May 30, 1996. These submissions addressed the concerns raised by the Exchange in the letter as well as the concern raised at meetings held between officials of the Company and the Exchange on April 16, 1996 and May 14, 1996.

On June 4, 1996, the Company received a letter from the Exchange stating that the Exchange had made a determination to delist the Company's Security.

The Company has informed the Exchange that it is the position of the Company that throughout the process initiated by the Exchange on March 27, 1996, the Company has fully cooperated with the Exchange staff and has provided to the staff extensive submissions which the Company believes make clear that the Company has complied with the Exchange's continued listing guidelines. The Company and the Exchange, however, have been unable to resolve their difference on this issue. The Company has informed the Exchange, therefore, that it is the Company's position that in view of the impasse between the Exchange and the Company, and in view of the large expenditures of money and management time that would be required before a final resolution of the matters at issue could be obtained, it is in the best interests of both the Company and its shareholders that matters be settled by the removal of the Company's Security from listing on the Exchange.

The Company has been informed by the Exchange that it is also the position of the Exchange that it would be in the best interests of the Exchange and the investing public to settle matters with the Company as provided in this application.

Accordingly, the Exchange and the Company have agreed to settle matters between them by the Company making this application to remove its Security from listing on the Exchange. In accordance therewith, the Company and the Exchange have agreed that, coincident with the approval of this application by the Commission, the Exchange will withdraw its letter of June 4, 1996.

For purposes of Section 1011 of the Exchange's Listed Company Guide, the Exchange and the Company have agreed that the Exchange staff and the Company management have not been able to agree concerning the application of certain continued listing guidelines to

the Company, and that it is unlikely that they will be able to reach agreement on this matter.

Any interested person may, on or before July 11, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96-16059 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37316; File No. SR-CBOE-96-10]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Multiple Representation

June 17, 1996.

I. Introduction

On March 6, 1996, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to amend CBOE Rule 6.55, "Multiple Orders Prohibited," to provide that, except in accordance with procedures established by the appropriate Floor Procedure Committee, or with such Floor Procedure Committee's permission in individual cases, no market maker shall enter or be present in a trading crowd while a floor broker present in the trading crowd is holding an order on behalf of the market maker's individual account or an order initiated by the market maker for an account in which the market maker has an interest.

Notice of the proposal was published for comment and appeared in the Federal Register on March 28, 1996.¹ No comments were received on the proposed rule change.

¹ See Securities Exchange Act Release No. 36996 (March 20, 1996), 61 FR 13907.

II. Description of the Proposal

Currently, CBOE Rule 6.55 provides that no CBOE member, for any account in which he has an interest or on behalf of a customer, shall maintain with more than one broker orders for the purchase or sale of the same option contract or other security, or the same combination of option contracts or other securities, with the knowledge that such orders are for the account of the same principal. According to the Exchange, the purpose of CBOE Rule 6.55 is to prevent a person from being disproportionately represented in a trading crowd.

In furtherance of this purpose, the Exchange also has had a long-standing policy of prohibiting market makers from entering or being present in a trading crowd while a floor broker present in the trading crowd is holding an order on behalf of the market maker's individual account or an order initiated by the market maker for an account in which the market maker has an interest, except in accordance with procedures established by the appropriate Floor Procedure Committee or with such Floor Procedure Committee's permission in individual cases.² This policy prevents a market maker from avoiding CBOE Rule 6.55 by placing an order with a floor broker for a particular option contract or other security and also representing himself or herself in the trading crowd for such option contract or other security. The purpose of the proposal is to specifically delineate this policy in the Exchange's rules by including it in a new paragraph (b) to CBOE Rule 6.55.

In addition, the CBOE proposes to add Interpretation and Policy .01 to CBOE Rule 6.55 to specify three alternative procedures that govern how a market maker may permissibly enter a trading crowd in which a floor broker is present who holds an order on behalf of the market maker's individual account or an order initiated by the market maker for an account in which the market maker has an interest.

Under the first alternative, the market maker must make the floor broker aware of the market maker's intention to enter the trading crowd and the floor broker

² Exceptions to this policy which have been approved by a Floor Procedure Committee are contained in Exchange Regulatory Circular RG95-64, which concerns the trading activities of joint account participants in the Standard & Poor's ("S&P") 100 ("OEX") and S&P 500 ("SPX") index option classes. See also Securities Exchange Act Release No. 36977 (March 15, 1996) (order approving File No. SR-CBOE-95-65) (approving regulatory circular which provides that a joint account trading in equity options may be represented simultaneously in a trading crowd by participants trading in person) ("Joint Account Circular").

must time-stamp the order ticket for the market maker order and write the notation "Cancel" or "CXL" next to the time stamp. If the market maker wishes to re-enter the order via the floor broker upon the market maker's exit from the trading crowd, the floor broker must at that time again time stamp the order ticket and write the notation "Reentry" or "RNTRY" next to such subsequent time stamp.

Under the second alternative, the market maker must cancel the market maker order by giving the floor broker a written cancellation of the order which is time-stamped by the market maker immediately prior to its transmission to the floor broker. If the market maker wishes to re-enter the order upon his exit from the trading crowd, a new order ticket must be used by the representing floor broker.

Under the third alternative, the market maker must cancel the market maker order by taking the order ticket for the order back from the floor broker, provided that the market maker allows the floor broker to retain a copy of the order ticket (which the floor broker must time-stamp at the time of cancellation and retain for the floor broker's records). If the market maker wishes to re-enter the order upon his exit from the trading crowd, a new order ticket must be used.

The CBOE states that the proposed amendment to CBOE Rule 6.55 also codifies past practice by providing that the appropriate Floor Procedure Committee may adopt other procedures which, if followed, would permit a market maker to be exempt from the requirements of paragraph (b) of CBOE Rule 6.55, or may grant permission for a market maker to enter a trading crowd in a particular instance notwithstanding the requirements of that paragraph.³ Proposed Interpretation and Policy .02 advises members to consult CBOE regulatory circulars concerning joint accounts in connection with procedures governing the simultaneous presence in a trading crowd of participants in and orders for the same joint account.

Finally, the proposal changes the title of CBOE Rule 6.55 from "Multiple Orders Prohibited" to "Multiple Representation Prohibited" in order to

more accurately reflect the scope of the amended rule.

III. Discussion

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, the requirements of Section 6(b)(5)⁴ in that it is designed to remove impediments to and perfect the mechanism of a free and open securities market and to facilitate transactions in securities, while protecting investors and the public interest.

Currently, CBOE Rule 6.55 prohibits members from placing identical orders for the account of the same principal with several floor brokers. According to the Exchange, CBOE Rule 6.55 is designed to prevent a person from being represented disproportionately in a trading crowd. An account using multiple orders would be represented disproportionately because, when an execution is divided among competing brokers, an account using multiple orders would receive a larger share of the execution than an account using a single order.⁵

The proposal, which codifies an existing CBOE policy, is designed to prevent a market maker from avoiding CBOE Rule 6.55 by placing an order with a floor broker for a particular option contract or other security and also representing himself or herself in the trading crowd for that option contract or security. By prohibiting a market maker from entering or being present in a trading crowd while a floor broker in the trading crowd holds an order on behalf of the market maker's individual account or an order initiated by the market maker for an account in which the market maker has an interest, the proposal furthers the objectives of CBOE Rule 6.55 and prevents a person from being represented disproportionately in a trading crowd.⁶

The Commission believes that it is appropriate for the CBOE to adopt Interpretation and Policy .01, which includes procedures that will allow a market maker to cancel his order with a floor broker and enter a trading crowd in which a floor broker is present who

was holding an order on behalf of the market maker's individual account or an order initiated by the market maker for an account in which the market maker has an interest.⁷ The Commission believes that the procedures proposed in Interpretation and Policy .01 are consistent with the purpose of CBOE Rule 6.55 in that they allow a market maker to enter the trading crowd after cancelling his order with the floor broker, thereby ensuring that the market maker is not represented disproportionately in the trading crowd. In addition, Interpretation and Policy .01 should help the CBOE to maintain a fair and orderly market by clearly specifying procedures that will allow market maker to enter a trading crowd in which a floor broker holds an order on behalf of the market maker, and providing procedures that will allow the market maker to re-enter the order with the floor broker upon the market maker's exit from the trading crowd.

The Commission notes that CBOE Rule 6.55(b) allows the appropriate Floor Procedure Committee to create exceptions to CBOE Rule 6.55(b) by establishing procedures or granting permission to a market maker in individual cases. The Commission believes that this provision is appropriate and consistent with the Act because it will add flexibility to CBOE Rule 6.55(b) by allowing the CBOE to create an exception to the rule under extraordinary circumstances⁸ or to develop special trading procedures, such as those established in RG95-64.⁹

Finally, the Commission believes that it is reasonable for the CBOE to amend the title of CBOE Rule 6.55 to clarify the scope of the rule, and to adopt Interpretation and Policy .02, which

⁷ The procedures provided in Interpretation and Policy .01 for cancelling an order are as follows: (1) The market maker makes the floor broker aware of the market maker's intention to enter the trading crowd and the floor broker time stamps the order ticket for the order and writes the notation "Cancel" or "CXL" next to the time stamp; (2) the market maker cancels his order by giving the floor broker a written cancellation of the order which is time-stamped by the market maker immediately prior to its transmission to the floor broker; or (3) the market maker cancels his order by taking the order ticket for the order back from the floor broker, provided that the market maker allows the floor broker to retain a copy of the order ticket (which the floor broker must time-stamp at the time of cancellation and retain for the floor broker's records). Interpretation and Policy .01 also provides procedures that allow the market maker to re-enter the order with the floor broker upon the market maker's exit from the trading crowd.

⁸ The Commission expects that the CBOE will grant such exceptions only in limited and truly extraordinary circumstances. See note 3, *supra*.

⁹ See note 2, *supra*. The Commission notes that the establishment of such procedures would require a rule filing with the Commission pursuant to Section 19(b)(2) under the Act.

³ The CBOE has represented that this provision is intended to provide the Exchange with the flexibility to address special situations that may arise infrequently. One such situation would exist where there is exceptionally high activity in a small trading crowd. In this case, the CBOE may grant permission to market makers to enter the trading crowd for a limited time. Telephone conversation between Mike Meyer, Schiff Hardin & Waite, and Yvonne Fraticelli, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on May 13, 1996.

⁴ 15 U.S.C. 78f(b)(5) (1988 & Supp. V 1993).

⁵ See File No. SR-CBOE-80-11 (proposal to adopt CBOE Rule 6.55).

⁶ In addition, the proposal is consistent with the provisions of the Joint Account Circular, which was approved recently by the Commission. See note 2, *supra*. Specifically, the Joint Account Circular notes, among other things, that members may not enter orders in a particular crowd with floor brokers for their individual or joint account whenever they are trading in person in that crowd.

advises members to consult Exchange regulatory circulars for procedures governing the simultaneous presence in a trading crowd of participants in and orders for the same joint account.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-CBOE-96-10) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-16067 Filed 6-24-96; 8:45 am]

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[Release No. 34-37327; File No. SR-CHX-96-15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating To Assignment and Reassignment of NASDAQ/NMS Issues

June 19, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on May 16, 1996, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend interpretation and policy .01 of Rule 1 of Article XXX relating to assignments and reassignments of Nasdaq National Market ("NM") securities. Below is the text of the proposed rule change. Proposed new language is italicized:

CHICAGO STOCK EXCHANGE RULES

ARTICLE XXX

Specialists

Registration and Appointment

Rule 1.

* * * Interpretations and Policies

.01 Committee on Specialist Assignment & Evaluation.

Assignment Function

I. Events Leading to Assignment Proceedings

Pursuant to Article XXX, Rules 1 and 8, the Committee may, when circumstances require, assign or reassign a security. Seven circumstances may lead to the need for assignment or reassignment of a security. They are:

1. New listing or obtaining unlisted trading privilege;
2. Specialist request;
3. Corporation request;
4. Split-up and/or merger of specialist units;
5. Fundamental change of specialist unit;
6. Unsatisfactory performance action; or
7. Disciplinary action.

The following guidelines have been adopted by the Committee for its use in the assignment or reassignment of stocks among specialists and co-specialists. These guidelines set forth the general policy of the Committee concerning the posting and allocation of stocks. They are not, however, rigid rules to be strictly followed regardless of unique circumstances. These guidelines form only the starting point of the Committee's deliberations; they will be applied in light of the facts in each individual case.

1. New Listing—Unlisted Trading Privilege.

(a) Initial listing of a security or obtaining unlisted trading privileges from the S.E.C. for a security will lead automatically to an assignment proceeding.

(b) Nasdaq/NM Securities—Subsequent Exchange Listing.

(i) *Initial 100 stocks in Nasdaq/NM Pilot.* In the event that one of the initial 100 Nasdaq/NM Securities currently assigned to a specialist unit under the Exchange's Nasdaq/NM Pilot Program becomes a Dual Trading System issue, the Committee will utilize the following guidelines in determining whether the security should be posted and re-assignment proceedings should be initiated or whether the specialist unit should be allowed to continue as the specialist unit for the security.

(A) *If the specialist unit has designated the security as a security that the specialist unit desires to continue to trade as a Dual Trading System Issue ("Non-Reassignment Issue"), the Committee, under normal circumstances, will not post the security or initiate re-assignment proceedings. Each specialist unit may designate five (5) issues as Non-Reassignment Issues under this paragraph (A), which designation may be changed no more than once a year. In the event that a Non-Reassignment Issue becomes a Dual Trading System issue, the total number of stocks that the specialist unit can designate as a Non-Reassignment Issue will be decremented. For example, if 2 Non-Reassignment Issues become Dual Trading System Issues, the specialist will only be able to designate a total of three (3) issues as Non-Reassignment Issues going forward.*

(B) *If the specialist unit has not designated the issues as a Non-Reassignment Issue, the specialist unit can nonetheless designate its interest to continue to trade the issue as a Dual Trading System Issue. Such designation can only be made for one out of every three*

Nasdaq/NM issues that the specialist unit trades that becomes a Dual Trading System Issue. If such designation is made by the specialist, the Committee, under normal circumstances, will not post the issue or initiate re-assignment proceedings. If no such designation is made by the specialist, the Committee will post the issue and initiate re-assignment proceedings. In such event, the specialist unit trading the issue will not be eligible to apply for the security in such proceedings. The specialist unit cannot accumulate the number of stocks for designation. If the specialist unit does not make such designation for any of three consecutive issues that become Dual Trading System issues, he or she cannot carry forward the unused designation.

(ii) *All other Nasdaq/NM Stocks.* In the event that a Nasdaq/NM Security (other than a security described in (i) above) currently assigned to a specialist unit becomes a Dual Trading System issue within one year of the date that the specialist unit began trading the security, the security will be posted and the Committee will initiate a re-assignment proceeding for such security. In the event that such security becomes a Dual Trading System issue more than one year after the date the specialist unit began trading the security, the Committee will utilize the following guidelines in determining whether the security should be posted and re-assignment proceedings commenced or whether the specialist unit should be allowed to continue as the specialist without posting the security:

(A) *If the specialist unit has designated the security as a Non-Reassignment Issue, the Committee, under normal circumstances, will not post the security or initiate re-assignment proceedings. Each specialist unit may designate 20% of the Nasdaq/NM securities (not including the securities described in (i) above) assigned to such specialist unit as Non-Reassignment Issues under this paragraph (A), which designations may be changed no more than once a year.*

(B) *If the specialist has not designated the issue as a Non-Reassignment Issue, the specialist may nonetheless designate its interest to continue to trade the issue as a Dual Trading System issue, and the procedures set forth in (i)(B) above shall apply to such issue.*

(iii) *Nothing contained in this paragraph 1(b) shall be construed to limit or modify the authority of the Committee pursuant to the other provisions of this Rule.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in

¹⁰ 15 U.S.C. 78s(b)(2) (1988).

¹¹ 17 CFR 200.30-3(a)(12) (1995).

¹ 15 U.S.C. 78s(b)(1).

Sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 1987, the Commission approved the trading of Nasdaq/NM Securities (previously known as NASDAQ/NMS Securities) on the Exchange on a pilot basis.² When these stocks were initially allocated, the Exchange's Committee on Specialist Assignment and Evaluation ("CSAE") established certain guidelines for assignment on Nasdaq/NM stocks. These guidelines required a firm that desired to trade these stocks to assign a separate co-specialist that only trades Nasdaq/NM stocks. As a result, only a small number of firms could receive allocations of Nasdaq/NM stocks. In part because of this limitation, the CSAE also determined to re-post any Nasdaq/NM stocks when they list on an exchange.

Because of the recent expansion³ of the number (from 100 to 500) of Nasdaq/NM securities that are eligible for trading on the CHX, the Exchange believes that a more equitable balance is needed between the ability of the

² See Securities Exchange Act Release Nos. 24407 (April 29, 1987), 52 FR 17349 (May 7, 1987) (Order Approving Proposed Reporting Plan for National Market System Securities Traded on an Exchange); 24406 (April 29, 1987), 52 FR 17495 (May 8, 1987) (Order granting Unlisted Trading Privileges ("UTP") in 25 issues).

The Commission notes that prior to the enactment of the UTP Act of 1994 ("UTP Act"), Section 12(f) of the Act required exchanges to apply to the Commission, and receive Commission approval of the exchange's application, before extending UTP to a particular security. When an exchange "extends UTP" to a security, the exchange allows its members to trade the security as if it were listed on the exchange. The Commission was required to provide interested parties with at least ten days notice of the application and the Commission had to determine whether the extension of UTP to each security named met certain criteria. If so, the Commission published an approval order in the Federal Register. Accordingly, Exchange Interpretation and Policy .01 of Rule 1 of Article XXX reflects this statutory scheme in that it references "obtaining" UTP from the Commission. The UTP Act, however, removed the application, notice, and Commission approval process from Section 12(f) of the Act. For this reason, the Commission requests that the Exchange submit a rule proposal that approximately amends Exchange Interpretation and Policy .01 of Rule 1 to reflect the current statutory scheme.

In addition, the Commission notes that NASDAQ/NMS Securities are now known as Nasdaq/NM Securities and, therefore, requests that the Exchange submit a rule proposal that amends all appropriate Exchange Rules and Interpretation to reflect this new terminology.

³ See Securities Exchange Act Release Nos. 28146 (Jun. 26, 1990), 55 FR 27917 (Jul. 6, 1990) (Order Expanding the Number of Eligible Securities to 100); 36102 (Aug. 14, 1995), 60 FR 43626 (Aug. 22, 1995) (Order Expanding the Number of Eligible Securities to 500).

current specialist firm in the Nasdaq stock to continue to trade the stock after it lists on an exchange and other specialists that desire to trade the stock. Thus, the purpose of the proposed rule change is to amend the Exchange's allocation policy in order to achieve this equitable balance.

Under the proposed policy, the 500 Nasdaq/NM stocks that are eligible for trading on the CHX would be divided into two groups: the 100 original issues and the 400 recently added issues.

100 Original Issues

A specialist unit that traded one or more of the original 100 Nasdaq/NM issues would be permitted to designate up to 5 of these issues as "Non-Reassignment Issues." In the event that a Non-Reassignment Issue became listed, *i.e.*, a Dual Trading System issue,⁴ CSAE under normal circumstances would not post the issue for reassignment. Instead, the existing Nasdaq/NM specialist unit would be permitted to continue to trade the issue assuming the proposed co-specialist for the issue is qualified. A specialist unit could change the issues it designates as Non-Reassignment Issues once a year. Every time a Non-Reassignment Issue becomes a Dual Trading System issue, however, the total number of stocks that the specialist unit can designate as a Non-Reassignment Issue is decremented.

For all other Nasdaq/NM issues that are part of the initial 100 issues, a specialist unit can nonetheless designate its interest to continue trading the issue as a Dual Trading System issue. This designation can only be made at the time that an issue becomes a Dual Trading System issue and can only be made for one out of every three issues that the specialist unit trades that becomes a Dual Trading System issue. If the designation is made, the CSAE, under normal circumstances, will not post the issue or initiate reassignment proceedings. If a designation is not made, the issue will be posted and reassignment proceedings will commence. The specialist unit that traded the issue will not be eligible to apply for the security in these proceedings. Finally, if the specialist unit does not make this designation for any of three consecutive issues that become Dual Trading System issues, he

⁴ According to the Exchange, Dual Trading System Issues are issues that are traded on the CHX and listed on either the New York Stock Exchange or American Stock Exchange. Telephone conversation on June 5, 1996 between David T. Rusoff, Attorney, Foley & Lardner, and George A. Villasana, Attorney, Division of Market Regulation, SEC.

or she cannot carry forward the unused designation.

Other Nasdaq/NM Securities

A specialist unit that trades Nasdaq/NM securities that are not part of the original 100 issues will be permitted to designate 20% of the Nasdaq/NM securities assigned to that specialist unit (excluding the original 100 Nasdaq/NM securities) as Non-Reassignment Issues.

For all other Nasdaq/NM securities, the specialist can designate its interest to continue trading the issue as a Dual Trading System issue. This designation can also only be made at the time an issue becomes a Dual Trading System issue and can also only be made for one out of every three issues that the specialist unit trades that becomes a Dual Trading System issue. This designation will operate in the same manner as the similar designation described above for the original 100 issues.

Finally, this proposed rule change does not limit or modify the authority of the CSAE granted to the CSAE under any other provision of Rule 1 of Article XXX.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principle office of the Exchange. All submissions should refer to File No. SR-CHX-96-15 and should be submitted by July 16, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-16165 Filed 6-24-96; 8:45 am]
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[Release No. 34-37324 File No. SR-CHX-96-11]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 3 to Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Examinations

June 18, 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 The original filing, as amended by Amendment No. 1 and Amendment No. 2, was published for comment in Securities Exchange Act Release No. 37067 (April 4, 1996), 61 FR 16274 (April 12, 1996). On June 3, 1996, the Exchange submitted to the Commission Amendment No. 3 to the proposed rule change.³ The proposed rule change, as amended, is described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In the original filing as amended by Amendments Nos. 1 and 2, the Exchange proposed 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 proposed 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").⁴ Finally, the Exchange proposed technical changes to Rule 2 of Article VI, Registration and Approval of Member and Member Organization Personnel, including a definition of "control person." Amendment No. 3 clarifies the proposed amendments to Rule 2 of Article VI.

² See Letter from Charles R. Haywood, Foley & Lardner, to Elisa Metzger, SEC dated April 4, 1996 ("Amendment No. 2").

³ See Letter from David Rusoff, Foley & Lardner, to Elisa Metzger, SEC dated May 31, 1996 ("Amendment No. 3").

⁴ The Exchange will use the Series 7A Examination that was approved in Securities Exchange 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 Securities Exchange 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").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section 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

As amended, the proposed rule change 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 members and member organizations must be acceptable to the Exchange. A "control person" is defined as:

[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 having the power to sell or direct the sale of 5% or more of a class of voting securities, or in the case of a partnership, having the right to received upon dissolution, as having contributed, 5% or more of the capital.

In the original filing, the proposed amendment required that all control persons and certain shareholders be acceptable to the Exchange. Amendment No. 3 deleted the reference to "certain shareholders" and amended the definition of "control person" to include those persons who directly or indirectly have the right to vote or sell 5% or more of a class of voting security, as opposed to 10% or more of a class of voting security. Amendment No. 3 also clarified that in the case of a partnership, a "control person" would include those persons who have the right to receive upon dissolution, as having contributed 5%, as opposed to 10%, or more of the capital.

Rule 2 of Article VI States that "[e]very other employee of a member or member organization must also be

¹ See Letter from David T. Rusoff, Foley & Lardner, to Elisa Metzger, SEC dated March 14, 1996 ("Amendment No. 1").

acceptable to the Exchange.” Amendment No. 3 explains the application of the standard “acceptable to the Exchange” to control persons. In the proposed rule change, the Exchange will apply the “acceptable to the Exchange” standard to control persons in the same manner as it has applied that standard to employees of members or member organizations in the past since the rule was first adopted. While the Exchange has not had to exercise this standard in recent years, the Exchange might apply it if, for example, a prospective employee or control person is subject to a statutory disqualification or if the person, while not subject to a statutory disqualification, is barred from the banking industry because he or she stole from customers.

In the original filing, the proposed amendments to Rule 2 of Article VI stated that upon notice to a member or member organization that the President of the Exchange has withheld or withdrawn approval of the employment of any other person, the relationship between the member or member organization and such person shall be terminated. Amendment No. 3 deletes the reference to “the employment of” any such other person.

Rule 2 of Article VI requires members or member organizations that know or in the exercise of reasonable care should know that any prospective employee is subject to one or more statutory disqualifications to submit details on such prospective employee to the Exchange and receive Exchange approval before such person becomes associated with the member or member organization. Rule 2 also requires that each member or member organization take reasonable care to determine the existence of a statutory disqualification prior to employing any prospective employee. Further, if any person already employed by a member or member organization thereafter becomes subject to a statutory disqualification, notice must be sent to the Exchange promptly. Amendment No. 3 clarifies that these provisions are applicable to control persons as well as employees of members or 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 a 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 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.

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 understands that the Commission has received comments on SR-CHX-96-11 and Amendments Nos. 1 and 2 thereto.⁵ The Exchange believes that issues raised by the commenter are addressed herein, and in Amendment No. 3.⁶

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.,

⁵ See Letters from C. Philip Curley, Attorney, Robinson Curley & Clayton, P.C., to Jonathan G. Katz, Secretary, SEC, dated May 2, 1996 (“Comment Letters”).

⁶ The SEC notes that Amendment No. 3 was submitted in response to the Comment Letter. The comment letter received by the SEC regarding the CHX’s proposal and Amendment No. 3 are available in the SEC’s public reference room in File No. SR-CHX-96-11.

Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission’s Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 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 July 16, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-16167 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37318; File No. SR-OCC-96-03]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Clearance and Settlement of Flexibly Structured Equity Options

June 18, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on April 30, 1996, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to enable OCC to clear and settle flexibly structured equity options.

¹ 15 U.S.C. § 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to accommodate within OCC's existing By-Laws and Rules the clearance and settlement of flexibly structured options on individual equity securities, as proposed for trading by the American Stock Exchange, Inc. ("AMEX"), the Chicago Board Options Exchange, Incorporated ("CBOE"), the Philadelphia Stock Exchange, Inc. ("PHLX") and the Pacific Stock Exchange, Inc. ("PSE") (collectively, "Exchange" or "Exchanges").³

Flexibly structured equity options allow parties to each flexibly structured equity option trade to customize certain terms of the option within specified limits established by the Exchange. Specifically, for each flexibly structured equity option trade parties may establish the exercise price, the exercise style (*i.e.*, American,⁴ European,⁵ or capped⁶), the cap interval in the case of

capped-style options, the expiration date, and the option type (*i.e.*, put or call).⁷ In addition to customization, flexibly structured equity option trades will require a minimum transaction size of 250 contracts in opening trades in currently unopened series and 100 contracts in the case of opening and most closing trades in currently open series. Flexibly structured equity options thus will differ from existing Exchange-traded equity options both in terms of customization and size.

From a clearance and settlement perspective, flexibly structured equity options can be treated and processed like any other equity option in virtually all respects. While Exchange rules permit a Request for Quotes⁸ to specify a quote either as a dollar amount or as a percentage of the underlying stock price, when a trade is reported to OCC the option premium always will be expressed as a dollar amount. Therefore, when a flexibly structured equity option trade is reported to OCC by one of the Exchanges all of the terms of that option will have been established in the Exchange's report, and the terms will correspond to existing equity options term categories. As a result, on receipt of a matched trade report from an Exchange, OCC will establish long and short flexibly structured equity option positions in clearing member accounts in precisely the same way it does for existing equity options. Furthermore, flexibly structured equity option positions will exhibit virtually the same characteristics as existing equity options.

Because of the similarities between existing equity options and flexibly structured equity options, only a few of OCC's By-Laws and Rules need adjustment to accommodate flexibly structured equity options.⁹ OCC proposes to amend Section 1 of Article I to add an all-purpose definition of "flexibly structured option." Thus, the

than or equal to the closing price of the underlying security for puts).

⁷ Although the rules of the Exchanges provide for capped-style flexibly structured equity options, the Exchanges advised OCC that they do not intend to provide a market in capped-style flexibly structured equity options at the outset. Accordingly, this proposed rule change does not include the rules that would be required for the clearance and settlement of such options. The commencement of trading in capped-style flexibly structured equity options will require that the Commission approve another proposed rule change filed by OCC under Section 19(b)(1) of the Act.

⁸ A Request for Quotes is the initial request supplied by the submitting exchange member to initiate FLEX bidding and offering.

⁹ The specific changes to OCC's By-Laws and Rules are set forth in OCC's proposed rule change, which is available for review at the principal office of OCC and the Commission's Public Reference Room.

definitions for "flexibly structured option" as set forth in Articles XV, XVII, and XXIII will be deleted. The definition of "expiration date" in Article I, Section 1 is being amended to make clear that flexibly structured equity options may expire on dates other than the Saturday following the third Friday of the expiration month. The expiration date of any such option will be the date reported to OCC by the Exchange, subject to such constraints on the range of possible expiration dates as are set forth in the rules of the Exchanges.

Section 11 of Article VI, regarding adjustments to equity and index options, will be amended to apply to the adjustment of flexibly structured equity and index options.¹⁰ OCC also is proposing to add Interpretation and Policy .08 to Section 11 for situations where a European-style flexibly structured equity option is adjusted to require the delivery upon exercise of a fixed amount of cash, such as would normally occur in the event of a merger where the underlying security is converted into a right to receive a fixed amount of cash. In such a circumstance, it is proposed that the expiration of the option will ordinarily be accelerated so that the option will expire on or shortly after the date on which the underlying stock is converted into a right to receive cash. Without this adjustment, the option position would have to be maintained until it could be exercised at its regular expiration even though the amount to be received on exercise has already been fixed. This special adjustment is being proposed to accommodate flexibly structured equity options because unlike existing equity options flexibly structured equity options may have European-style exercise features.

The only change proposed to be made to OCC's Rules is the addition of Interpretation and Policy .03 to Rule 805, which will clarify that OCC's exercise procedures as set forth in Rule 805¹¹ shall apply to the exercise of flexibly structured equity options. The new interpretation also gives OCC the flexibility, if necessary, to depart from regular expiration date procedures and

¹⁰ Adjustments may be made to the number of option contracts, the unit of trading, the exercise price, and the underlying security with respect to all outstanding option contracts open for trading in an underlying security which is the subject of a dividend, stock dividend, stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, reclassification or similar event, or the merger, consolidation, dissolution, or liquidation of the issuer of the underlying security.

¹¹ OCC Rule 805 sets forth the expiration date exercise procedures.

² The Commission has modified the text of the summaries submitted by OCC.

³ For a complete description of flexibly structured equity options, refer to Securities Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666 [File Nos. SR-CBOE-95-43 and SR-PSE-95-24] (order approving the trading of flexibly structured equity options by the CBOE and PSE). The AMEX and PHLX also have filed proposed rule changes for the trading of flexibly structured equity options. For a complete description of these filings, refer to Securities Exchange Act Release Nos. 37053 (March 29, 1996), 61 FR 15537 [File No. SR-AMEX-95-57] (notice of filing of proposed rule change); and 37048 (March 29, 1996), 61 FR 15549 [File No. SR-PHLX-96-08] (notice of filing of proposed rule change).

⁴ An American-style equity option may be exercised at any time prior to its expiration date.

⁵ A European-style equity option may be exercised only during a specified period before the option expires.

⁶ A capped-style equity option will be exercised automatically prior to expiration if the options market on which the option is trading determines that the value of the underlying interest at a specified time on a trading day "hits the cap price" for the option (*i.e.*, when the cap price is less than or equal to the closing price of the underlying security for calls or when the cap price is greater

deadlines in the case of flexibly structured equity options. Such departures are not currently anticipated and adequate prior notice will be given to all clearing members.

OCC believes the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because the proposal provides for the prompt and accurate clearance and settlement of transactions in flexibly structured equity options and because it provides for the safeguarding of related securities and funds. OCC believes the proposed rule change meets such requirements by establishing a framework in which existing, reliable OCC systems, rules, and procedures are extended to the processing of flexibly structured equity options. Finally, OCC believes the proposed rule change will foster cooperation with persons, including OCC clearing members, engaged in the clearance and settlement of securities transactions and will thereby promote the protection of investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety 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 OCC consents, the Commission will:

- (a) by order approve such proposed rule change or
- (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W.,

Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-96-03 and should be submitted by July 16, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-16062 Filed 6-24-96; 8:45 am]

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[Release No. 34-37326; File No. SR-PSE-96-13]

Self-Regulatory Organizations; Pacific Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change Relating to Restrictions on Equity Allocations (10% Rule)

June 19, 1996.

On April 10, 1996, the Pacific Stock Exchange, Incorporated ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to codify a policy that any specialist whose score on a quarterly specialist performance evaluation ranks in the bottom 10% of specialist on his or her trading floor shall not be eligible for allocations of securities, absent mitigating circumstances, until such ranking rises above the bottom 10%.

The proposed rule change was published for comment in Securities Exchange Act Release No. 37142 (April 24, 1996), 61 FR 19328 (May 1, 1996). No comments were received on the proposal.

The Exchange's specialist evaluation program is governed by PSE Rule 5.37. Subsection (a) of that Rule provides that

the Equity Allocation Committee ("EAC") shall evaluate all registered specialists on a quarterly basis. Those evaluations result in overall ratings of specialists that are based upon three separate measures of performance, as specified in the Rule.³ Subsection (b) provides that any registered specialists who is in the bottom 10% of all registered specialists on that specialist's trading floor,⁴ as determined by the overall evaluation scores in any one quarterly evaluation, shall be requested to meet with the EAC (or a panel appointed by the EAC) on an informal basis.⁵ If a specialist is in the bottom 10% during any two out of four consecutive quarterly evaluations, the specialist is requested to appear a second time before the EAC to explain his or her performance.⁶

If the EAC finds in its second informal meeting with a specialist that there are no mitigating circumstances that would demonstrate substantial improvement of or reasonable justification for the specialist's most recent evaluation score, the EAC will make a determination that the specialist's performance is below acceptable levels, and notify the specialist of his or her right to a hearing on such determination.⁷ The EAC may take a number of actions against a registered specialist found to perform below acceptable levels, including limitation, suspension or termination of the specialist's registration as a specialist, or reallocation of his or her stocks.

³ The three measures of performance currently utilized by the PSE are: (1) National Market System Quote Performance, accounting for 45% of the overall score, measures the percentage of times in a given quarter that a specialist's bid and/or offer is equal to or greater than the best bid or offer in the consolidated quote system for each dually-traded security; (2) the Specialist Evaluation Questionnaire Survey, also accounting for 45% of the overall score, is composed of questions designed to evaluate a specialist's market-making performance and is to be completed only by floor brokers who regularly trade with a specialists; and (3) SCOREX Limit Order Acceptance Performance, which accounts for the final 10% of the overall score, measures the percentage of P/COAST (formerly SCOREX) limit orders accepted by a specialist. See Securities Exchange Act Release No. 28843 (February 1, 1991), 56 FR 5040 (February 7, 1991) (File No. SR-PSE-87-19) for a more complete description of each of these measures of performance.

⁴ The PSE maintains two equity trading floors, one in Los Angeles and one in San Francisco. See PSE Rule 4.1(g).

⁵ See PSE Rules 5.37(b)-(e).

⁶ SEE Rules 5.37(g)-(i). The EAC also has the authority to bypass the second informal proceeding and commence formal reallocation proceedings after a specialist's second quarter of substandard performance in a rolling twelve-month period. See PSE Rule 5.37.

⁷ For a description of the procedures followed in such proceedings, see PSE Rules 5.37(j)-(s).

¹² 17 CFR 200.30-3(a)(12) (1995).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The Exchange is now proposing to adopt a rule providing that any registered specialist who fails into the bottom 10% of all registered specialists on his trading floor as determined by the overall evaluation scores received by each specialist in any one quarterly evaluation shall not be eligible for new allocations until such ranking rises above the bottom 10%.⁸ However, the proposal also provides that the EAC may make exceptions if there are sufficient mitigating circumstances.⁹

At the PSE's specialist evaluation results and overall rankings are reported in the quarter following the quarter of the evaluation, *e.g.*, the results of the fourth quarter of 1995 are reported in the first quarter of 1996. Accordingly, a specialist who was in the bottom 10% for the fourth quarter of 1995 will not be eligible for new allocations of stocks until, at the earliest, the second quarter of 1996, when the results from the first quarter of 1996 are reported.

The Exchange believes that the restriction on new allocations is an effective tool in encouraging specialists to improve their performance, and thereby to improve their evaluation scores.¹⁰

The Commission finds that the PSE's proposal to codify its policy that a specialist whose quarterly evaluation score falls in the bottom 10% of registered specialists on his or her trading floor shall not be eligible for any allocations of stock until such specialist

is no longer in the bottom 10% is consistent with the requirements of Sections 6 and 11 of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with the Section 6(b)(5)¹¹ requirement that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Further, the Commission finds that the proposal is consistent with Section 11(b) of the Act¹² and Rule 11b-1 thereunder¹³ which allow national securities exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets and to remove impediments to and perfect the mechanism of a national market system. For the reasons set forth below, the Commission believes that the proposal should encourage improved specialist performance, consistent with the protection of investors and the public interest.

Specialists play a crucial role in providing stability, liquidity, and continuity to the trading of stocks. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules promulgated thereunder, is the maintenance of fair and orderly markets in their designated securities.¹⁴ To ensure that specialists fulfill these obligations, the Commission has encouraged the Exchange to have an effective program for evaluating specialists' performance. In this regard, the Commission believes that stocks should be allocated to those specialists who are performing the best. Such stock allocation policies encourage specialists to strive for optimal market making performance.

At present, the only incentive to improved specialist performance found in the PSE specialist performance evaluation program that is applicable beginning with a specialist's first quarter of ranking in the bottom 10% is the restriction on acting as an alternate specialist while the specialist remains ranked in the bottom 10%.¹⁵ The

proposed rule change will add another such incentive to the PSE rules by codifying an existing policy of the Exchange that restricts specialists whose ranking falls in the bottom 10% of specialists on his or her floor from eligibility for any allocations (*i.e.*, allocations of new issues, reallocations of existing issues, or swapping of issues with other specialists) until such specialist is no longer in the bottom 10%.

The Commission believes that the codification of this policy into the PSE rules will be an effective and appropriate means by which to encourage improved specialist performance. As a specialist's profitability is directly related to the stocks he or she is allocated, the possibility of a restriction on allocations will provide a strong incentive to PSE specialists to remain out of the bottom 10%. This should translate into improved market making performance by specialists, thereby benefitting investors. Moreover, the imposition of the restriction on allocations to specialists in the bottom 10% should increase the likelihood that stocks are allocated to specialists who will make the best markets.

Finally, the Commission notes that the EAC retains the ability to allow specialists whose scores are in the bottom 10% in any quarterly evaluation to continue receiving allocations if it finds that sufficient "mitigating circumstances" are present. While the Exchange has represented that relief from the restriction by mitigation is the exception¹⁶ and the Commission recognizes the need for the EAC to retain the discretion to refrain from imposing this restriction in appropriate instances, the Commission expects that findings by the EAC that "mitigating circumstances" are present will not become routine, but will remain the exception and be made only when appropriately warranted.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁷ that the proposed rule change (SR-PSE-96-13) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-16166 Filed 6-24-96; 8:45 am]

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⁸The PSE has represented that the restriction applies to both initial allocations and allocations available as a result of subsequent reallocations. Furthermore, it also would apply in situations where two specialists desire to "swap" issues with each other. See Letter from Michael Pierson, Senior Attorney, PSE, to John Kroeper, Attorney, SEC, dated June 7, 1996 ("PSE Letter").

⁹In the PSE Letter the Exchange gave the following, non-definitive, examples of "mitigating circumstances" that have been accepted by the EAC in the past two years: i) extensive systems problems existed that clearly were beyond the specialist's control; ii) a specialist was able to show that, of the trades covered in a specialist evaluation, the percentage of trades involving interaction with a broker was very low, and undue weight therefore was placed on the Questionnaire Survey; iii) a specialist's financial backer withdrew mid-quarter, having a negative impact on the specialist's performance during that quarter; and iv) the specialist's overall score on the quarterly evaluation (as opposed to the specialist's ranking) was above 80%. The Exchange further represented that based on past EAC decisions, relief by mitigation is the exception, not the rule. See PSE Letter, *supra* note 8.

¹⁰*Cf.* Securities Exchange Act Release NO. 31539 (November 30, 1992), 57 FR 57851 (December 7, 1992) (File No. SR-PSE-92-32). This order approved, among other things, the addition of Commentary .03 to PSE Rule 5.36(d), which precludes a specialist whose specialist ranking falls in the bottom 10% of his or her Floor from acting as an alternate specialist until his or her ranking raises above the bottom 10%, unless the EAC determines otherwise.

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78k(b).

¹³ 17 CFR 240.11b-1.

¹⁴ Rule 11b-1, 17 CFR 240.11b-1; PSE Rules 5.29(f).

¹⁵ See PSE Rule 5.36(d), Commentary .03. As discussed previously, under PSE Rule 5.37 the exchange has the ability to take more significant action against any specialist who is ranked in the bottom 10% in any two out of four consecutive evaluations. See PSE Rule 5.37(j).

¹⁶ See PSE Letter, *supra* note 8.

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).

[Release No. 34-37321; File No. SR-Phlx-96-21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Index Option Exercise Advices

June 18, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 7, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b-4 of the Act, proposes to amend Exchange Rule 1042A, Exercise of Option Contracts, and Floor Procedure Advice ("Advice") G-1, to be retitled Index Option Exercise Advice Forms, by requiring an index option exercise advice form for all non-expiration exercises. In this manner, the Exchange will eliminate the rule's current 25 contract threshold.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 1042A and Advice G-1 govern the exercise of index options.³

Specifically, Exchange Rule 1042A(a)(i) requires that a memorandum to exercise any American-style index option must be received or prepared by the Phlx member organization no later than 4:30 p.m. on the day of exercise.⁴ In addition, Exchange Rule 1042A(a)(ii) and Advice G-1 require the submission of an exercise advice form to the Exchange when exercising 25 or more American-style index option contracts.

Pursuant to Exchange Rule 1042A(b), however, these requirements are not applicable on the last business day before expiration.⁵ The above requirements are also not applicable to European-style index options which, by definition, cannot be exercised prior to expiration. Lastly, the Exchange notes that the procedures for exercising equity option contracts, contained in Exchange Rule 1042, are not affected by this rule proposal.

As stated above, the Phlx proposes to amend Exchange Rule 1042A and Advice G-1 by requiring the submission of an index option exercise advice form for all non-expiration exercises. In this manner, the Exchange is eliminating the rule's current 25 contract threshold.

According to the Phlx, the purpose of this change is to enhance surveillance efforts in determining compliance with the exercise cut-off time. Currently, the submission of an exercise advice form where 25 or more contracts are exercised creates an audit trail for the Exchange to examine when ascertaining compliance with the exercise cut-off time. Thus, by eliminating the 25 contract threshold, all non-expiration exercises will require the submission of an exercise advice form. By providing a more complete audit trail for smaller exercises, the Phlx believes that its surveillance efforts will be enhanced.

The Exchange also believes that eliminating the 25 contract threshold should prevent the confusion associated with having to calculate the number of index option contracts being exercised

required to follow the procedures of the Options Clearing Corporation ("OCC") for tendering exercise notices. Exercise notices are the exercise instructions required by OCC and are distinct from exercise advices which are required by Exchange rules.

⁴ See Securities Exchange Act Release No. 37077 (April 5, 1996), 61 FR 16156 (April 11, 1996) (File No. SR-Phlx-95-86). In this regard, the Exchange has attempted to create a level playing field among option investors by maintaining a cut-off time to ensure that all exercise decisions occur promptly after the close of trading. Consequently, to prevent fraud and unfairness, a long option holder is prohibited from exercising index options on non-expiration days based on information obtained after the cut-off.

⁵ See Securities Exchange Act Release No. 36903 (February 28, 1996), 61 FR 9001 (March 6, 1996) (File No. SR-Phlx-96-01).

for each Phlx index as exercise advices will be required for all non-expiration exercises. In addition, the Exchange notes that the requirement of Exchange Rule 1042A(a)(i) to prepare a memorandum to exercise pertains to all non-expiration exercises, not just to those over 25 contracts. Thus, according to the Phlx, because member organizations are already preparing such memoranda, the additional preparation of an advice form does not impose a substantial burden.

The Phlx notes that because Advice G-1 is based on Exchange Rule 1042A and contains certain pertinent provisions of the rule for easy reference on the trading floor, specific reference to Exchange Rule 1042A is proposed to be added to Advice G-1.

The Phlx, in administering advices such as Advice G-1 as part of its minor rule violation enforcement and reporting plan ("minor rule plan"),⁶ understands that infractions cited pursuant to the plan are minor in nature. Thus, in order to bolster the distinction between minor and serious violations, the Phlx proposes that Advice G-1 expressly state that it is only intended to cover minor infractions.⁷ At the same time, however, the Exchange notes that it does not believe that including certain provisions of Exchange Rule 1042A into Advice G-1 deems all violations of Advice G-1 as minor. Exchange Rule 1042A was intended to govern exercise memorandum and advice procedures in order to prevent abuses and fraudulent activity; incorporating part of the rule into an advice does not diminish this critical purpose. Rather, as with many other important, substantive provisions in Exchange rules that are codified into Advices,⁸ this system merely allows for the efficient handling of minor violations.

2. Statutory Basis

The Phlx believes that the proposed rule change is consistent with Section 6(b) of the Act in general, and with

⁶ See Exchange Rule 970.

⁷ Advice G-1 states that the fine schedule provides sanctions for infractions of the index option Exercise Advice Form procedures which are minor in nature. Any violation of the procedure which has been deemed serious by the Phlx will be referred directly to the Exchange's Business Conduct Committee where stronger sanctions may result. The Phlx notes, however, that this language does not affect the other floor procedure advices administered pursuant to the plan which do not specifically contain this statement; infractions cited pursuant to the plan are minor in nature regardless of whether this specific language was added to the advice.

⁸ See, e.g., Advice F-15 which pertains to the Exchange's position and exercise limits.

¹ 15 U.S.C. § 78s(b)(1) (1988).

² 17 CFR 240.19b-4.

³ The Exchange notes that with respect to index option contracts, clearing members are also

Section 6(b)(5) in particular,⁹ in that it is designed to prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities as well as to protect investors and the public interest, by bolstering the exercise advice requirement to include all non-expiration exercises, not just exercises of 25 or more contracts. Specifically, the Phlx believes that requiring exercise advices for all American-style index options exercised prior to expiration should enhance surveillance efforts regarding compliance with the exercise cut-off time by providing a more complete audit trail.

B. Self-Regulatory Organization's Statement on Burden on Competition

The self-regulatory organization does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve the proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR-Phlx-96-21 and should be submitted by July 16, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-16063 Filed 6-24-96; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-37320; File No. SR-Phlx-96-07]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the Philadelphia Stock Exchange, Inc., to Adopt a Market Index Option Hedge Exemption

June 18, 1996.

I. Introduction

On February 13, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Commentary .01 to Phlx Rule 1001A to establish a hedge exemption from broad-based (Market) index option position and exercise limits.³

The proposed rule change appeared in the Federal Register on March 21, 1996.⁴ No comments were received on

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 S.C. § 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).

³ Position limits impose a ceiling on the number of option contracts which an investor or group of investors acting in concert may hold or write in each class of options on the same side of the market (i.e., aggregating long calls and short puts or long puts and short calls). Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class of options within five consecutive business days.

⁴ See Securities Exchange Act Release No. 36976 (March 14, 1996), 61 FR 11668 (March 21, 1996).

the proposed rule change. This order approves the Phlx's proposal.

II. Background and Description

The Phlx proposes to adopt a market index option hedge exemption under which broad-based index option positions hedged in accordance with the proposal would be entitled to exceed existing position and exercise limits by up to two-times about the limit.⁵ According to the Phlx, the purpose of the proposal is to establish a provision parallel to the hedge exemption of equity options⁶ as well as the broad-based index option hedge exemptions that are in place at other option exchanges.⁷

In order to qualify for the exemption, the market index option position must be hedged by share positions in at least 20 stocks, or securities immediately or readily convertible into such stock,⁸ in four industry groups comprising the index, of which no one component security accounts for more than 15% for the value of the portfolio hedging the index option position. Under the proposal, no position in a market index option may exceed two-times the broad-based index option position specified in Phlx Rule 1001A(a).⁹ In addition, the underlying value of the option position may not exceed the value of the

⁵ The Exchange notes that is adopting the language "two times above the limit" to signify "in addition to" the current position limit. For instance, if the position limit for a market index option is 25,000 contracts, an additional 50,000 contracts under this proposal would be permitted, for a total of 75,000 contracts. This language parallels a recent change by another exchange. See Securities Exchange Act Release No. 36609 (December 20, 1995), 60 FR 67002 (December 27, 1995) (notice of File No. SR-CBOE-95-68).

⁶ See Phlx Rule 1001, Commentary .07. See also Securities Exchange Act Release No. 35738 (May 18, 1995), 60 FR 27573 (May 24, 1995) (order approving permanent hedge exemption pilot programs) (File Nos. SR-Phlx-95-10, SR-Amex-95-13, SR-CBOE-95-13, SR-NYSE-95-04, and SR-PSE-95-05).

⁷ See, e.g., CBOE Rule 24.4 and the Interpretations and Policies thereunder, and Commentary .01 to Amex Rule 904C.

⁸ The Exchange permits the use of convertible securities in its equity option hedge exemption as long as such securities are immediately or readily convertible into the underlying stock. See Securities Exchange Act Release No. 32174 (April 20, 1993), 58 FR 25687 (April 27, 1993) (order approving file No. SR-Phlx-92-22). Similarly, other options exchange permit the use of convertible securities with respect to broad-based index option hedge exemptions.

⁹ Under Phlx Rule 1001A(a), the Value Line Composite Index ("VLE"), the U.S. Top 100 Index ("TPX"), and the National Over-the-Counter Index ("XOC") each have a position limit of 25,000 contracts, of which no more than 15,000 contracts can be in the nearest expiration month. The Phlx notes that the Big Cap Index ("MKT") is no longer listed on the Exchange.

⁹ 15 U.S.C. § 78f(b)(5)(1988).

underlying portfolio employed as the hedge.¹⁰

In addition, under the proposal, exercise limits will continue to correspond to position limits, so that investors may exercise the number of contracts set forth as the position limit, as well as those contracts exempted by this proposal, during five consecutive business days.¹¹

The Phlx notes that broad-based index option hedge exemptions are in place at other options exchanges. Generally, these index option hedge exemptions allow public customers to apply for position limit exemptions in broad-based index options that are hedged with exchange-approved qualified stock portfolios.

In light of the Exchange's experience with the equity option hedge exemption, as well as its review of the rules of the other options exchanges, the Phlx believes that a similar hedge exemption for its market index options is appropriate. The Phlx also believes that the proposed conditions for granting such an exemption are reasonable and in line with prior Commission-approved provisions.

According to the Phlx, trading volume for index options has markedly increased. In 1994, volume increased two-fold over 1993, from 1,119,147 contracts to 2,456,685. In 1995, volume remained steady with over 2,783,043 contracts traded. The Phlx attributes the recent growth in trading and open interest to institutional trading, which, according to the Phlx, is typically hedged by baskets of the underlying stocks.

The Phlx proposes to exempt positions in broad-based index options in a manner which balances the hedging needs of index options traders with the Exchange's obligation to maintain a fair and orderly market. The Phlx believes that a hedge exemption up to two-times above the limit for broad-based index options would considerably enhance the

attractiveness of these products for institutional traders, who would, in turn, trade more of the product in a hedged manner and thereby provide stabilizing liquidity in both the index options and the underlying securities.

The Phlx also believes that it is appropriate and necessary to expand the availability of the exemption beyond public customers. The Phlx states that significant increases in the depth and liquidity of the market for these index options could result from permitting firm and proprietary traders to be eligible for the exemption. According to the Phlx, because customers rely, for the most part, on a limited number of proprietary traders to facilitate large-sized orders, not including such traders in the exemption effectively reduces the benefit of the exemption to customers. While large-sized positions in market index options are most commonly initiated by institutional trades hedging stock portfolios on behalf of public customers, the Phlx believes that proprietary traders should be afforded the same exemption so that they may fulfill their role as facilitators.

The Phlx also believes that the hedge exemption is necessary to better meet the needs of investors who use Phlx market index options for investment and hedging purposes. According to the Phlx, many institutional traders and portfolio managers deal in dollar amounts much greater than that permissible under current position limit levels and have expressed that Exchange position limits hamper their ability to fully utilize such index options.

The Phlx believes that the proposed broad-based index option hedge exemption should not increase the potential for disruption or manipulation in the markets for the stocks underlying each index. The Phlx notes that this is because the proposal incorporates several surveillance safeguards, which the Phlx will employ to monitor the use of this exemption. Specifically, the Exchange will require that a form be filed by members firms and their customers who seek exemptions, in lieu of granting an automatic exemption. The Exchange will review the request and approve only those applications that satisfy the hedge exemption requirements. Moreover, the hedge exemption form must be kept current, with information updated as warranted. Any information concerning the dollar value and composition of the stock portfolio,¹² or its equivalent, the current hedged and aggregate options positions,

and any stock index futures positions must be promptly provided to the Exchange. In addition, the Exchange's Market Surveillance Department will monitor trading activity in Phlx traded index options and the stocks underlying those indexes to detect potential frontrunning and manipulation, as well as review such trading to ensure that the closing of positions subject to the exemption are conducted in a fair and orderly manner. On a daily basis, the Exchange's Market Surveillance Department will also monitor each option contract to ensure that it is hedged by the equivalent dollar amount of component securities.

III. Discussion

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, the requirements of Section 6(b)(5) thereunder.¹³ The Commission believes that providing for increased position and exercise limits for broad-based index options in circumstances where those excess positions are fully hedged with offsetting positions will provide greater depth and liquidity to the market and will allow investors to hedge their stock portfolios more effectively, without significantly increasing concerns regarding intermarket manipulations or disruptions of either the options market or the underlying stock market.

Specifically, the Phlx proposal contains safeguard that should make it difficult to use the exempted positions to disrupt or manipulate the market. First, request for the exemption must be approved by the Phlx, which should ensure that the hedges are appropriate for the position being taken and are in compliance with Phlx rules. Second, the stock portfolio must consist of at least 20 stocks, or securities convertible into such stock, in four industry groups comprising the index, of which no one component security accounts for more than 15% of the value of the portfolio hedging the index option position, so that the increased positions are less likely to be used in a leveraged manner in any manipulative scheme. As noted above, the value of the underlying hedging portfolio is equal to (1) the total market value of the net stock position; less (2) the value of: (a) Any offsetting calls and puts in the respective index options; (b) any offsetting positions in related stock index futures or options; and (c) any economically equivalent

¹⁰ The value of the underlying portfolio is determined as follows: (1) the total market value of the net stock position; less (2) the value of: (a) any offsetting calls and puts in the respective index option; (b) any offsetting positions in related stock index futures or options; and (c) any economically equivalent positions.

The values of offsetting positions are determined by the multiplying the number of opposite-side-of-the-market (offsetting) calls, puts, or futures contracts by the index value and by the index multiplier. Then, the value is subtracted from the market value of the portfolio. This number must be compared with the underlying value of the option position, in excess of the standard or base position limit being hedge/exempted, which is calculated by multiplying the number of option contracts for which the exemption is sought by the index value and the multiplier; this value cannot exceed the value of the underlying portfolio.

¹¹ See Phlx Rule 1002A.

¹² The Phlx notes that as the dollar value of the hedging portfolio fluctuates, the number of exempt contracts may need to be adjusted.

¹³ 15 U.S.C. § 78f(b)(5) (1988).

positions. Third, both the options and stock positions must be initiated and liquidated in an orderly manner. This means that a reduction of the options position must occur at or before the corresponding reduction in the stock portfolio position, thereby helping to ensure that the stock transactions are not used to impact the market so as to benefit the options positions. Fourth, the Phlx's Market Surveillance Department must be notified in writing for approval prior to liquidating or initiating any such position as well as of any change in the portfolio or futures positions which materially affects the value of the qualified portfolio. Fifth, the proposal provides a ceiling on the maximum size of the options position by providing that positions established under the proposal may not exceed two-times the limits set forth in Exchange Rule 1001A(a). In addition, the Exchange may determine to grant a position limit exemption for less than the maximum of two-times above the limit.

The Commission notes that the Phlx's surveillance procedures are designed to detect as well as deter manipulation and market disruptions. In particular, the Phlx will monitor the options position of persons utilizing the hedge exemption on a daily basis to ensure that each option contract is hedged by the equivalent dollar amount of component securities.¹⁴ In addition, the Phlx's Market Surveillance Department will monitor trading activity in Phlx traded index options and the stocks underlying those indexes to detect potential frontrunning and manipulation, as well as to review such trading to ensure that the closing of positions subject to the exemption are conducted in a fair and orderly manner. Violation of any of the provisions of the market index hedge exemption, absent reasonable justification or excuse, will result in the withdrawal of the hedge exemption and subsequent denial of an application for hedge exemption thereunder.

Finally, the Commission believes that it is reasonable for the Phlx to allow firm and proprietary traders as well as public customers to utilize the proposed hedge exemption. The Commission believes that extending the broad-based index option hedge exemption to firm and proprietary traders may help to

increase the depth and liquidity of the market for market index options and may help to ensure that public customers receive the full benefit of the exemption. Moreover, the Phlx's monitoring procedures, as described above, should be able to detect abuses and ensure that the options position, whether firm, proprietary trader, or customer, are properly hedged.

IV. Conclusion

For the foregoing reasons, the Commission finds that the Phlx's proposal to establish a hedge exemption from broad-based index option position and exercise limits is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁵ that the proposed rule change (SR-Phlx-96-07) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-16064 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37323; File No. SR-Phlx-96-11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Exchange's Calculation of Settlement Values for Cash/Spot Foreign Currency Option Contracts ("3-D Options")

June 18, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on April 30, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On May 20, 1996, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.² The Commission is publishing this notice to solicit

¹⁵ 15 U.S.C. § 78s(b)(2) (1988).

¹⁶ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1).

² See letter from Murray L. Ross, Vice President and Secretary, Phlx, to Anthony P. Pecora, Attorney, SEC, dated May 17, 1996. In this letter, the Phlx represented that the limitation of liability clause may not be relied upon to limit the Exchange's liability to nonmembers for any intentional or negligent violations of the federal securities laws. In addition, the Exchange made some minor clarifying edits.

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 Phlx proposes to amend Phlx Rule 1057 in order to provide the Exchange with the election to calculate settlement values for the cash/spot Dollar Denominated Delivery foreign currency option contracts ("3-D options"). In addition, the Exchange proposes to amend Phlx Rule 1057 by including a "limitation of liability" clause for the settlement of 3-D options similar to Phlx Rule 1102A, which limits the Exchange's liability in the calculation and dissemination of settlement values.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On March 8, 1994, the Commission approved 3-D options for listing on the Phlx.³ Currently, the closing settlement value for 3-D options is calculated by a market information vendor acting as the Exchange's designated agent. The market information vendor will collect the bid and offer quotations for the current foreign exchange spot price from quotations submitted by at least fifteen interbank foreign exchange market participants, which the designated agent will select randomly from a list of twenty-five active interbank foreign exchange market participants. After discarding the five highest and the five lowest bids and offers, the market information vendor averages the remaining ten bids and offers to arrive at a closing settlement price.

The Phlx proposes to amend Phlx Rule 1057 to provide the Exchange with

³ See Securities Exchange Act Release No. 33732 (Mar. 8, 1994), 59 FR 12023 (approving File No. SR-Phlx-93-10).

¹⁴ Market participants granted a hedge exemption are also required to keep their application forms for the hedge exemption current and promptly provide the Phlx with any information concerning the dollar value and composition of the stock portfolio, the current hedged and aggregate options positions, and any stock index futures positions, or economically equivalent positions.

the choice of calculating the settlement value for 3-D options itself rather than employing a designated market information vendor as an agent of the Exchange for that purpose. The Exchange will use the same methodology for calculating the settlement value for 3-D options as described in Phlx Rule 1057.

The Phlx believes that by calculating its own settlement value for 3-D options, the Exchange will be able to exert more control over the calculation of those values. The Exchange also believes that the proposed rule change will reduce the response time in the event there is a problem in the calculation or dissemination of the 3-D options settlement values.

Secondly, the Exchange proposes to amend Phlx Rule 1057 by including a "limitation of liability" clause similar to the one contained in Phlx Rule 1102A that limits the Exchange's liability in the calculation and dissemination of index values. The limitation of liability clause provides added protection to the Exchange and alleviates the threat of potential liability in calculating the 3-D settlement values. If further serves as a more explicit extension of the limitation of liability contained in the Exchange's By-Laws.⁴

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)⁵ of the Act in general and furthers the objectives of Section 6(b)(5)⁶ in particular in that it is designed to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

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.

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

⁴ See Phlx By-Laws, art. XII, § 12-11 (stating that the Phlx is not liable for any damages incurred by a member or member organization utilizing the Exchange's facilities to conduct its business).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-96-11 and should be submitted by July 16, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-16065 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37319; File No. SR-Phlx-96-17]

Self-Regulatory Organization; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. – To Reduce the Value of the Super Cap Index

June 18, 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 May 24, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the

Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reduce the value of its Super Cap Index ("Index") option ("HFX") to one-third its present value by tripling the divisor used in calculating the Index. The Index is comprised of the top five options-eligible common stocks of U.S. companies traded on the New York Stock Exchange, as measured by capitalization. The other contract specifications for the HFX will remain unchanged.

The text of the proposed rule change is available at the Office of the Secretary, Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange began trading the HFX in November, 1995.¹ The Index value was created with a value of 350 on its base date of May 31, 1995 which rose to 430 on April 12, 1996. Thus, the value of the Index has increased 23% in less than one year. Consequently, the premium for HFX options has also risen.

As a result, the Exchange proposed to conduct a "three-for-one split" of the Index, such that the value would be reduced to one-third of its present value. In order to account for the split, the number of HFX contracts will be tripled, such that for each HFX contract currently held, the holder would receive three contracts at the reduced value, with a strike price one-third of the

¹ See Securities Exchange Act Release No. 36369 (October 13, 1995), 60 FR 54274 (October 20, 1995).

⁷ 17 C.F.R. 200.30-3(a)(12).

original strike price. For instance, the holder of a HFX 420 call will receive three HFX 140 calls. In addition to the strike price being reduced by one-third, the position and exercise limits applicable to the HFX will be tripled, from 5500 contracts² to 16,500 contracts, for a six month period after the split is effectuated. The procedure is similar to the one employed respecting equity options where the underlying security is subject to a two-for-one stock split, as well as previous reductions in the value of other Phlx indexes.³ The trading symbol will remain HFX.

In conjunction with the split, the Exchange will list strike prices surrounding the new, lower index value, pursuant to Phlx Rule 1101A.⁴ The Exchange will announce the effective date by way of an Exchange memorandum to the membership, also serving as notice of the strike price and position limit changes.

The purpose of the proposal is to attract additional liquidity to the product in those series that public customers are most interested in trading. For examples, a near-term, at-the-money call option series currently trades at approximately \$1,150 per contract. The Exchange believes that certain investors and traders currently may be impeded from trading at such levels. With the Index split, that same option series (once adjusted), with all else remaining equal, could trade at approximately \$300 per contract. The Phlx believes that a reduced premium value should encourage additional investor interest.

The Exchange believes that Super Cap Index options provide an important opportunity for investors to hedge and speculate upon the market risk associated with the underlying stocks. By reducing the value of the Index, such investors will be able to utilize this trading vehicle, while extending a smaller outlay of capital. This, in turn, should attract additional investors and create a more active and liquid trading environment.

The Exchange believes that 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, as well as to protect investors and the public interest, by establishing a lower index value, which should, in turn, facilitate trading in Super Cap Index options. The Exchange believes that reducing the value of the Index does not raise manipulation concerns and would not cause adverse market impact, because the Exchange will continue to employ its surveillance procedures and has proposed an orderly procedure to achieve the index split.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no inappropriate burden on competition.

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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve the proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W.,

Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-96-17 and should be submitted by July 16, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-16066 Filed 6-24-96; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2864]

Alaska; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on June 7, 1996, I find that Matanuska Susitna Borough and the City of Houston in the State of Alaska constitute a disaster area due to damages caused by Wildland Fires beginning on June 2, 1996 and continuing. Applications for loans for physical damages resulting from this disaster may be filed until the close of business on August 6, 1996, and for loans for economic injury until the close of business on March 6, 1997 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P. O. Box 13795, Sacramento, CA 95853-4795 or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous areas may be filed until the specified date at the above location: Denali Borough, Kenai Peninsula Borough, Regional Education Attendance Area of Iditarod Area, Regional Education Attendance Area of Delta/Greely, Regional Education Attendance Area of Cooper River, and Regional Attendance Area of Chugach. Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.625
Homeowners Without Credit Available Elsewhere	3.875
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125

⁵ 17 CFR 200.30-3(a)(12).

² See Phlx Rule 1001A(c).

³ See Securities Exchange Act Release Nos. 36577 (December 12, 1995), 60 FR 65705 (December 20, 1995) (reducing the value of the Phlx National Over-the-Counter Index); and 35999 (July 20, 1995), 60 FR 38387 (July 26, 1995) (reducing the value of the Phlx Semiconductor Index).

⁴ Specifically, because the Index value would be less than 500, the applicable strike price interval would be \$5 in the first four months and \$25 in the fifth month and the long-term options. See Rule 1101A(a).

	Percent
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 286405 and for economic injury the number is 894400. (Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 14, 1996.

Bernard Kulik,

Associate Administrator For Disaster Assistance.

[FR Doc. 96-16101 Filed 6-24-96; 8:45 am]

BILLING CODE 8025-01-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-105]

Initiation of Section 302 Investigation and Request for Public Comment: Practices of the Government of Turkey Regarding the Imposition of a Discriminatory Tax on Box Office Revenues: Correction

AGENCY: Office of the United States Trade Representative.

ACTION: Correction of docket number on notice of initiation of investigation.

SUMMARY: The United States Trade Representative (USTR) filed a notice of initiation of investigation and request for public comment on Monday, June 17, 1996 (61 FR 30646), with respect to certain acts, policies and practices of the Government of Turkey that may result in the discriminatory treatment of U.S. films in Turkey. The docket number stated in that notice was incorrect. The correct docket number is set forth above. All further references to this investigation should bear this corrected docket number, including references in any public comments filed pursuant to the terms of the earlier notice.

FOR FURTHER INFORMATION CONTACT: Joseph Papovich, Deputy Assistant USTR for Intellectual Property, (202) 395-6864, or Thomas Robertson, Associate General Counsel, (202) 395-6800.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 96-16112 Filed 6-24-96; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 96-018]

Annual Certification of Cook Inlet Regional Citizens' Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: Under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990, the Coast Guard may certify, on an annual basis, a voluntary advisory group instead of a Regional Citizens' Advisory Council for Cook Inlet, Alaska. This certification allows the advisory group to monitor the activities of oil tankers and facilities under the Cook Inlet Program established by the Act. The purpose of this notice is to inform the public that the Coast Guard has recertified the alternative voluntary advisory group for Cook Inlet, Alaska.

EFFECTIVE DATE: June 1, 1996, through May 31, 1997.

FOR FURTHER INFORMATION CONTACT: LCDR Peter A Jensen, Project Manager, Port and Environmental Management Division, (G-MOR-1), (202) 267-6134, U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC, 20593-0001.

SUPPLEMENTARY INFORMATION: As part of the Oil Pollution Act of 1990, Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990, (the Act), 33 U.S.C. 2732, the foster the long-term partnership among industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals and oil tankers.

Section 2732(o) permits an alternative voluntary advisory group to represent the communities and interests in the vicinity of the oil terminal facilities in Cook Inlet, in lieu of a council of the type specified in 33 U.S.C. 2732(d), if certain conditions are met. The Act requires that the group enter into a contract to ensure annual funding and receive annual certification by the President that it fosters the general goals and purposes of the Act and is broadly representative of the community and interests in the vicinity of the terminal facilities. Accordingly, in 1991, the President granted certification to the Cook Inlet Regional Citizens' Advisory Council (CIRCAC). The authority to certify alternative advisory groups was subsequently delegated to the Commandant of the Coast Guard, and

redelegated to the Chief, Marine Safety and Environmental Protection.

On April 15, 1996, the Coast Guard announced in the Federal Register, the availability of the application for recertification that it received from the CIRCAC, and requested comments (61 FR 16518). Fourteen comments were received.

Discussion of Comments

All of the comments received by the Coast Guard supported recertification of CIRCAC. Two of the comments addressed term limits, one sought to have committee workplans submitted through a public review process, one sought annual community presentations by the CIRCAC throughout the Cook Inlet region, and one stated that CIRCAC projects should clearly articulate multi-year goals. It is the Coast Guard's position that those comments can be addressed successfully by CIRCAC and has forwarded them to CIRCAC for their review, consideration for what is necessary to resolve the issues, and to provide their response to the commenter and the Coast Guard. Therefore, the Coast Guard has determined that recertification of CIRCAC in accordance with the Act is appropriate.

Recertification

The Chief, Marine Safety and Environmental Protection certified that the Cook Inlet Regional Citizens' Advisory Council qualifies as an alternative voluntary advisory group under the provisions of 33 U.S.C. 2732(o). This recertification terminates on May 31, 1997.

Dated: June 17, 1996.

G.N. Naccara,

Captain, U.S. Coast Guard, Director of Field Activities, Marine Safety and Environmental Protection.

[FR Doc. 96-16163 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Environmental Impact Statement: Blue Grass Airport; Lexington, KY

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advertise to the public that an Environmental Impact Statement (EIS) is planned to be prepared and considered for a proposed parallel runway at Blue Grass Airport. The FAA plans to hold a scoping meeting to

obtain input from the public regarding the EIS.

FOR FURTHER INFORMATION CONTACT: Cynthia K. Wills, Federal Aviation Administration, Airports District Office, 2851 Directors Cove, Suite 3, Memphis, Tennessee 38131-0301. Telephone 901-544-3495.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA will prepare an EIS for a proposed 9,000 ft x 150 ft parallel runway, 4R-22L, at the Blue Grass Airport (LEX) for air carrier use.

The existing runway accommodates all aircraft currently using the airport but the Master Plan (MP) accepted December 20, 1995, indicates that a new runway is needed for capacity by the year 2013. The Lexington-Fayette Urban County Airport Board has recommended a proposed parallel runway be constructed 4,300 feet southeast of the existing Runway 4/22. Construction of taxiways, hold and de-ice pads associated with the new runway are also proposed. In addition the proposed project will require property acquisition and relocation of affected residents and reconstruction of portions of Parkers Mill Road and Airport Road beneath the new runway and taxiway system. The proposed parallel runway is planned as a precision instrument runway (PIR) with a CAT I/II to both runway ends. The runway will have approach slopes of 50:1 with a primary surface width of 1,000 ft.

The EIS will include evaluation of a no-build alternative and other reasonable alternatives that may be identified during the public scoping meeting. The proposed parallel runway would provide sufficient airfield capacity and versatility at LEX to accommodate expected aircraft demand when the Airport is forecast to be at capacity in the year 2013. In addition the proposed runway would provide Blue Grass Airport with a primary runway which will meet current FAA design standards and permit the continuation of air carrier service in the event a runway has to be closed.

The EIS will determine any noise impacts associated with the operation of the proposed parallel runway. In addition to noise impacts, the EIS will determine any impacts on air and water quality, wetlands, ecological resources, floodplains, historic resources and prime/unique farmland.

PUBLIC SCOPING: To ensure that the full range of issues related to the proposed project are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. FAA intends

to consult and coordinate with Federal, State and local agencies which have jurisdiction by law or have specific expertise with respect to any environmental impacts associated with the proposed project. The meeting for public agencies will be held at Blue Grass Airport Board Room, located on the second level of the Terminal Building at the Airport, at 1 pm, Wednesday, July 31, 1996. FAA will also solicit input from the public with a general public scoping meeting scheduled at Paul Laurence Dunbar High School cafeteria located on the lower level, 1600 Man O' War Blvd Lexington, Kentucky, from 6-9 pm, Wednesday, July 31, 1996.

Written comments may be mailed to the Informational contact listed above within 30 days from publication of this Notice.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT:**

Issued in Memphis, Tennessee, June 18, 1996.

LaVerne F. Reid,

Manager, Memphis Airports District Office.

[FR Doc. 96-16109 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-13-M

[Docket No. 28611]

Proposed Finding of No Significant Impact

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed Finding of No Significant Impact; Notice.

SUMMARY: An Environmental Assessment (EA), which addresses the Alaska Aerospace Development Corporation's (AADC) proposal to construct and operate a launch site at Narrow Cape on Kodiak Island, Alaska, has been prepared. After reviewing and analyzing currently available data and information on existing conditions, project impacts, and measures to mitigate those impacts, the Federal Aviation Administration (FAA), Office of the Associate Administrator for Commercial Space Transportation (AST) proposes to determine that licensing the operation of the proposed launch site, is not a major Federal action that would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969. Therefore the preparation of an environmental impact statement would not be required and AST is proposing to issue a Finding of No Significant Impact (FONSI).

FOR A COPY OF THE KODIAK LAUNCH COMPLEX ENVIRONMENTAL ASSESSMENT

FOR FURTHER INFORMATION CONTACT: Mr. Nikos Himaras, Office of the Associate Administrator for Commercial Space Transportation, Licensing and Safety Division, Suite 5402A, 400 Seventh Street, SW., Washington, D.C. 20590; phone (202) 366-2455; or refer to the following Internet address:

<http://www.dot.gov/dotinfo/faa/cst/cst.html>.

DATES: There will be a thirty (30) day comment period before the FAA makes its final determination on the proposed FONSI. Interested individuals, Government agencies, and private organizations are invited to send comments on the proposed FONSI to the address set forth below by July 25, 1996.

ADDRESS: Written comments should be sent to, Docket Clerk, Docket No. [28611], Federal Aviation Administration, 800 Independence Avenue SW., Room 915, Washington, D.C. 20591.

PROPOSED ACTION: Operation of a non-Federal launch site in the United States, such as AADC's proposed construction and operation of Kodiak Launch Complex (KLC), a commercial space launch site, on Kodiak Island, Alaska, must be licensed by the FAA pursuant to 49 U.S.C. §§ 70101-70119, formerly the Commercial Space Launch Act. Licensing the operation of a launch site is a Federal action requiring environmental analysis by the FAA in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq.* Upon receipt of a complete application the Associate Administrator for Commercial Space Transportation must determine whether to issue a license to AADC to operate KLC. Environmental findings are required for a license evaluation.

The launch site would be located on a 3,100-acre tract of state-owned land on a peninsula known as Narrow Cape. Construction for the project would involve (1) upgrading about 3 km of gravel access road; (2) creating two laydown areas for construction equipment; (3) building a launch control center, a payload processing facility, the launch area, and a water pumphouse; and (4) expanding an existing borrow pit to obtain fill material. Construction would disturb approximately 43 acres, including about 1.5 acres of wetlands, most of which is adjacent to the gravel road leading to the launch complex.

To launch launch vehicles from KLC, fee-paying customers would (1)

transport launch vehicle components, payloads, associated parts, and staff to the site; (2) assemble components and prepare for launches; and (3) launch and track payloads into orbit. Operations would begin in 1997, and about 3 launch vehicles per year would be launched during the first four years. Anticipated frequency of use would increase to a maximum of 9 launches per year over the 22 years of operation. Materials would be transported to Kodiak Island by boat (container ship or ocean barge) or airplane and transported to the KLC by truck. Initially, approximately 100 people would be onsite for 6 weeks before a launch. Operations could eventually involve up to 14,000 person-days per year onsite. The KLC would provide the site for launches of small solid rocket motor launch vehicles, such as Lockheed Martin Launch Vehicles 1 and 2, Minuteman II (modified for commercial use), Taurus, and Conestoga.

ENVIRONMENTAL IMPACTS:

Ecological resources. Construction would disturb vegetation on 43 acres of the site. With the exception of wetlands the disturbed areas are not considered high-quality habitat. The 1.5 acres of wetlands that would be disturbed constitute 0.2% of the 790 acres of wetlands on the 3100-acre site. No practicable alternatives to disturbing wetlands are available and, based on the small areas involved, the wetland and vegetation losses are judged to be not significant.

Noise from construction activity would temporarily disturb areas immediately adjacent to roads and proposed new facilities, but the valuable wildlife habitats, mostly along the shoreline and offshore, would not be significantly affected. Construction activities could expose ducks and seabirds resting and feeding in the waters off Narrow Cape to peak noise levels of approximately 72 dBA, below the 80–90 dBA known to disturb water fowl and wildlife. The closest site believed to have a bald eagle nest is located at least 3000 feet from construction activities, substantially greater than the 660-ft buffer zone recommended by the Fish and Wildlife Service, United States Department of the Interior (DOI) to protect nesting eagles. Launch vehicle launches would cause occasional noise levels sufficient to cause startle responses in birds and marine mammals. However, these brief disturbances, three to nine times per year, are not anticipated to have lasting or significant adverse impacts on wildlife, including endangered or sensitive species. Emissions from

launch vehicle propulsion would be occasional and widely and rapidly dispersed, and no significant ecological effects would be expected. AADC and AST have informally discussed wildlife impacts with the Fish and Wildlife Service (USFWS), DOI, and the National Marine Fisheries Service (NMFS), United States Department of Commerce (DOC). The only species now listed under the Endangered Species Act in the vicinity of the proposed site is the Stellar Sea Lion, a threatened species. This species falls under the purview of the NMFS, and based on discussions to date, AST expects that the NMFS would find that there would be no significant impacts on endangered or threatened species and that no further analysis would be necessary.

Noise. Launch noise would be audible on Kodiak Island for a distance of approximately 12 miles for approximately 1 minute. Sonic booms would be heard only on the open ocean. Given the infrequency and short duration of launches, no significant adverse impacts to the public would be expected.

Safety. The proposed KLC facilities would be located so that launch vehicles would fly primarily over open water. A flight and operational safety program would be implemented to manage risks to workers and the public. Total public casualty risk, for all mission activities, is estimated to be less than 1 in 1,000,000. All safety concerns will be addressed as part of AST's licensing process.

Visual and Cultural Resources. Construction and operation of the proposed KLC would affect the visual resources of Narrow Cape by placing five new man-made structures into a relatively isolated area. The largest of these, the launch service structure would be 170 feet high, 40 feet wide and 70 feet long, and because of the relatively flat terrain, would be visible over most of Narrow Cape and from offshore. Because the site is isolated and has few viewers, the visual impacts are considered non-significant. Impacts to subsistence harvesting and archaeological or historic sites would be minor.

Air and Water. Impacts of construction to both air and water would be short-term and minor. Launch vehicle launch emissions of hydrogen chloride and aluminum oxide would slightly degrade local air quality, and the hydrochloric acid (HCl) formed could be deposited in nearby surface waters. Maximum concentrations of HCl and particulates resulting from launches would not exceed the Air Force guideline of 10 parts per million of HCl

(averaged over a 30-minute period) or the National Ambient Air Quality Standard of a 24-hour average of 150 micrograms per cubic meter for PM-10, particulate matter less than 10 microns in diameter. Acid deposition impacts would be minor because of the high capacity of local streams and lakes for buffering acid inputs. Because launch vehicle launch impacts to air and water would be relatively minor, occasional, and short-term, no significant impacts would be expected to occur.

Geology and Soil Resources. Soil erosion control practices, implemented under the Stormwater Pollution Prevention Plan, would keep impacts to soils minor. Changes in soil pH resulting from acid deposition from launch combustion products would be non-significant, as KLC soils have a high cation exchange capacity.

Socioeconomics. Construction of the proposed KLC would result in expenditures of \$18–24 million on goods and services, which would have positive effects on the local and regional economies. Community resources and infrastructure are adequate to support the construction and operational workforces.

Section 4(f). Impacts to recreational resources would be small. The site would be closed immediately before and during launch activities, but would remain open for recreational activities at all other times. No significant impacts to the Pasagshak State Recreation Area or the Kodiak National Wildlife Refuge, located about 4 miles and 40 miles respectively from the KLC site, would be expected because of the distances and the limited extent of construction and operational activities.

Land Use. The proposed action underwent a review for consistency with standards established under the Alaska Coastal Management Program (Alaska Administrative Code, Title Six, Chapter 80) and was issued a final consistency determination. In addition, the Kodiak Island Borough Planning and Zoning Commission has reviewed and tentatively approved an AADC permit application for construction in a conservation district, contingent upon approval of the project by the applicable Federal and state permitting agencies.

ALTERNATIVES CONSIDERED: Alternatives analyzed in the EA included (1) the proposed action, licensing the operation of a launch site at KLC, and (2) the no action alternative. AADC has conducted a state-wide siting survey that evaluated 27 alternative locations for a space launch facility. AST has given substantial weight to the preferences of AADC in selecting the proposed site

because AST's review indicates that there is no substantially superior alternative site from an environmental standpoint.

In designing the KLC, efforts were made to avoid wetlands when possible. The payload processing area and the access road to the launch area were sited to avoid wetland disturbance, and the launch control center was redesigned to minimize wetland impacts. The launch control center, however, must be located a minimum distance from the launch area and must have a direct view of the launch area. The only alternative for siting the launch control center to completely avoid wetlands would have required access road construction that would have affected more wetlands. The only alternative that would have avoided wetlands destruction in upgrading Pasagshak Point Road would have involved extensive road relocation, substantial destruction of non-wetland habitat, and prohibitive expense. Because of these factors, no practicable alternatives to wetlands destruction were available (See Section 4.5.1.1 of the EA). The Alaska District of the U.S. Army Corps of Engineers issued a public notice regarding project construction and wetlands involvement on September 7, 1995, providing the public and appropriate state and Federal agencies an opportunity for early review of wetlands impacts.

MONITORING AND MITIGATION:

Construction and operation of the KLC will include development of a Natural Resources Management Plan that will address monitoring and mitigation activities for special status species, as discussed in Section 5.13 of the EA. If monitoring detects adverse impacts greater than those identified in the EA, AADC would take action, if possible, to avoid or eliminate further similar impacts.

DETERMINATION: After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in Section 101(a) of the National Environmental Policy Act of 1969 (NEPA) and that it will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to Section 102(2)(c) of NEPA. Therefore, an Environmental Impact Statement for the proposed action would not be required.

Issued in Washington, DC, on June 18, 1996.

Frank C. Weaver,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 96-16108 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-13-P

Commercial Space Transportation Advisory Committee; Open Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Commercial Space Transportation Advisory Committee open meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Thursday, July 25, 1996, from 8:30 a.m. to 1:00 p.m. in Room 2230 of the Department of Transportation's Headquarters building at 400 Seventh Street, SW, in Washington, D.C. This will be the twenty-third meeting of the COMSTAC.

The agenda for the meeting will include reports from the respective COMSTAC Working Groups; a legislative update on Congressional activities involving commercial space transportation; an activities report from FAA's Associate Administrator for Commercial Space Transportation (formerly the Office of Commercial Space Transportation [60 FR 62762, December 7, 1995]); and other related topics.

The meeting is open to the public; however, space may be limited.

FOR FURTHER INFORMATION CONTACT: Brenda Parker, (AST-100), Associate Administrator for Commercial Space Transportation, 400 7th Street SW, Room 5415, Washington, DC 20590, telephone (202) 366-2932.

Dated: June 19, 1996.

Frank C. Weaver,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 96-16107 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-13-P

Notice of Intent To Rule on Application to Impose a Passenger Facility Charge (PFC) at Arcata/Eureka Airport (ACV), Eureka, CA and Use the Revenue at (ACV) and Rohnerville Airports

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 a PFC at Arcata/Eureka Airport and use the revenue from a PFC at ACV and Rohnerville Airports 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 July 25, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010-1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John Murray, Public Works Director, County of Humboldt, at the following address: 1106 Second Street, Arcata, California 95521. Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Humboldt under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010-1303, Telephone: (415) 876-2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA purposes to rule and invites public comment on the application to impose a PFC at Arcata/Eureka Airport (ACV), Eureka, CA and use the revenue at ACV and Rohnerville Airports 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 29, 1996, the FAA determined that the application to impose and use a PFC submitted by the County of Humboldt was not substantially complete within the requirements of section 158.25 of Part 158. The application did not include alternative uses for the impose only project. On May 9, 1996, the County of Humboldt supplemented their application with the required information.

The FAA will approve or disapprove the application, in whole or in part, no later than September 6, 1996.

The following is a brief overview of the impose and use application number AWP-96-03-C-00-ACV.

Level of proposed PFC: \$3.00.

Proposed charge effective date: October 15, 1996.

Proposed charge expiration date: December 31, 1998.

Total estimated PFC revenue: \$525,258.00.

Brief description of the proposed impose and use projects: Arcata-Eureka Airport—Miscellaneous Improvements (Taxiway System Rehabilitation, Emergency Generator Installation (Terminal Building & Fire Hall), Safety Area Improvements and Regrading, Terminal Apron Drainage Improvements), Emergency Storm Drain Repair, Clear Zone—Runway Protection Zone (RPZ) Land Purchase, Security Gate—Turn Style (one way, Rohnerville Airport—RPZ Property Purchase.

Impose only project: Future Property Purchase Reserve Account at Arcata-Eureka Airport.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: 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 Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Humboldt.

Issued in Hawthorne, California, on June 14, 1996.

Ellsworth Chan,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 96-16110 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-13-M

Weather Observation Service Standards

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of policy statement.

SUMMARY: The American people have demanded a smaller, more efficient government; toward that end, the resources of the National Airspace System must be streamlined and service provided in a safe yet economical way. In November 1994, senior management officials from the Federal Aviation

Administration (FAA) and the National Weather Service (NWS) met with executives from fourteen national aviation associations concerning surface aviation observation services. They reached an agreement that the government would work with industry to define various support levels for surface observations.

In addition, in March 1995, and in accordance with the Office of Management and Budget (OMB) policy, the FAA began the process to assume responsibility for aviation surface weather observations beginning in FY 1996. As the NWS automates field offices and reallocates their personnel under this plan, the FAA will undertake accountability for observations at many NWS ASOS sites. The NWS has begun transitioning these ASOS sites to the FAA as the ASOSs are commissioned and has solicited public comment (61 FR 19595; May 2, 1996). The FAA also expanded by more than two hundred, the sites to receive ASOSs, thus enhancing safety at sites without weather observations. All of these activities prompted the FAA to take aggressive action in addressing surface aviation observation requirements and do it within modest resource gains.

As a result, a government/industry team has worked for a year and a half to comprehensively reassess the requirements for surface observations at the nation's airports. That work has resulted in agreement on a set of service standards as well as the FAA and NWS Automated Surface Observing System (ASOS) sites to which the standards will apply. This notice outlines the four kinds of service, explains the method used to determine which airports receive which type of service, and contains a listing of the airports and the service categories in which they fall. The FAA, NWS and Industry representatives believe the service standards approach supports the best allocation of scarce resources.

FOR FURTHER INFORMATION CONTACT: Ragna Aarnio, Aviation Policy and Industry Relations Branch, 400 7th St SW, Plaza 200, Washington, DC 20590; telephone (202) 336-4474.

SUPPLEMENTARY INFORMATION: The term *Service Standards* refers to four levels of detail in the weather observation at sites where there is a commissioned ASOS. The first category, known as Service Level D, is completely automated service, at which the ASOS observation will constitute the entire observation, i.e., no additional weather information is added by a human weather observer. A partial list of the airports that fit in this category are provided at the end of

this Notice. Some of these airports currently have contract weather observers providing the service. Many other sites (60-80) will be expanded to include automated systems; they are currently under review. Information on specific additional sites is available upon request.

The second category, tower-augmented service, also known as Service Level C, encompasses approximately two hundred and fifty airports. At this level, a human observer adds additional information to the automated observation. Augmentation includes the following parameters: thunderstorms, tornadoes, hail, virga, volcanic ash, and tower visibility. In addition, in the event of an ASOS malfunction or the ASOS reporting unrepresentative data, the human observer may insert the correct value or more representative information into the observation. This is referred to as *backup*.

Backup consists of inserting the following parameters where available: wind, visibility, precipitation/obstruction to vision type, cloud height, sky cover, temperature, dewpoint and altimeter setting. This level of service would be provided at all towered airports during hours of operation. During hours that the tower is closed, the ASOS will provide observations without backup or augmentation. These airports are listed as tower-augmented (Service Level C) airports at the end of this notice. Although this category is listed as *tower-augmented*, the service may be provided by Flight Service Stations at selected sites.

At 135 airports, adding more detail to the weather observation was considered optimum. These airports were divided into two categories, major aviation hubs and high traffic volume airports with average or worse weather, referred to as Service Level A airports; and the remaining group of airports that are smaller hubs or special airports in other ways, that have worse than average bad weather operations for thunderstorms and/or freezing/frozen precipitation, and/or that are remote airports, referred to as Service Level B airports.

Service Level B airports will receive augmentation and backup (C-level service) plus long-line Runway Visual Range (RVR), which may be an instantaneous readout. If observed, the following elements will be added to the observation: freezing drizzle versus freezing rain, ice pellets, snow depth and snow increasing rapidly remarks, thunderstorm/lightning location remarks and observed significant weather not at the station remarks. At selected airports in this category, during

hours of low traffic volume, the service may revert to Service Level C, tower-augmented service, or Service Level D, automated service.

Service Level A airports will receive, in addition to the services described above, 10 minute long-line RVR or additional visibility increments of 1/8, 1/16 and 0. If observed, the following elements will be added to the observation: sector visibility, variable sky condition, cloud layers above 12,000 feet and cloud types, widespread dust, sand and other obscurations and volcanic eruptions.

At selected sites, Flight Service Stations may do the support at Level A, B, or C airports. In lieu of a contract of NWS observer at a Level A, B or C airport, a non-government entity, such as a Fixed Base Operator or commercial aviation operator may agree to provide augmentation or backup to the ASOS observation, at no cost to the government. On a case-by-case basis, arrangements can be made to install an operator interface device, provide training materials, and determine a payment schedule for any recurring costs associated with the activity.

More detailed information on Service Standard procedures, including augmentation and backup, is contained in FAA Order 7900.5A. This document is available upon request.

Implementation Schedule

The date for implementation of Service Standards for each airport will be based upon a number of factors, including NWS transition dates, ASOS commissioning dates and the FAA budget. Sufficient budget for implementing Service Levels has been requested for FY 97. However, FAA budget resources are insufficient in FY 96 to fully fund observations at the A and B Service Levels at all sites designated for those Service Standards. For Level 5 towered sites, the FAA has already allocated funds for Service Level A support to begin immediately upon commissioning of ASOS; those sites are identified by an asterisk in the list at this end of this Notice.

The implementation date will be included in a Notice to Airmen and/or in the Airport/Facility Directory when transition is imminent. Information on the schedule for specific sites is available on request.

Ranking Process

The criteria used to rank the airports were based on (1) occurrence of significant weather weighted by traffic counts; (2) distance to the nearest suitable alternate airport; and (3) critical airport characteristics. These criteria

produced a score for each airport which determined their level of service. Seventy-eight ASOS sites have the greatest augmentation needs and will receive expanded service (Level A); fifty-seven to receive enhanced service (Level B); two hundred and fifty to receive tower augmentation (Level C); and another nearly four hundred to receive automated service (Level D). The composite scores assigned were solely based on weighted objective criteria designed to capture critical airport characteristics as follows.

Bad Weather Operations Score

This score is calculated by (1) adding the percentage of times that the airport is impacted by thunderstorms, freezing and/or frozen precipitation (including freezing rain, freezing drizzle, snow, snow pellets, snow squalls, snow showers, ice pellets, ice pellet showers, ice crystals), and visibility less than or equal to .5 mile and multiplying that percentage sum times total operations at that airport; (2) multiplying the percentage of time the airport experiences visibility less than or equal to 3 miles times the number of all operations and then multiplying that figure by .5; (3) summing the figures from steps 1-2 above; and (4) setting the resultant figures to a linear scale ranging from 0 to 18. The total score range was set at 0 to 18 to coincide with the combined total score range of the airport characteristics and the alternate airport criteria as described in the next two paragraphs. The traffic count data utilized is FY 1994.

For sites that did not have any weather information available, an alternate method was devised to compute weather scores. Each airport which had a composite score of 2 or more, even without weather data, was assigned weather information (surrogate weather) from the nearest airport with similar weather. This step was omitted for airports with a non-weather composite score of less than 2 because adding even a high weather score to such sites would not cause them to need expanded service. A list of these airports and the surrogate weather utilized for them is available upon request.

Score for Distance to Nearest Suitable Alternate Airport

This score gives credit for airports for which the nearest suitable alternate is a greater distance away. Where available, these alternates were selected from an Air Transport Association-provided list of actual alternates utilized for certain airports. Otherwise, an automated approach was used to determine these

alternates based on the following requirements

- The alternate site must have some observation capabilities. It must be an FAA or NWS ASOS site; an FAA or NWS contract weather observer observation site; a Federal or Non-Federal Automated Weather Observing Site (AWOS) site; or a Supplementary Aviation Weather Reporting Site (SAWRS) station.

- If the destination airport has a Terminal Airdrome Forecast (TAF) issued, the alternate site must have a TAF issued also.

- If the destination airport is a Part 139 airport, the alternate site must be a Part 139 airport also.

The scoring was done using Table 1.

TABLE 1.—Nearest Suitable Alternate Airport Score

Miles to the nearest alternate airport	Score
0-75	0
76-125	1
126-175	2
176-225	3
226-275	4
276 miles or greater	5

Airport Characteristics Score

This score is given based on the applicability of the scores in Table 2. The tower levels are those established as 3/11/96.

TABLE 2.—Airport Characteristics Score

Characteristics	Score
Tower Level	0-5
Special Airport	0, 1
Hub Airport	0, 2
National Airspace Reporting System (NPRS) Airport	0,1
Terminal Doppler Weather Radar (TDWR) Airport	0, 1
CAT II/III Qualified	0-2
Long-Line RVR	0, 1

Ranking

The scores from the three areas described above were then added together and each airport was assigned a composite score and ranked accordingly. Information on the process of determining the exact boundaries between service levels, as well as scores for individual airports, are available upon request.

This following list includes the service level categories and the airports that fall into each category. The airports in each service level category are listed by state and the city where the airport is located. The airport's three letter location identifier is also included. For

GA	Columbus	CSG	NC	Wilmington	ILM	VA	Lynchburg	LYH
GA	Macon	MCN	NC	Winston Salem	INT	VA	Newport News	PHF
HI	Hilo	ITO	ND	Bismarck	BIS	VA	Roanoke	ROA
HI	Kahului	OGG	ND	Fargo	FAR	VI	Charlotte Amalie	STT
HI	Kailua/Kona	KOA	ND	Minot	MOT	VI	Christiansted	STX
HI	Lihue	LIH	NE	Grand Island	GRI	WA	Everett	PAE
IA	Cedar Rapids	CID	NH	Lebanon	LEB	WA	Moses Lake	MWH
IA	Dubuque	DBQ	NH	Manchester	MHT	WA	Olympia	OLM
IA	Sioux City	SUX	NJ	Atlantic City	ACY	WA	Pasco	PSC
IA	Waterloo	ALO	NJ	Caldwell	CDW	WA	Renton	RNT
ID	Boise	BOI	NJ	Morristown	MMU	WA	Spokane	SFF
ID	Idaho Falls	IDA	NJ	Trenton	TTN	WA	Tacoma	TIW
ID	Lewiston	LWS	NM	Roswell	ROW	WA	Walla Walla	ALW
ID	Pocatello	PIH	NM	Santa Fe	SAF	WA	Yakima	YKM
ID	Twin Falls	TWF	NV	Reno	RNO	WI	Green Bay	GRB
IL	Cahokia/St Louis	CPS	NY	Binghamton	BGM	WI	Kenosha	ENW
IL	Carbondale/ Murphysboro.	MDH	NY	Elmira	ELM	WI	La Crosse	LSE
IL	Chicago/Aurora	ARR	NY	Farmingdale	FRG	WI	Oshkosh	OSH
IL	Chicago/West Chicago/.	DPA	NY	Niagara Falls	IAG	WV	Clarksburg	CKB
IL	Chicago/Wheeling/	PWK	OH	Poughkeepsie	POU	WV	Huntington	HTS
IL	Decatur	DEC	OH	Utica	UCA	WV	Morgantown	MGW
IL	Springfield	SPI	OH	Cincinnati	LUK	WV	Wheeling	HLG
IN	Bloomington	BMG	OH	Cleveland	BKL	WY	Casper	CPR
IN	Evansville	EVV	OH	Columbus	OSU	WY	Cheyenne	CYS
IN	Muncie	MIE	OH	Mansfield	MFD			
IN	Terre Haute	HUF	OH	Toledo	TOL			
KS	Hutchinson	HUT	OK	Clinton	CSM			
KS	Olathe	OJC	OK	Lawton	LAW	AK	Anchorage	LHD
KS	Salina	SLN	OK	Oklahoma City	PWA	AK	Annette	ANN
KS	Topeka	FOE	OR	Tulsa	RVS	AK	Barrow	BRW
KS	Topeka	TOP	OR	Eugene	EUG	AK	Bettles	BTT
KY	Lexington	LEX	OR	Klamath Falls	LMT	AK	Cold Bay	CDB
KY	Louisville	LOU	OR	Medford	MFR	AK	Cordova	CDV
LA	Alexandria	ESF	OR	Pendleton	PDT	AK	Delta Junction/Ft Greely.	BIG
LA	Lafayette	LFT	OR	Portland	HIO	AK	Gulkana	GKN
LA	Lake Charles	LCH	OR	Salem	TTD	AK	Homer	HOM
LA	Monroe	MLU	PA	Allentown	SLE	AK	Iliamna	ILI
LA	New Iberia	ARA	PA	Erie	ABE	AK	Ketchikan	KTN
LA	New Orleans	NEW	PA	Harrisburg	ERI	AK	Kotzebue	OTZ
LA	Shreveport	DTN	PA	Harrisburg	CXY	AK	McGrath	MCG
MA	Bedford	BED	PA	Harrisburg	MDT	AK	Nenana	ENN
MA	Beverly	BVY	PA	Lancaster	LNS	AK	Northway	ORT
MA	Hyannis	HYA	PA	Philadelphia	PNE	AK	Palmer	PAQ
MA	Lawrence	LWM	PA	Reading	RDG	AK	Sitka	SIT
MA	Nantucket	ACK	PA	Wilkes-Barre/Scranton.	AVP	AK	St Paul Island	SNP
MA	New Bedford	EWB	PA	Williamsport	IPT	AK	Talkeetna	TKA
MA	Norwood	OWD	SC	Florence	FLO	AK	Tanana	TAL
MA	Westfield	BAF	SC	Greenville	GMU	AK	Yakutat	YAK
MA	Worcester	ORH	SC	Greer	GSP	AL	Anniston	ANB
MD	Hagerstown	HGR	SC	North Myrtle Beach	CRE	AL	Muscle Shoals	MSL
ME	Portland	PWM	SD	Aberdeen	ABR	AR	El Dorado	ELD
MI	Ann Arbor	ARB	SD	Rapid City	RAP	AR	Harrison	HRO
MI	Battle Creek	BTL	SD	Sioux Falls	FSD	AR	Hot Springs	HOT
MI	Detroit	DET	TN	Bristol/Johnson/ Kingsport.	TRI	AR	Jonesboro	JBR
MI	Detroit	YIP	TX	Abilene	ABI	AZ	Kingman	IGM
MN	Duluth	DLH	TX	Amarillo	AMA	AZ	Page	PGA
MN	Rochester	RST	TX	Austin	AUS	AZ	Winslow	INW
MN	St Paul	STP	TX	Beaumont/Port Ar- thur.	BPT	CA	Arcata/Eureka	ACV
MO	Columbia	COU	TX	Brownsville	BRO	CA	Bishop	BIH
MO	Joplin	JLN	TX	College Station	CLL	CA	Blythe	BLH
MO	Kansas City	MKC	TX	Dallas	RBD	CA	Daggett	DAG
MO	Springfield	SGF	TX	Fort Worth	AFW	CA	Emigrant Gap	BLU
MO	St Joseph	STJ	TX	Fort Worth	FTW	CA	Imperial	IPL
MO	St Louis	SUS	TX	Harlingen	HRL	CA	Marysville	MYV
MS	Greenville	GLH	TX	Housotn	DWH	CA	Merced	MCE
MS	Gulfport	GPT	TX	Longview	GGG	CA	Paso Robles	PRB
MS	Jackson	HKS	TX	McAllen	MFE	CA	Red Bluff	RBL
MS	Meridian	MEI	TX	San Angelo	SJT	CO	Akron	AKO
MT	Great Falls	GTF	TX	San Antonio	SSF	CO	Alamosa	ALS
MT	Helena	HLN	TX	Tyler	TYR	CO	La Junta	LHX
MT	Missoula	MSO	TX	Waco	ACT	FL	Limon	LIC
NC	Asheville	AVL	TX	Ogden	OGD	GA	Crestview	CEW
NC	Fayetteville	FAY	UT	Charlottesville	CHO	GA	Alma	AMG
NC	Hickory	HKY	VA			GA	Brunswick	SSI
						IA	Burlington	BRL
						IA	Mason City	MCW

AUTOMATED SERVICE
(SERVICE LEVEL D)

IA	Ottumwa	OTM	OH	Zanesville	ZZV
ID	Burley	BYI	OK	Gage	GAG
IN	Valparaiso	VPZ	OK	Hobart	HBR
KS	Chanute	CNU	OK	Mc Alester	MLC
KS	Concordia	CNK	OK	Ponca City	PNC
KS	Dodge City	DDC	OR	Astoria	AST
KS	Emporia	EMP	OR	Baker City	BKE
KS	Garden City	GCK	OR	Burns	BNO
KS	Goodland	GLD	OR	The Dalles	DLS
KS	Hill City	HLC	PA	Altoona	AOO
KS	Manhattan	MHK	PA	Johnstown	JST
KS	Russell	RSL	SC	Anderson	AND
KY	Bowling Green	BWG	SD	Huron	HON
KY	Jackson	JKL	SD	Pierre	PIR
KY	London	LOZ	SD	Watertown	ATY
KY	Paducah	PAH	TN	Crossville	CSV
MD	Salisbury	SBY	TN	Jackson	MKL
ME	Augusta	AUG	TX	Alice	ALI
ME	Caribou	CAR	TX	Childress	CDS
ME	Houlton	HUL	TX	Cotulla	COT
MI	Alpena	APN	TX	Dalhart	DHT
MI	Hancock	CMX	TX	Del Rio	DRT
MI	Houghton Lake	HTL	TX	Galveston	GLS
MI	Pellston	PLN	TX	Lufkin	LFK
MN	Alexandria	AXN	TX	Mineral Wells	MWL
MN	Hibbing	HIB	TX	Victoria	VCT
MN	International Falls	INL	TX	Wichita Falls	SPS
MN	Redwood Falls	RWF	TX	Wink	INK
MN	St Cloud	STC	UT	Bryce Canyon	BCE
MO	Cape Girardeau	CGI	UT	Cedar City	CDC
MO	Rolla/Vichy	VIH	UT	Milford	MLF
MO	St Charles	3SZ	VA	Danville	DAN
MS	McComb	MCB	VA	Wallops	WAL
MS	Tupelo	TUP	VT	Barre/Montpelier	MPV
MT	Bozeman	BZN	WA	Ephrata	EPH
MT	Butte	BTM	WA	Hoquiam	HQM
MT	Glasgow	GGW	WA	Quillayute	UIL
MT	Havre	HVR	WI	Lone Rock	LNR
MT	Kalispell	FCA	WI	Wausau	AUW
MT	Livingston	LVM	WV	Beckley	BKW
MT	Miles City	MLS	WV	Bluefield	BLF
NC	Elizabeth City	ECG	WV	Elkins	EKN
NC	Hatteras	HSE	WV	Martinsburg	MRB
NC	New Bern	EWN	WY	Laramie	LAR
NC	Rocky Mount	RWI	WY	Riverton	RIW
ND	Dickinson	DIK	WY	Sheridan	SHR
ND	Jamestown	JMS	WY	Worland	WRL
ND	Williston	ISN			
NE	Alliance	AIA			
NE	Chadron	CDR			
NE	McCook	MCK			
NE	Norfolk	OFK			
NE	North Platte	LBF			
NE	Scottsbluff	BFF			
NE	Sidney	SNY			
NE	Valentine	VTN			
NH	Concord	CON			
NJ	Millville	MIV			
NM	Carlsbad	CNM			
NM	Clayton	CAO			
NM	Deming	DMN			
NM	Gallup	GUP			
NM	Las Vegas	LVS			
NM	Truth Or Con-sequences.	TCS			
NM	Tucumcari	TCC			
NV	Ely	ELY			
NV	Lovelock	LOL			
NV	Mercury	DRA			
NV	Tonopah	TPH			
NV	Winnemucca	WMC			
NY	Glens Falls	GFL			
NY	Massena	MSS			
NY	Monticello	MSV			
NY	Watertown	ART			
OH	Akron	AKR			

Administration (NHTSA) of a petition for a decision that a 1983 Yamaha RD 350 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATE: The closing date for comments on the petition is July 25, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

Dated: June 19, 1996.

Neil R. Planzer,

Program Director for Air Traffic Plans and Requirements.

[FR Doc. 96-16046 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 96-058; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1983 Yamaha RD 350 Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1983 Yamaha RD 350 motorcycles are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety

Champagne Imports, Inc. of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90-009) has petitioned NHTSA to decide whether 1983 Yamaha RD 350 motorcycles are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1983 Yamaha RZ 350, which was manufactured for importation into, and sale in, the United States and certified by its manufacturer, Yamaha Motor Company, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the 1983 Yamaha RD 350 to the 1983 Yamaha RZ 350, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the 1983 Yamaha RD 350, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1983 Yamaha RZ 350, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the 1983 Yamaha RD 350 is identical to the 1983 Yamaha RZ 350 with respect to compliance with Standards Nos. 106 *Brake Hoses*, 111 *Rearview Mirrors*, 115 *Vehicle Identification Number*, 116 *Brake Fluid*, 119 *New Pneumatic Tires for Vehicles other than Passenger Cars*, 120 *Tire Selection and Rims for Vehicles other than Passenger Cars*, and 122 *Motorcycle Brake Systems*.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: installation of U.S.- model headlamp assemblies.

Standard No. 123 *Motorcycle Controls and Displays*: installation of a U.S. model speedometer calibrated in miles per hour.

Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition

will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 19, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96-16117 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-59-P

[Docket No. 96-061; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1992 Mercedes-Benz 250D Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1992 Mercedes-Benz 250D passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1992 Mercedes-Benz 250D that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is July 25, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless

NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer No. R-90-009) has petitioned NHTSA to decide whether 1992 Mercedes-Benz 250D passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1992 Mercedes-Benz 300E. Champagne has submitted information indicating that Daimler Benz, A.G., the company that manufactured the 1992 Mercedes-Benz 300E, certified that vehicle as conforming to all applicable Federal motor vehicle safety standards and offered it for sale in the United States.

The petitioner contends that it carefully compared the 1992 Mercedes-Benz 250D to the 1992 Mercedes-Benz 300E, and found the two models to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the 1992 Mercedes-Benz 250D, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1992 Mercedes-Benz 300E that was offered for sale in the United States, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the 1992 Mercedes-Benz 250D is identical to the certified 1992 Mercedes-Benz 300E with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence . . .*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing*

Systems, 105 Hydraulic Brake Systems, 106 Brake Hoses, 107 Reflecting Surfaces, 109 New Pneumatic Tires, 113 Hood Latch Systems, 116 Brake Fluid, 124 Accelerator Control Systems, 201 Occupant Protection in Interior Impact, 202 Head Restraints, 203 Impact Protection for the Driver From the Steering Control System, 204 Steering Control Rearward Displacement, 205 Glazing Materials, 207 Seating Systems, 209 Seat Belt Assemblies, 210 Seat Belt Assembly Anchorages, 211 Wheel Nuts, Wheel Discs and Hubcaps, 212 Windshield Retention, 216 Roof Crush Resistance, 219 Windshield 1992 Zone Intrusion, and 302 Flammability of Interior Materials.

Additionally, the petitioner states that the 1992 Mercedes-Benz 250D complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 Controls and Displays: (a) substitution of a lens marked "Brake" for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 Lamps, Reflective Devices and Associated Equipment: (a) installation of U.S.-model headlamp assemblies; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies; (d) installation of a high mounted stop lamp.

Standard No. 110 Tire Selection and Rims: installation of a tire information placard.

Standard No. 111 Rearview Mirrors: replacement of the convex passenger side rearview mirror.

Standard No. 114 Theft Protection: installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 Vehicle Identification Number: installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 Power Window Systems: rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 206 Door Locks and Door Retention Components: replacement of the rear door locks and lock buttons with U.S.-model parts.

Standard No. 208 Occupant Crash Protection: (a) Installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) replacement of the driver's side air bag and knee bolster with U.S.-model components. The petitioner states that the vehicle is equipped at each front designated seating position with a combination lap and shoulder restraint that adjusts by means of an automatic retractor and releases by means of a single push-button. The petitioner further states that the vehicle is equipped at both outboard rear designated seating positions with combination lap and shoulder restraints that release by means of a single push-button, and with a lap belt in the rear center designated seating position.

Standard No. 214 Side Impact Protection: installation of reinforcing beams.

Standard No. 301 Fuel System Integrity: installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 19, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.
[FR Doc. 96-16118 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-59-P

[Docket No. 96-23; Notice 2]

Decision That Nonconforming 1987 Volkswagen Golf Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Notice of decision by NHTSA that nonconforming 1987 Volkswagen Golf passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1987 Volkswagen Golf passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1987 Volkswagen Golf), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective June 25, 1996.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the

petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

J.K. Motors of Kingsville, Maryland ("J.K.") (Registered Importer 90-006) petitioned NHTSA to decide whether 1986 Volkswagen Golf passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on March 21, 1996 (61 FR 11675) to afford an opportunity for public comment. In a comment responding to this notice, a representative of the vehicle's manufacturer stated that vehicle identification number (VIN) assigned to the specific vehicle that the petitioner seeks to import identifies that vehicle as a 1987 model. In view of this correction, this notice identifies the vehicle that is the subject of the petition, and the substantially similar U.S. certified comparison vehicle, as the "1987 Volkswagen Golf."

As stated in the notice of petition, the comparison vehicle was manufactured for importation into, and sale in, the United States and certified by its manufacturer, Volkswagenwerke A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claimed that it carefully compared the non-U.S. certified 1987 Volkswagen Golf to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that the non-U.S. certified 1987 Volkswagen Golf, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claimed that the non-U.S. certified 1987 Volkswagen Golf is identical to its U.S. certified counterpart with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence*, . . ., 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and*

Door Retention Components, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner stated that the non-U.S. certified 1987 Volkswagen Golf complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contended that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection*: installation of a warning buzzer microswitch and a warning buzzer in the steering lock assembly.

Standard No. 115 *Vehicle Identification Number*: installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems*: rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection*: installation of a seat belt warning buzzer. The petitioner stated that the vehicle is equipped with shoulder and lap belts in all outboard seating positions and with a lap belt in the rear center seating position that are identical to those found on its U.S. certified counterpart.

One comment was received in response to the notice of petition, from Volkswagen of America, Inc. ("Volkswagen"), the United States

representative of Volkswagen AG, the vehicle's manufacturer. In its comment, Volkswagen stated that the petition incorrectly identified the non-U.S. certified 1987 Golf as complying with Standard No. 212. Volkswagen observed that only clips were used for mounting the windshield on this vehicle, as opposed to the adhesive bonding method that was employed in the U.S. certified version. Volkswagen also stated that the body of the U.S. certified vehicle included additional reinforcements and structural modifications to assure compliance with Standard No. 219, and its fuel system was equipped with special valves to assure compliance with Standard No. 301. Volkswagen further observed that the non-U.S. certified 1987 Golf did not have the door beam structure that is necessary for compliance with Standard No. 214. Additionally, Volkswagen stated that the vehicle was manufactured with some foam seat parts that were not treated with flame resistant agents to comply with Standard No. 302. Volkswagen further stated that the non-U.S. certified 1987 Golf was not manufactured to comply with the Bumper Standard in 49 CFR Part 581. Volkswagen finally observed that the seat belt system on the non-U.S. certified 1987 Golf needs to be inspected for compliance with Standard No. 209, as the parts on that vehicle differ in some instances from those on the U.S. certified version.

NHTSA accorded J.K. an opportunity to respond to Volkswagen's comments. In its response, J.K. acknowledged that the petition overlooked the fact that the windshield on the non-U.S. certified 1987 Golf must be bonded to comply with Standard No. 212. J.K. stated that it routinely glues windshields on vehicles coming from Europe, a none of them are bonded. With respect to the Standard No. 301 compliance issue raised by Volkswagen, J.K. stated that it adds a fuel system check valve to the evaporative system as part of the modifications that it makes to conform the vehicle to EPA requirements. J.K. stated that the valve is placed in the breather line from the gas tank to the evaporative canister on vehicles that are not equipped with a catalytic converter. J.K. observed that this modification is unnecessary for vehicles that are so equipped, as the valve is installed in those vehicles during factory assembly. With respect to the Standard No. 214 and Bumper Standard issues raised by Volkswagen, J.K. stated that door beams are added to vehicles and their bumpers are modified on a case-by-case basis. J.K. observed that some vehicles are

already equipped with door beams and reinforced bumpers, such as those built for the Middle Eastern market. When it encounters a vehicle that lacks this equipment, J.K. stated that it makes the necessary modifications and furnishes NHTSA with an engineering report. Addressing the Standard No. 302 compliance issue raised by Volkswagen, J.K. stated that it inspects vehicle seats for a U.S. part number, and if one is not found, the material is treated with a flame retardant. With these modifications, as well as those outlined in the petition, J.K. asserts that the non-U.S. certified 1987 Golf will comply with all applicable standards.

NHTSA has reviewed each of the issues that Volkswagen has raised regarding J.K.'s petition. NHTSA believes that J.K.'s responses adequately address each of those issues. NHTSA further notes that the modifications described by J.K. to conform the vehicle to Standard No. 212, 214, 301, 302, and the Bumper Standard have been performed with relative ease on thousands of nonconforming vehicles imported over the years, and would not preclude the non-U.S. certified 1987 Volkswagen Golf from being found "capable of being readily modified to comply with all Federal motor vehicle safety standards." NHTSA has accordingly decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-159 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1987 Volkswagen Golf not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1987 Volkswagen Golf originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 19, 1996.
Marilynne Jacobs,
Director, Office of Vehicle Safety Compliance.
[FR Doc. 96-16119 Filed 6-24-96; 8:45 am]
BILLING CODE 4910-59-P

[Docket No. 96-003; Notice 2]

Michelin North America, Inc.; Grant of Application for Decision of Inconsequential Noncompliance

This notice grants the application by Michelin North America, Inc. (Michelin) of Greenville, South Carolina, to be exempted from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires." The basis of the petition is that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published on February 2, 1996, and an opportunity afforded for comment (61 FR 3962).

Background

Section S4.3(b) of FMVSS No. 109 requires that tires be labeled with the maximum permissible inflation pressure.

During the period of the 27th through the 37th week of 1995, Manufacture Francaise des Pneumatiques Michelin in Clermont-Ferrand, France, manufactured tires that had incorrect maximum inflation pressure information in pounds per square inch (psi), labeled on both tire sidewalls. Approximately 247 of the tires may have reached the United States. The subject tires, P185/75R14X Radial BW, are correctly labeled with a maximum inflation pressure of 240 kilopascals (kPa). The label on these tires incorrectly gives the maximum inflation pressure as 33 psi. The maximum inflation pressure should be 35 psi. All tires are sold only in the replacement market.

Michelin supported its petition for inconsequential noncompliance with the following:

[Michelin does] not believe that this minor error on the tire sidewall will impact motor vehicle safety since the pressure is correctly marked in kPa on the tire sidewall. Furthermore, the vehicle owners manual and/or vehicle placard, as required by 49 CFR Part 571.110 S4.3(c), instructs the user of the correct pressure to be used in the tire. Additionally, many publications, instructing the user to inflate tires to the recommended inflation found on the placard, are available to the public. Examples of these documents include:

1. Tire Industry Safety Council (CTG-1/94)—"Motorist's Tire Care and Safety Guide"—"The correct air pressure is shown on the tire placard (or sticker) attached to the vehicle-door post, glove box, or fuel door."

2. Tire Industry Safety Council—April 4, 1995, release—"Owners should inflate tires for normal operation to the vehicle manufacturer's recommended inflation pressure found on the door post, glove box, or in the owner's manual."

3. Rubber Manufacturers Association (ALT 8-87)—"Care and Service of Automobile and Light Truck Tires," "Proper tire inflation is shown on the vehicle's tire placard. If there is no tire placard, consult the vehicle owner's manual or check with the tire or vehicle manufacturer for the proper inflation."

Comments

One commenter, who describes himself as an "experienced tire engineer," responded to the February 2, 1996, Federal Register notice. The commenter opposes granting the Michelin petition on the basis that the subject is not an "inconsequential noncompliance," and should be denied. The commenter also trusts that a recall will be ordered should Michelin have prematurely, accidentally, or inadvertently released or distributed the 247 P185/75R14x Radial BW tires. He submitted the following reasons in support:

1. Having the incorrect maximum inflation pressure is a major safety problem *when it is on the tire*. Consumers and, more importantly, tire mounters refer most often to the tire itself for inflation information—and not to the door post, glove box, door edge, fuel door, or the usually missing owner's manual, or the many available public documents referenced.

2. Any one noticing a value on the tire being different from the other sources would trust the tire over the other information sources, particularly on a Michelin tire—one of the more widely-trusted brands.

3. Having the error occur in the psi value is much more detrimental than in the kPa value, since 99.9999 ad infinitum [percentage %] American would use the psi value and not the [kPa] value.

4. The actual conversion for 35 psi is 241 kPa—not 240 as Michelin claims.

5. * * * most gauges sold in the U.S. as well as most self-serve air supply gauges do not read in or show kPa.

6. If Michelin really wants to sell these mere 247 tires, they can easily brand the correct psi maximum value on the tires. Michelin might have to sell

them as BLEMs or seconds at a reduced price, but at least the tires would have the correct maximum inflation pressure of 35 psi, if not the correct maximum inflation pressure of 241, actually 241.32, kPa.

Discussion

Michelin has admitted manufacturing and not being able to locate approximately 247 P185/75R14x Radial BW tires that have incorrect maximum inflation pressure information in pounds per square inch labeled on both tire sidewalls. The actual mark on these tires is "240 kPa(33psi)MAX.PRESS," and the required mark is "240 kPa(35psi)MAX.PRESS." Michelin cites the availability of several publications which instruct users of the correct maximum inflation pressure to be used in tires. Michelin's inconsequentiality application does not address the potential safety hazard which could be caused by the reported noncompliance. Instead, Michelin argues that the noncompliance in labeling is minor because the maximum inflation pressure is correctly marked in kPa on the tire sidewall.

The potential safety hazard is overloading the vehicle on which the tires are installed. To determine whether there might be a potential overloading problem, the agency referred to The 1995 Tire and Rim Association Yearbook. The tire load limits at (240kPa/35psi) and (240kPa/33psi) are very close, the difference being approximately 55 lbs. (See Table I.)

Table I—1995—The Tire and Rim Association, Inc.

Tire Size Designation—P185/75*14	Tire Load Limits at Various Cold Inflation Pressures Standard Load
kPa—220 to 240	
psi—32 to 35	
Kg—560 to 585	
lbs.—1,235 to 1,290	

NHTSA is not convinced that the chart indicates that tire overloading is likely to occur should customers and tire mounters adhere to the noncompliant tire label. The agency's belief is based on the assumption that the tires will most likely be used on passenger vehicles and that most passenger vehicles are not loaded to their maximum load weight. Usually these vehicles carry an average of two passengers and this would not create an overloaded condition. Also, the average tire owner is not likely to inflate tires on a vehicle to the recommended maximum inflation pressure that appears on the tire. Finally, the number of noncompliant tires is very small, only

247, which reduces the import of the noncompliance.

Accordingly, for the reasons expressed above, the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential to motor vehicle safety, and the agency grants Michelin's application for exemption from notification of the noncompliance as required by 49 U.S.C. 30118 and from remedy as required by 49 U.S.C. 30120. (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: June 19, 1996.

Patricia Breslin,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 96-16185 Filed 6-29-96; 8:45 am]

BILLING CODE 4910-59-P

[Docket No. 96-068; Notice 1]

Michelin North America, Inc.; Receipt of Application for Decision of Inconsequential Noncompliance

Michelin North America, Inc. (Michelin) of Greenville, South Carolina, has determined that some of its tires fail to comply with the labeling requirements of 49 CFR 571.109, Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New Pneumatic Tires," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Michelin has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

In FMVSS No. 109, Paragraph S4.3(a) requires tires to be labeled with one size designation, except that equivalent inch and metric size designations may be used.

Michelin's description of non-compliance follows:

"During the period of the 25th week through the 45th week of 1995, the Ardmore, Oklahoma, plant of Uniroyal Goodrich Tire Manufacturing, a division of Michelin North America, Inc., produced tires with two size designations specified on one sidewall of the tire. Specifically, in the upper sidewall of the tire, in letters 0.44 inches high, the tire was correctly marked as a 205/70R15. The tire was incorrectly marked in the lower sidewall area, in letters 0.25 inches high, as a 205/75R15. This incorrect marking occurred on the side opposite the DOT tire identification

number. The correct marking also appears in two places on the side that contains the DOT tire identification number. The markings specified by 49 CFR 571.109 S4.3(a) call for only one size designation. All performance requirements of FMVSS #109 are met or exceeded for these tires.

"Approximately 4,708 205/70R15 BF Goodrich Touring T/A SR4 tires were produced with the aforementioned information on one sidewall of the tire. Of this total, as many as 730 were shipped to the replacement market. The remaining tires have been isolated in [Michelin's] warehouses and will be brought into full compliance with the marking requirements of FMVSS No. 109 or scrapped."

Michelin supported its application for inconsequential noncompliance with the following:

"1. All tires have a paper label, showing the correct size, applied to the tire tread. Tires are generally 'pulled from the rack' based on the paper label. Thus information on the correct tire size for the application would be available.

"2. The tire size is incorrect, in one of four places, only with respect to the aspect ratio (or series), that is 75. Both the section width designation of 205 and the rim diameter code of 15 are correct. The correct maximum load and inflation pressure for the 205/70R15 is molded on both sides of the tire.

"3. The tire size is correctly stamped on both sides in letters 0.44 inch high. Thus attention should be more readily drawn to the correct tire size than to the incorrect size which is in much smaller letters.

"4. When these tires are mounted on the vehicle, the 'clean' side (i.e. the side without the bar code lines) is mounted out. Thus when mounting these tires on a vehicle, the proper size designation is readily apparent in two places on the sidewall."

Interested persons are invited to submit written data, views, and arguments on the application of Michelin, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C., 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the Federal Register pursuant to the authority indicated below. Comment closing date: July 25, 1996.

(49 U.S.C. 30118, 30120; delegation of authority at 49 CFR 501.8)

Issued on: June 19, 1996.

Patricia Breslin,

Acting Associate Administrator for Safety
Performance Standards.

[FR Doc. 96-16186 Filed 6-24-96; 8:45 am]

BILLING CODE 4910-59-P

Surface Transportation Board

Sunshine Act Meeting

BOARD CONFERENCE

TIME AND DATES: 10:00 a.m., July 3, 1996.

PLACE: Hearing Room A, Surface
Transportation Board, 1201 Constitution
Avenue, NW., Washington, DC 20423.

STATUS: The Board will meet to discuss
among themselves the following agenda
items. Although the conference is open
for the public observation, no public
participation is permitted.

MATTERS TO BE DISCUSSED:

Finance Docket No. 32760, *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company*

This notice covers both the Finance Docket No. 32760 lead proceeding and the following embraced proceedings:

Finance Docket No. 32760 (Sub-No. 1), *Union Pacific Railroad Company, Missouri Pacific Railroad Company, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company—Trackage Rights Exemption—Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company;*

Finance Docket No. 32760 (Sub-No. 2), *Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company—Petition for Exemption—Acquisition and Operation of Trackage in California, Texas, and Louisiana;*

Finance Docket No. 32760 (Sub-No. 3), *Union Pacific Corporation, Union Pacific Railroad Company, Missouri Pacific Railroad Company, Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company—Control Exemption—The Alton & Southern Railway Company;*

Finance Docket No. 32760 (Sub-No. 4), *Union Pacific Corporation, Union Pacific Railroad Company, Missouri Pacific Railroad Company, Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company—Control Exemption—Central California Traction Company;*

Finance Docket No. 32760 (Sub-No. 5), *Union Pacific Corporation, Union Pacific*

Railroad Company, Missouri Pacific Railroad Company, Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company—Control Exemption—The Ogden Union Railway & Depot Company;

Finance Docket No. 32760 (Sub-No. 6), *Union Pacific Corporation, Union Pacific Railroad Company, Missouri Pacific Railroad Company, Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company—Control Exemption—Portland Terminal Railroad Company;*

Finance Docket No. 32760 (Sub-No. 7), *Union Pacific Corporation, Union Pacific Railroad Company, Missouri Pacific Railroad Company, Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company—Control Exemption—Portland Traction Company;*

Finance Docket No. 32760 (Sub-No. 8), *Union Pacific Corporation, Union Pacific Railroad Company, Missouri Pacific Railroad Company, Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company—Control Exemption—Overnite Transportation Company, Southern Pacific Motor Trucking Company, and Pacific Motor Transport Company;*

Finance Docket No. 32760 (Sub-No. 9), *Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company—Terminal Trackage Rights—Kansas City Southern Railway Company;*

Docket No. AB-3 (Sub-No. 129X), *Missouri Pacific Railroad Company—Abandonment Exemption—Gurdon-Camden Line In Clark, Nevada, and Ouachita Counties, AR;* Docket No. AB-3 (Sub-No. 130), *Missouri Pacific Railroad Company—Abandonment—Towner-NA Junction Line In Kiowa, Crowley, and Pueblo Counties, CO;*

Docket No. AB-3 (Sub-No. 131), *Missouri Pacific Railroad Company—Abandonment—Hope-Bridgeport Line In Dickinson and Saline Counties, KS;*

Docket No. AB-3 (Sub-No. 132X), *Missouri Pacific Railroad Company—Abandonment Exemption—Whitewater-Newton Line In Butler and Harvey Counties, KS;*

Docket No. AB-3 (Sub-No. 133X), *Missouri Pacific Railroad Company—Abandonment Exemption—Iowa Junction-Manchester Line In Jefferson Davis and Calcasieu Parishes, LA;*

Docket No. AB-3 (Sub-No. 134X), *Missouri Pacific Railroad Company—Abandonment Exemption—Troup-Whitehouse Line In Smith County, TX;*

Docket No. AB-8 (Sub-No. 36X), *The Denver and Rio Grande Western Railroad Company—Discontinuance Exemption—Sage-Leadville Line In Eagle and Lake Counties, CO;*

Docket No. AB-8 (Sub-No. 37), *The Denver and Rio Grande Western Railroad*

Company—Discontinuance of Trackage Rights—Hope-Bridgeport Line In Dickinson and Saline Counties, KS;

Docket No. AB-8 (Sub-No. 38), *The Denver and Rio Grande Western Railroad Company—Discontinuance of Trackage Rights—Towner-NA Junction Line In Kiowa, Crowley, and Pueblo Counties, CO;*

Docket No. AB-8 (Sub-No. 39), *The Denver and Rio Grande Western Railroad Company—Discontinuance—Malta-Cañon City Line In Lake, Chaffee and Fremont Counties, CO;*

Docket No. AB-12 (Sub-No. 184X), *Southern Pacific Transportation Company—Abandonment Exemption—Wendel-Alturas Line In Modoc and Lassen Counties, CA;*

Docket No. AB-12 (Sub-No. 185X), *Southern Pacific Transportation Company—Abandonment Exemption—Suman-Bryan Line In Brazos and Robertson Counties, TX;*

Docket No. AB-12 (Sub-No. 187X), *Southern Pacific Transportation Company—Abandonment Exemption—Seabrook-San Leon Line In Galveston and Harris Counties, TX;*

Docket No. AB-12 (Sub-No. 188), *Southern Pacific Transportation Company—Abandonment—Malta-Cañon City Line In Lake, Chaffee, and Fremont Counties, CO;*

Docket No. AB-12 (Sub-No. 189X), *Southern Pacific Transportation Company—Abandonment Exemption—Sage-Leadville Line In Eagle and Lake Counties, CO;*

Docket No. AB-33 (Sub-No. 93X), *Union Pacific Railroad Company—Abandonment Exemption—Whittier Junction-Colima Junction Line In Los Angeles County, CA;*

Docket No. AB-33 (Sub-No. 94X), *Union Pacific Railroad Company—Abandonment Exemption—Magnolia Tower-Melrose Line In Alameda County, CA;*

Docket No. AB-33 (Sub-No. 96), *Union Pacific Railroad Company—Abandonment—Barr-Girard Line In Menard, Sangamon, and Macoupin Counties, IL;*

Docket No. AB-33 (Sub-No. 97X), *Union Pacific Railroad Company—Abandonment Exemption—DeCamp-Edwardsville Line In Madison County, IL;*

Docket No. AB-33 (Sub-No. 98X), *Union Pacific Railroad Company—Abandonment Exemption—Edwardsville-Madison Line In Madison County, IL;*

Docket No. AB-33 (Sub-No. 99X), *Union Pacific Railroad Company—Abandonment Exemption—Little Mountain Jct.-Little Mountain Line In Box Elder and Weber Counties, UT;*

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.*,¹

Finance Docket No. 32760 (Sub-No. 16), *Responsive Application—Wisconsin Electric Power Company*; and

Finance Docket No. 32760 (Sub-No. 17), *Responsive Application—Magma Copper Company, The Magma Arizona Railroad Company, and The San Manuel Arizona Railroad Company*.

CONTACT PERSONS FOR MORE

INFORMATION: Dennis Watson, Office of Congressional and Press Service, Telephone: (202) 927-5350, TDD: (202) 927-5721.

Vernon A. Williams,
Secretary.

[FR Doc. 96-16130 Filed 6-20-96; 3:17 pm]

BILLING CODE 4915-00-P

[**STB Ex Parte No. 290 (Sub No. 5) (96-3)**]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved a third quarter 1996 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter RCAF (Unadjusted) is 1.074. The third quarter RCAF (Adjusted) is 0.766, a decrease of 0.4% from the second quarter 1996 RCAF (Adjusted).

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 927-6243. TDD for the hearing impaired: (202) 927-5721.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Board's decision. To purchase a copy of the full decision write to, call, or pick up in person from: DC NEWS & DATA, INC., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423, or telephone (202) 289-4357. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: June 18, 1996.

¹ In Decision No. 29 (served April 12, 1996), the responsive application filed by Cen-Tex Rail Link, Ltd./South Orient Railroad Company, Ltd. was rejected as incomplete.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,
Secretary.

[FR Doc. 96-16129 Filed 6-24-96; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service

Proposed Collection of Information: Claims Against the United States for Amounts Due in the Case of a Deceased Creditor

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on this continuing information collection. The Financial Management Service is soliciting comments concerning the form "Claims Against the United States for Amounts Due in the Case of a Deceased Creditor."

DATES: Written comments should be received on or before August 26, 1996.

ADDRESSES: Direct all written comments to Financial Management Service, 3361-L 75th Avenue, Landover, Maryland 20785.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Mary Morris, Credit Accounting Branch, 3700 East-West Highway, Hyattsville, Maryland 20782, (202) 874-7801.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Claims Against the United States for Amounts Due in the Case of a Deceased Creditor.

OMB Number: 1510-0042.

Form Number: SF 1055.

Abstract: This form is required to determine who is entitled to the funds of a deceased awardholder. The form properly completed with supporting documents enables the Financial Management Service to decide who is legally entitled to payment.

Current Actions: There are no changes to this information collection. It is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 400.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 400.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: June 19, 1996.

Mitchell A. Levine,

Assistant Commissioner.

[FR Doc. 96-16096 Filed 6-24-96; 8:45 am]

BILLING CODE 4810-35-M

Proposed Collection of Information: Minority Bank Deposit Program Certification Form for Admission

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the form "Minority Bank Deposit Program Certification Form for Admission."

DATES: Written comments should be received on or before August 26, 1996.

ADDRESSES: Direct all written comments to Financial Management Service, 3361-L 75th Avenue, Landover, Maryland 20785.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions

should be directed to Aurora Kassalow, Cash Management Policy and Planning Division, 401-14th Street, S.W. Washington, D.C. 20227, (202) 874-5742.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Minority Bank Deposit Certification Form for Admission.

OMB Number: 1510-0048.

Form Number: FMS 3144.

Abstract: The form is used by financial institutions that want to apply for participation in the Minority Bank Deposit Program. The approved application certifies the institution as minority and admits the financial institution into the program. Acceptance into the program entitles the institution to special assistance and guidance from Federal agencies, State and local governments, and private sector organizations.

Current Actions: There are no changes to this information collection. It is being submitted for extension purposes only.

Type of Review: Reinstatement.

Affected Public: Business or other for-profit institution.

Estimated Number of Respondent: 170.

Estimated Time Per Respondent: 15 Minutes.

Estimated Total Annual Burden Hours: 85.

Comments: Comments submitted in response to this notice will be

summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: June 19, 1996.
Mitchell A. Levine,
Assistant Commissioner.
[FR Doc. 96-16097 Filed 6-24-96; 8:45 am]
BILLING CODE 4810-35-M

[Dept. Circ. 570, 1995—Rev., Supp. No. 17]

Surety Companies Acceptable on Federal Bonds; Termination of Authority: U.S. Capital Insurance Company

Notice is hereby given that the Certificate of Authority issued by the Treasury to U.S. Capital Insurance Company, of Purchase, New York, under the United States Code, Title 31, Sections 9304-9308, to qualify as an acceptable surety on Federal bonds is terminated effective May 22, 1996.

The Company was last listed as an acceptable surety on Federal bonds at FR 34448, June 30, 1995.

With respect to any bonds currently in force with U.S. Capital Insurance Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, bonds that are continuous in nature should not be renewed.

The Treasury Department Circular 570 may be viewed and downloaded through the Internet (<http://www.ustreas.gov/treasury/bureaus/finman/c570.html>) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874-6817/6872/6953/7034/8608. A hard copy may be purchased from the Government Printing Office (GPO), Washington, DC, telephone (202) 512-0132. When ordering the Circular from GPO, use the following stock number: 048-000-00489-0.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (202/FTS) 874-7102.

Dated: June 4, 1996.
Diane E. Clark,
Assistant Commissioner, Financial Information.
[FR Doc. 96-16098 Filed 6-24-96; 8:45 am]
BILLING CODE 4810-35-M

Corrections

Federal Register

Vol. 61, No. 123

Tuesday, June 25, 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 AGRICULTURE

Animal and Plan Health Inspection Service

7 CFR Part 301

[Docket No. 91-155-19]

Mediterranean Fruit Fly; Removal of Quarantined Areas

Correction

In rule document 96-15582 beginning on page 31003 in the issue of Wednesday, June 19, 1996, make the following correction:

On page 31003, in the first column, under DATES:, in the third and fourth lines, "July 19, 1996" should read "August 19, 1996".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. CB-96-1]

Abandoned Infants Assistance and Temporary Child Care for Children With Disabilities and Crisis Nurseries Programs; Availability of Financial Assistance and Requests for Applications

Correction

In notice document 96-15321 beginning on page 30871 in the issue of Tuesday, June 18, 1996, make the following correction:

On page 30883, in the first column, under *B. Deadline for Submission of Applications*, in the first paragraph, in the third through the fifth lines, "[insert 60 days after publication in the Federal Register]" should read "August 19, 1996".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-930-06-1020-00]

Scoping Meetings on the Development of Standards for Rangeland Health and Guidelines for Grazing Management in New Mexico, Modify Land Use Plans, and Prepare National Environmental Policy Act (NEPA) Analysis Pursuant to the Planning Regulations

Correction

In notice document 96-12934 appearing on page 25886 in the issue of

Thursday, May 23, 1996, make the following correction:

On the same page, in the 2d column, in the 24th line, "June 18, 1996 at 7:00 pm," should read "June 18, 1996 at 10:00 am,".

BILLING CODE 1505-01-

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 35, 56, and 92

[CGD 95-027]

RIN 2115-AF09

Adoption of Industry Standards

Correction

In rule document 96-12428 beginning on page 25984 in the issue of Thursday, May 23, 1996, make the following corrections:

§ 35.25-1 [Corrected]

1. On page 26000, in the first column, in § 35.25-1, in section heading, "Examination" should read "Examination".

§ 56.30-35 [Corrected]

2. On page 26001, in the first column, in § 56.30-35(a), in the first line, "applied" should read "applies".

§ 92.20-40 [Corrected]

3. On page 26006, in the first column, in § 92.20-40(a), in the fourth line, "inducing" should read "including".

BILLING CODE 1505-01-D

Federal Register

Tuesday
June 25, 1996

Part II

**Department of
Housing and Urban
Development**

**Fiscal Year 1996 Public and Indian
Housing Drug Elimination Technical
Assistance Program; Notice of Funding
Availability**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR-4046-N-01]

**Office of the Assistant Secretary for
Public and Indian Housing; Public and
Indian Housing Drug Elimination
Technical Assistance Program, Notice
of Funding Availability—FY 1996**

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Public Housing Drug Elimination Technical Assistance Program Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1996.

SUMMARY: This notice announces the FY 1996 availability of \$1.5 million under the Public and Indian Housing Drug Elimination Technical Assistance Program. The purpose of this program is to provide short-term technical assistance to public housing agencies (PHAs), Indian housing authorities (IHAs), resident management corporations (RMCs), and incorporated resident councils (RCs) that are combating drug-related crime and abuse of controlled substances in public and Indian housing communities. These funds reimburse consultants who provide expert advice and work with housing authorities or resident councils to assist them in gaining skills and training to eliminate drug abuse and related problems from public housing communities. This document describes the purpose of the NOFA, applicant eligibility, selection criteria, eligible and ineligible activities, application processing, consultant eligibility, and consultant application processing. This NOFA announces several new requirements for both consultants and applicants. Both consultants and applicants are encouraged to read this NOFA carefully and note all changes to the program before completing an application for assistance.

DATES: This NOFA is effective June 25, 1996. Technical assistance applications and consultant application kits may be immediately submitted to the address specified in the application kit. Applications may be submitted anytime, up to August 16, 1996. Technical assistance applications will be reviewed on a continuing basis until August 16, 1996, or until funds available under this NOFA are expended. There is no application deadline for consultants.

ADDRESSES: (a) An application kit may be obtained from the local HUD Field Office with jurisdiction or by calling HUD's Drug Information and Strategy Clearinghouse at (800) 578-3472; or for

hearing- or speech-impaired persons (202) 708-0850 (TTY). (The TTY number is not a toll-free number.) The application kit contains information on all exhibits and requirements of this NOFA.

(b) An applicant must submit the application to the address specified in the application kit.

(c) In addition, applicants must simultaneously forward a copy of these documents to the HUD Field Office (FO) or Office of Native American Programs (ONAP) with jurisdiction over the relevant housing authority. HUD might not consider the application until the appropriate FO or ONAP has confirmed receipt with the appropriate office in Washington, DC. This copy must be addressed to Director, Public Housing Division, or Administrator, Office of Native American Programs, as appropriate.

FOR FURTHER INFORMATION CONTACT: For questions regarding the Public Housing Drug Elimination program contact Elizabeth Cocke, Crime Prevention and Security Division (CPSD), Office of Community Relations and Involvement (OCRI), Room 4112, telephone (202) 708-1197. For questions regarding the Native American program contact Tracy Outlaw, Office of Native American Programs (ONAP), Room B133, telephone (202) 755-0088.

The address for the above persons is: Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410. Hearing- and speech-impaired persons may access the telephone numbers via TTY by calling the Federal Information Relay Service at 1-800-877-8339. (With the exception of the "800" number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this Notice have been submitted to the Office of Management and Budget for a temporary extension of the control number, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). A notice requesting public comment on this extension was published in the Federal Register on June 6, 1996 (61 FR 28886). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

I. Purpose and Substantive Description

(a) Purpose

The TA program is intended to provide immediate, short-term (90 days for completion) training, recommendations, and assistance to assess needs, train staff and residents, identify and design appropriate strategies to eliminate drugs and drug-related crime, and generally prepare and educate public housing and resident organization staff and residents to address problems related to crime and the abuse of controlled substances in public housing communities. HUD encourages housing authorities and eligible resident organizations with or without a drug elimination grant in their communities to use this resource. Technical assistance is not intended for program implementation, the financial support of existing programs, or programs requiring more than 30 billable days of technical assistance over a 90 day period.

(b) Allocation Amounts

The Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134, approved April 26, 1996) (OCRA) appropriated \$290 million in FY 1996 funds for HUD's low-income housing drug elimination programs. Of this amount, OCRA set aside \$10 million for "grants, technical assistance, contracts and other assistance training, program assessment and execution for or on behalf of public housing agencies and resident organizations." This NOFA makes \$1.5 million out of this \$10 million available under the Public and Indian Housing Drug Elimination Technical Assistance program. Applications received from HAs and qualified RCs, ROs, and RMCs are eligible for a maximum amount of TA no greater than approximately \$15,000. NOTE: The average amount of TA provided any one application in this program has been approximately \$10,000. The amount of \$15,000 is a maximum funding ceiling and is not guaranteed. Only HUD-initiated TA is eligible for a maximum of \$25,000. NOTE: The TA program reserves the \$25,000 maximum for instances where HUD determines the circumstances to require levels of assistance greater than \$15,000.

(c) Eligibility

The following is a listing of eligible applicants, eligible consultants, eligible activities, ineligible activities, and general program requirements under this NOFA.

(1) Eligible Applicants

(i) Public housing agencies (PHAs), Indian housing authorities (IHAs), incorporated resident councils (RCs), resident organizations (ROs) in the case of IHAs, and resident management corporations (RMCs) are eligible to receive short-term technical assistance services under this NOFA.

(ii) An eligible RC or RO must be an incorporated nonprofit organization or association that meets each of the following requirements:

(A) It must be representative of the residents it purports to represent.

(B) It may represent residents in more than one development or in all of the developments of a PHA or IHA, but it must fairly represent residents from each development that it represents.

(C) It must adopt written procedures providing for the election of specific officers on a regular basis (but at least once every three years).

(D) It must have a democratically elected governing board. The voting membership of the board must consist of residents of the development or developments that the resident organization or resident council represents.

(iii) An eligible RMC must be an entity that proposes to enter into, or that enters into, a management contract with a PHA under 24 CFR part 964, or a management contract with an IHA. An RMC must have each of the following characteristics:

(A) It must be a nonprofit organization that is incorporated under the laws of the State or Indian tribe in which it is located.

(B) It may be established by more than one resident organization or resident council, so long as each such organization or council:

(1) Approves the establishment of the corporation; and

(2) Has representation on the Board of Directors of the corporation.

(C) It must have an elected Board of Directors.

(D) Its by-laws must require the Board of Directors to include representatives of each resident organization or resident council involved in establishing the corporation.

(E) Its voting members must be residents of the development or developments it manages.

(F) It must be approved by the resident council. If there is no council, a majority of the households of the development must approve the establishment of such an organization to determine the feasibility of establishing a corporation to manage the development.

(G) It may serve as both the resident management corporation and the resident council, so long as the corporation meets the requirements of 24 CFR part 964 for a resident council. (In the case of a resident management corporation for an Indian Housing Authority, it may serve as both the RMC and the RO, so long as the corporation meets the requirements of this NOFA for a resident organization.)

(iv) Applicants are eligible to apply to receive technical assistance if they are already receiving technical assistance under this program, as long as the request creates no scheduling conflict with other TA requests from the same applicant.

(v) Applicants are eligible to apply to receive technical assistance whether or not they are already receiving drug elimination funds under the Public and Indian Housing Drug Elimination Program.

(vi)(A) In circumstances determined by HUD to be crime and drug-related and to require immediate attention because of drug and crime issues, eligible parties may receive technical assistance initiated and approved by HUD. These circumstances may include, for example:

(1) HAs unsuccessful in gaining Drug Elimination or Youth Sports Program grants;

(2) Applicants which have a demonstrated inability to explain their local drug or crime circumstances;

(3) Applicants with a demonstrated inability to identify or develop potential solutions to their local drug or crime problem;

(4) Applicants unable to develop local anti-drug, anti-crime partnerships;

(5) The need for training;

(6) Pervasive drug-related violence; and

(7) Disputes among tenants and disputes between tenants and management that are related to these issues.

(B) In instances of HUD-initiated TA, HUD staff requesting the TA will be required to explain the situation of the targeted housing authority or qualified resident council in terms of the three selection criteria outlined in section I.(d) of this NOFA which will be documented in the file, and used to choose a consultant and design and target the TA.

(vii) The applicant must have substantially complied with the laws, regulations, and Executive Orders applicable to the Drug Elimination TA Program, including applicable civil rights laws. Noncompliance may be evidenced by:

(A) An outstanding finding of civil rights noncompliance, unless the applicant demonstrates that it is operating in compliance with a HUD-approved compliance agreement designed to correct the area(s) of noncompliance;

(B) An adjudication of a civil rights violation in a civil action brought against it by a private individual, unless the applicant demonstrates that it is operating in compliance with a court order designed to correct the area(s) of noncompliance;

(C) A deferral of Federal funding based upon civil rights violations; (D) A pending civil rights suit brought against it by the Department of Justice; or

(E) An unresolved charge of discrimination issued against it by the Secretary under section 810(g) of the Fair Housing Act, as implemented by 24 CFR 103.400.

(2) Eligible Consultants

Consultants who want to provide short-term technical assistance services under this NOFA must be listed in the Consultant Database approved by HUD's Crime Prevention and Security Division (CPSD). To be included in that database, consultants must complete, in accordance with the requirements of section I.(c)(2)(ii), below, of this NOFA, a consultant application packet available from the Drug Information and Strategy Clearinghouse at (800) 578-3472, or (202) 708-0850 (TTY), and submit the packet to the address specified in the application kit. (The TTY number is not a toll-free number.)

(i) Consultant eligibility. HUD is seeking individuals or entities who have experience working with public or Indian housing or other low-income populations to provide short-term technical assistance under this NOFA. Consultants who have previously been deemed eligible and are part of the TA Consultant Database need not reapply, but they are encouraged to update their file with more recent experience and rate justification. To qualify as eligible consultants, individuals or entities should have experience in one or more of the following general areas:

(A) PHA/IHA-related experience with:

(1) Agency organization and management;

(2) Facility operations;

(3) Program development; and

(4) Experience working with residents and community organizations.

(B) Anti-crime- and anti-drug related experience with:

(1) Prevention/intervention programs;

(2) Enforcement strategies; and

(3) Alternative programs.

(C) Experience as an independent consultant, or as a consultant working

with a firm with related experience and understanding of on-site work requirements, contractual, reporting and billing requirements.

(D) HUD is especially interested in encouraging TA consultant applications from persons who are qualified in the following professional areas:

(1) Lease, screening and grievance procedures;

(2) Defensible space, security and environmental design;

(3) Parenting, peer support groups and youth leadership;

(4) Career planning, job training, tutoring and entrepreneurship;

(5) Community policing, neighborhood watch and anti-gang work; and

(6) Resident organizing, involvement, and relations with management.

(E) HUD especially encourages PHAs, IHAs, PHA/IHA employees, RMCs, incorporated resident councils and resident organizations, and public and Indian housing residents, with experience in the above areas, to submit a consultant application for eligibility under this NOFA. Eligible consultants will be entered into the Consultant Database for possible recommendation to technical assistance applicants.

(ii) Applying to be a consultant. Individuals or entities interested in being listed in the TA Consultant Database should prepare their applications and send them to the address specified in the application kit. Before they can be entered into the Consultant Database, consultants must submit an application that includes the following information:

(A) The Consultant Resource Inventory Questionnaire, including at least three written references, all related to the general areas listed above in sections I. (c)(2)(A)–(C). One or two of the written references must relate to work for a public or Indian housing authority, RC, RO or RMC;

(B) A resume;

(C) Evidence submitted by the consultant to HUD that documents the standard daily fee previously paid to the consultant for technical assistance services similar to those requested under this NOFA.

(I) For consultants who can justify up to the equivalent of ES–IV per day, this evidence may include an accountant's statement, W–2 Wage Statements, or payment statements, and it should be supplemented with a signed statement or other evidence from the employer of days worked in the course of the particular project (for a payment statement) or the tax year (for a W–2 Statement).

(2) For consultants who can justify above the equivalent of ES–IV per day, there must be three forms of documentation of the daily rate:

(i) A previous invoice and payment statement showing the daily rate charged and paid, or the overall amount paid and the number of days for work of a similar nature to that offered in this TA program;

(ii) A certified accountant's statement outlining the daily rate with an explanation of how the rate was calculated by the accountant. This should include at a minimum the total number of jobs of a similar nature completed by the consultant in the past 12 months, an explanation of the specific jobs used to calculate the rate, and the daily rates for each of the jobs used to justify the rate; and

(iii) A signed statement from the consultant that the certified daily rate was charged for work of a nature similar to that being provided for the Drug Elimination Technical Assistance Program. The accountant must be able to demonstrate independence from the consultant's business.

(iii) Working and billing in the TA program. No one individual may have active at one time any more than three contracts or purchase orders. If an individual is working as a member of a multi-person firm, the key individual for the specific contract must be listed on the contract as the key point of contact. The key point of contact must be on-site more hours than any other contracted staff billing to the purchase order, and that individual may have no more than three purchase orders active at the same time.

(iv) Consultant payment. HUD will determine a specific fee to pay a consultant under this NOFA based upon the evidence submitted in section I(c)(2)(ii)(C), above, of this NOFA.

(v) Conflicts of interest. In addition to the conflict of interest requirements in 24 CFR part 85:

(A) No person who is an employee, agent, officer, or appointed official of the applicant may be funded as a consultant to the applicant by this Drug Elimination Technical Assistance Program.

(B) Consultants who wish to provide drug elimination technical assistance services through this program may not have any involvement in the preparation or submission of the TA proposal that requests their services. Any involvement of the consultant will be considered a conflict of interest, which makes the consultant ineligible for providing consulting services to the applicant and could disqualify the consultant from future consideration.

This prohibition includes the preparation and distribution of prepared generic or sample applications, if HUD determines that any application by a HA, RC, RO or RMC duplicates a sufficient amount of any prepared sample to raise issues of possible conflict of interest.

(C) Consultants may no longer be requested by name in any application. HUD will recommend consultants considering at least three elements including previous experience, proximity and cost. Section I.(e)(2)(ii) of this NOFA explains this further.

(3) Eligible Activities

To assist the eligible applicants identified in section I.(c)(1), above, of this NOFA, in responding immediately to drug-related problems in public and Indian housing developments, HUD has supplemented the Public and Indian Housing Drug Elimination Program (PHDEP) and Youth Sports Program (YSP) with funds for short-term technical assistance. Short-term technical assistance means that consultants shall only be reimbursed for a maximum of 30 days of work, which must be completed in less than 90 days from the date of the approved statement of work. The TA program is intended to provide *short-term, immediate assistance* to PHAs, IHAs, RMCs, RCs, and ROs in developing and/or implementing their strategies to eliminate drugs and drug-related crime. The program will fund the use of consultants who can provide the necessary consultation and/or training for the types of activities outlined below. HUD will fund the use of consultants who will assist the applicant in undertaking a task such as program planning and development for future strategies to eliminate drugs and drug-related crime, or conducting a needs assessment or survey. The TA program also funds efforts in:

(i) Assessing drug problems in public or Indian housing development(s) and surrounding community(ies);

(ii) Designing and identifying appropriate anti-crime- and anti-drug-related practices and programs in the following areas:

(A) Law enforcement strategies, including negotiating with the local police, working with Federal law enforcement, Operation Safe Home, Weed and Seed, and other federal anti-crime efforts;

(B) Resident involvement in all aspects of the local anti-drug, anti-crime activities;

(C) Youth initiatives;

(D) Resident Patrols;

(E) Security and physical design;

(F) Community organization and leadership development; and
 (G) Other areas that meet the purposes of eliminating drugs and drug-related crime described in this NOFA, as determined by HUD.

(iii) Training for housing authority staff and residents in anti-crime and anti-drug practices, programs, and management;

(iv) Improving overall agency management, operations, and programming so that the applicant can more effectively respond to crime and drug problems in the targeted public housing development(s).

(4) Ineligible Activities

(i) Funding is not permitted for any type of monetary compensation for residents unless the residents are listed in the TA Consultant Database and are working as consultants.

(ii) Funding is not permitted for any activity that is funded under any other HUD program; including TA and training for the incorporation of resident councils or RMCs, and other management activities.

(iii) Funding is not permitted for salary or fees to the staff of the applicant, or former staff of the applicant within a year of his or her leaving the housing authority or resident organization.

(iv) Funding is not permitted for underwriting conferences.

(v) Funding is not permitted for conference speakers unless the speaker will also be providing additional TA as outlined in the eligible activities in sections I.(c)(3)(i)-(iv), above, of this NOFA.

(vi) Funding is not permitted for program implementation, proposal writing, the purchase of hardware or equipment, or any activities deemed ineligible in the Drug Elimination Program, excluding consultant's fees.

(5) General Program Requirements

(i) Applications for short-term technical assistance may be funded up to \$15,000 per request, with HUD providing payment directly to the authorized consultant for the consultant's fee, travel, room and board, and other approved costs.

(ii) For technical assistance initiated by HUD, the TA may be for any amount up to \$25,000.

(iii) Applicants that have not previously received technical assistance under this program may submit only one application initially. After the applicant's initial technical assistance report has been received and reviewed by HUD or the contractor administering the program, as appropriate, the

applicant may submit multiple applications. For TA initiated by HUD an applicant may have more than one TA opportunity active at the same time.

(iv) Applications must be signed and certified by both the Executive Director and a resident leader, certifying the following:

(A) That a copy of the application was sent to the local HUD Field Office, Director of Public Housing Division, or Administrator, Office of Native American Programs; and

(B) That the application was reviewed by both the Housing Authority Executive Director, and a resident leader.

(d) Selection Criteria/Rating Factors

An application must include the minimum required elements and cannot request assistance for ineligible activities as listed in section I.(c)(4), above, of this NOFA. If HUD receives more than one application from a HA, or group of RCs, ROs, or RMCs in proximity to one another, HUD may exercise discretion to consider any two or more applications as one, recommending one or more consultants and executing contracts for any combination of applications. As an example, if three resident councils at one HA, or three HAs within one geographic area submit three separate TA applications within the same period of time, HUD may contract with one, two or three consultants to carry out the work, as HUD determines the best use of HUD funds, and the best outcomes for the applicants. Applications will be scored according to the criteria outlined below. Applicants must address the specific questions directly as listed below. This is a new requirement, and the criteria require more specific information than applications in previous years. Applicants are encouraged to review these criteria carefully before submitting an FY 1996 TA application.

(1)(i) The extent to which the applicant needs short-term technical assistance. This will be measured by the applicant's discussion of the problems that triggered the request for assistance under this NOFA. (Maximum points: 5) For the maximum of five points allowed for this criterion, the discussion must include answers to each of the following questions:

(A) What kind of drug-related crime problem do you see in your community?

(B) What types of drugs are being used or drug-related crimes are being committed?

(C) Are housing authority residents selling or using drugs, or committing the crimes? What about non-residents?

(D) What type of problems are you requesting assistance for in this application?

(E) How are those problems related to the drug and drug-related crime problems outlined above?

(ii) If the applicant cannot provide answers to each of these questions, but wishes to receive the maximum of five points allowed for this criterion, the applicant's discussion for this criterion must include answers to each of the following questions:

(A) What prevents you from identifying the problems?

(B) What prevents you from describing the problems?

(C) What prevents you from measuring the problems? (Maximum points: 5)

(2) The extent to which the applicant clearly describes the kind of technical assistance and skills needed to address the problems, and how well the technical assistance requested will address the problems. To receive the maximum of five points, the discussion for this criterion must address each of the following:

(i) Describe what you would like a consultant to do to help you with the problems outlined in Factor One.

(ii) Whom would you like the consultant to meet when the consultant is on-site?

(iii) What do you want the consultant to do when on-site?

(iv) What do you want in place after the consultant is finished on-site? (Maximum points: 5)

(3) The likelihood that the requested technical assistance will assist the applicant's current strategy to eliminate drugs and drug-related crime, as described in the application; or, if the applicant does not currently have a strategy, the extent to which the technical assistance will help them develop a strategy to eliminate drugs and drug-related crime. To receive the maximum of five points, the discussion for this criterion must address each of the following:

(i) Describe the steps you and your organization are currently taking to measure, understand or address the drug-related crime problem in your development or housing authority.

(ii) How will the proposed assistance support these efforts?

(iii) Describe how the proposed assistance will allow you to develop an anti-drug, anti-crime strategy; or describe how the proposed assistance fits into your current strategy. (Maximum points: 5)

*(e) Application Review, Awards, and Payment***(1) Application Review**

Applications for Technical Assistance will be reviewed and scored as they are received. Consultant applications will be received throughout the year with no deadline. A TA application must include both the descriptive letter (or form provided in the application kit) and certification statement (or form provided in the application kit) to be eligible for funding. All applications that qualify on the basis of the minimum required elements will be scored on the basis of the selection criteria in section I.(d), above, of this NOFA. Applications must receive a total of 8 or more points, with no less than 2 points in any of the three selection criteria in section I.(d), above, of this NOFA to be eligible for funding. Eligible applications will be funded in the order in which negotiations for a statement of work are completed between the consultant and the program administrator until all funds are expended. The basis for each funding decision under this section will be documented.

(2) Application Awards

(i) If the application includes the descriptive letter (or forms) requesting eligible activities, the certification statements (or form), and scores at least 8 points as described in section I.(e)(1), above, of this NOFA, it is eligible for funding. If sufficient funds are available to fund the technical assistance request, staff will confer with the applicant to confirm the work requirements.

(ii) If HUD receives more than one application from a HA, or group of RCs, ROs or RMCs in proximity to one another, HUD may exercise discretion to consider any two or more applications as one, recommending consultants and executing contracts for any combination of applications. The TA Consultant Database will be searched to choose at least three consultants who: (1) have a principal place of business or residence located within a reasonable distance from the applicant, as determined by HUD or its agent; or (2) appear to have the requisite knowledge and skills to assist the applicant in addressing its needs. An employee of a housing agency (HA) may not serve as a consultant to his or her employer. An HA employee who serves as a consultant to someone other than his or her employer must be on annual leave to receive the consultant fee. Applicants may not request any specific consultant. A list of the suggested consultants will be forwarded to the applicant. From this

list, the applicant will recommend a consultant to provide the requested technical assistance. Instructions for consultants who wish to be included in the TA Consultant Database are outlined above in section I.(c)(2)(ii) of this NOFA.

(iii) The applicant must contact each TA consultant from the list provided. HUD may request confirmation from each recommended consultant to ensure that all consultants have been contacted by the applicant. If HUD determines that any consultant was not contacted, HUD may consider the recommendation by the applicant void, and can choose a consultant independent of the applicant. After making contact with each consultant, the applicant must send a written justification to HUD with a list of the consultants in order of preference, indicating any that are unacceptable, and stating the reasons for its preference. If the applicant does not provide HUD the written justification of consultant choice within the period requested, HUD will make its own choice of a consultant and proceed to negotiate a statement of work with the consultant. There is no guarantee that the applicant's first preference will be approved. Consultants will only be approved for the TA if the request is not in conflict with other requests for the consultant's services.

(iv) Staff designated by HUD will work with the consultant and applicant to develop a statement of work that includes a timeline and estimated budget. The statement of work should also include a discussion of the kind of technical assistance and skills needed to address the problem, and how the technical assistance requested will address these needs; and a description of the current crime and drug elimination strategy, and how the requested technical assistance will assist that strategy. If the applicant does not currently have a strategy, there should be a statement of how the technical assistance will help them develop a crime and drug elimination strategy. When HUD has completed the authorization to begin work, the consultant will be contacted to start work. The consultant must receive written authorization from HUD or its authorized agent before he or she can begin to provide technical assistance under this NOFA. The applicant and the relevant Field Office or Office of Native American Programs will also be notified. Because this program is for short-term technical assistance, consultants shall only be reimbursed for a maximum of 30 days of work, which must be completed in fewer than 90 days from the date of the approved

statement of work. Work begun before the authorized date will be considered unauthorized work and may not be compensated by the Department.

(3) TA Consultant Work and Reports

HUD is working to improve the quality of TA consultant reports and invoices and has added requirements to improve the quality of reports and invoices, both for the benefit of the applicant, and for a record that will reflect the level of funds expended for the services. Reports and invoices which do not include the new elements or meet the new standard will be returned to the consultant. If HUD returns a disapproved report or invoice to a consultant, HUD may withhold up to 25 percent of the payment requested by the consultant, or authorized in the purchase order, for the related work. HUD may also deny further work to the consultant in the TA program until the report or invoice is accepted by HUD. Examples of reports and invoices considered reasonable by HUD are available from the Drug Information and Strategy Clearinghouse, at 1-800-578-3472. Consultants are encouraged to obtain copies and use these as models before submitting an invoice or report in FY 1996. Previously acceptable standards may no longer be accepted by HUD.

(4) Payment of TA Consultants

The consultant must submit a report of its activities, findings and recommendations, a fee invoice, and expenses and original receipts to the address specified in the application kit. A copy of the report must also be submitted to the applicant. A revised FY 1996 version of the "Guidelines for Consultants" book, available from the Clearinghouse, describes the required elements of these reports. These required elements have changed from previous years and consultants are encouraged to review them closely to make sure all invoices and reports follow the new guidelines before submitting an invoice or report. After the report and expenses have been approved, and a verbal or written evaluation is received from the applicant, payment will be issued to the consultant.

II. Application Process

(a) Application Kit. An application kit may be obtained from the local HUD Field Office or Office of Native American Programs, or by calling HUD's Drug Information and Strategy Clearinghouse at (800) 578-3472 or (202) 708-0850 (TTY) (The TTY number is not a toll-free number). The

application kit contains information on all exhibits and requirements of this NOFA. Requirements in the new FY 1996 Application Kit have changed from previous years and applicants are encouraged to carefully review the requirements to make sure that the application meets all requirements before submission.

(b) Application Submission. This NOFA is effective upon publication. Short-term (90 days for completion) technical assistance applications and consultant application kits may be immediately submitted to the address specified in the application kit. The application submission deadline for the short-term technical assistance grants available under this NOFA is August 16, 1996. Technical assistance applications will be reviewed on a continuing first-come, first-served basis, until funds under this NOFA are no longer available or until August 16, 1996. Applicants are encouraged to submit their applications as early as possible in the fiscal year.

(1) An applicant must submit the application and the necessary assurances to the address specified in the application kit.

(2) In addition, applicants must simultaneously forward a copy of these documents to the HUD Field Office or Office of Native American Programs with jurisdiction over the relevant housing authority. This copy must be addressed to Director, Division of Public Housing, or Administrator, Office of Native American Programs, as appropriate.

III. Checklist of Application Submission Requirements

Each application for a grant under this program must include the following:

(a) An application will not be considered for funding unless it includes, at a minimum, the following elements:

(1) An application letter of no more than four pages that responds to each of the selection criteria in section I(d), above, of this NOFA, or the completed application forms available in the application kit; and

(2) A certification statement, or the form provided in the application kit, signed by the executive director of the housing authority and the authorized representative of the RMC or incorporated RC or RO, certifying that any technical assistance received will be used in compliance with all requirements in the NOFA, including those outlined in I(a)(3)-(4); and

(b) A completed and signed HUD Form 2880.

IV. Corrections to Deficient Applications

(a) HUD will notify an applicant, in writing or by telephone, of any curable technical deficiencies, such as a missing signature in the application. A log of telephone notifications will be maintained. The applicant must correct the deficiency in accordance with the information specified in HUD's notification. The application will not be given further consideration until the deficiency is corrected.

(b) Curable technical deficiencies relate to items that are not necessary to make a determination of an applicant's eligibility. The items necessary for this determination are listed at section III.(a), above, of this NOFA, although missing signatures on the application letter, certification, or forms are curable.

V. Other Matters

(a) Nondiscrimination and Equal Opportunity

The following nondiscrimination and equal opportunity requirements apply:

(1) The requirements of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3600-20) (Fair Housing Act) and implementing regulations issued at subchapter A of title 24 of the Code of Federal Regulations, as amended by 54 FR 3232 (published January 23, 1989); Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(2) The Indian Civil Rights Act (title II of the Civil Rights Act of 1968) (25 U.S.C. 1301-1303) (ICRA) provides that no Indian tribe in exercising powers of self-government shall deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law. The Indian Civil Rights Act applies to any tribe, band, or other group of Indians subject to the jurisdiction of the United States in the exercise of recognized powers of self-government. The ICRA is applicable in all cases where an IHA has been established by exercise of tribal powers of self-government.

(3) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against individuals with disabilities under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and

implementing regulations at 24 CFR part 8;

(4) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR Chapter 60;

(5) The requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131) and implementing regulations at 29 CFR part 1640, 28 CFR part 35, and 28 CFR part 36.

(6) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(b) Use of Debarred, Suspended, or Ineligible Contractors

Applicants for short-term technical assistance under this NOFA are subject to the provisions of 24 CFR part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(c) Drug-Free Workplace Act of 1988

The requirements of the Drug-Free Workplace Act of 1988 and implementing regulations at 24 CFR part 24, subpart F apply under this notice.

(d) Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(b) of the HUD regulations, the policies and procedures proposed in this document are determined not to have the potential of having a significant impact on the quality of the human environment, and therefore are categorically excluded from the requirements of the National Environmental Policy Act of 1969. Accordingly, a Finding of No Significant Impact is not required.

(e) Family Impact

The General Counsel, as the Designated Official for Executive Order 12606, The Family, has determined that the provisions of this NOFA have the potential for a positive, although indirect, impact on family formation, maintenance, and general well-being within the meaning of the Order. The NOFA is designed to assist housing authorities and resident organizations in their anti-drug-related efforts by providing short-term technical assistance. HUD expects that the provision of such assistance will better

prepare and educate housing authority and resident organization officials to confront the widespread abuse of controlled substances in public housing communities. This, in turn, would indirectly affect the quality of life for housing residents.

(f) Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this NOFA do not have federalism implications within the meaning of the Order. The NOFA provides short-term technical assistance to housing authorities and resident organizations to assist them in their anti-drug efforts in public housing communities. The involvement of resident organizations should greatly increase the success of the anti-drug efforts under this technical assistance program and therefore should have positive effects on the target population. As such, the program helps housing authorities to combat serious drug problems in their communities, but it does not have federalism implications.

(g) Section 102 HUD Reform Act—Documentation and Public Access Requirements; Applicant/Recipient Disclosures

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24

CFR part 15. (See 24 CFR subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942) for further information on these disclosure requirements.)

Public notice. HUD will include recipients that receive assistance pursuant to this NOFA in its Federal Register notice of recipients of all HUD assistance awarded on a competitive basis. (See 24 CFR 12.16(b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942) for further information on these requirements.)

(h) Section 103 HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708-3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether

particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

(i) Prohibition Against Lobbying Activities. The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying.

Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding \$100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance. Indian Housing Authorities established by an Indian Tribe as a result of the exercise of their sovereign power are excluded from coverage, but IHAs established under state law are not excluded from coverage.

Authority: Pub. L. 104-34, 110 Stat. 1321 (1996).

Dated: April 25, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 96-16086 Filed 6-24-96; 8:45 am]

BILLING CODE 4210-33-P

Federal Register

Tuesday
June 25, 1996

Part III

Department of Labor

41 CFR Part 50-203

Administrative Review Board: Correction;
Final Rule

DEPARTMENT OF LABOR

41 CFR Part 50-203

Establishment of the Administrative Review Board; Final Rule; Correction

AGENCY: Department of Labor.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final regulations which were published Friday, May 3, 1996 (61 FR 19982). The regulations established the Administrative Review Board and consolidated, within this one entity, the authority delegated by the Secretary of Labor to decide administrative appeals and matters under administrative review.

EFFECTIVE DATE: May 3, 1996.

FOR FURTHER INFORMATION CONTACT:

David A. O'Brien, U.S. Department of Labor, Room S-4309, 200 Constitution

Avenue, NW, Washington, DC 20210, Telephone (202) 219-4728.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction established the Administrative Review Board and consolidated, within this one entity, the authority delegated by the Secretary of Labor to decide administrative appeals and matters under administrative review.

Need for Correction

The document published on May 3rd contained 92 paragraphs of amendment. Due to inadvertence, one sentence in the regulations (that being the second sentence in § 50-203.8(a)) was overlooked and not included in the amendatory process. This document corrects that omission.

Correction of Publication

Accordingly, the publication on May 3, 1996 of the final regulations (Establishment of the Administrative Review Board) which were the subject of FR Doc. 96-9910, is corrected as follows:

On page 19987, in the third column, insert a new amendatory paragraph, entitled paragraph 71a, to read as follows:

§ 50-203.8 [Corrected]

“71a. In § 50-203.8(a) remove the words “Trial Examiner(s)” and add, in their place, the words “administrative law judge(s)”, wherever they appear in the second and third sentences.

Signed at Washington, D.C. this 20th day of June, 1996.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 96-16161 Filed 6-24-96; 8:45 am]

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Tuesday, June 25, 1996

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FEDERAL REGISTER PAGES AND DATES, JUNE

27767-27994.....	3
27995-28466.....	4
28467-28722.....	5
28723-29000.....	6
29001-29266.....	7
29267-29458.....	10
29459-29632.....	11
29633-29922.....	12
29923-30126.....	13
30127-30494.....	14
30495-30796.....	17
30797-31002.....	18
31003-31386.....	19
31387-31816.....	20
31817-32316.....	21
32317-32628.....	24
32629-32910.....	25

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:	
6902.....	28465
6903.....	29633
6904.....	30797
Executive Orders:	
October 22, 1854	
(Revoked in part by PLO 7022).....	29758
February 1, 1886 (See PLO 7148).....	29129
April 13, 1912	
(Revoked by PLO 7200).....	29758
December 31, 1912	
(Revoked in part by PLO 7199).....	29128
12880.....	28721
12963 (Amended by EO 13009).....	30799
13008.....	28721
13009.....	30799
Administrative Orders:	
Presidential Determinations:	
96-27 of May 28, 1996.....	29001
96-28 of May 29, 1996.....	29453
96-29 of May 31, 1996.....	29455
96-30 of June 3, 1996.....	29457
96-31 of June 6, 1996.....	30127
96-32 of June 14, 1996.....	32629
96-33 of June 21, 1996.....	32631
Memorandums:	
96-26 of May 22, 1996.....	27767

8 CFR

103.....	28003
299.....	28003
Proposed Rules:	
214.....	30188
273.....	29323

9 CFR

92.....	31391
94.....	32646
113.....	31822
Proposed Rules:	
1.....	30545
3.....	30545
92.....	27797, 28073
95.....	30189
101.....	29462
112.....	29462
113.....	31822

10 CFR

30.....	29636
40.....	29636
50.....	30129
51.....	28467
70.....	29636
71.....	28723
72.....	29636
436.....	32647
1703.....	28725

11 CFR

Proposed Rules	
20.....	31874
34.....	30837
150.....	30839
170.....	30839
430.....	28517
11CFR	
100.....	31824
110.....	31824

114.....31824	121.....29000, 30551	103.....27771	89.....29941
12 CFR	135.....30551	104.....27771	514.....29285
219.....29638, 32317	241.....32375	105.....27771	Proposed Rules:
336.....28725	250.....27818	109.....27771	603.....30009
615.....31392	15 CFR	137.....27771	23 CFR
747.....28021	Ch. XII.....30509	161.....27771	1206.....28745
Proposed Rules:	902.....31228, 32538	163.....27771	1215.....28747
204.....30545	Proposed Rules:	172.....27771	1230.....28750
229.....27802	902.....29628	175.....29474	Proposed Rules:
543.....32713	946.....28804	177.....28049, 29474	655.....29234, 29624
544.....32713	16 CFR	178.....28051, 28525, 31395	777.....30553
545.....29976, 30190, 32713	Ch. I.....32323	182.....27771	24 CFR
552.....32713	305.....29939	186.....27771	92.....32220
556.....30190, 32713	1010.....29646	189.....29650	290.....32192
559.....29976	1019.....29646	197.....27771	570.....32196
560.....29976, 30190	Proposed Rules:	200.....29476	954.....32220
563.....29976, 30190, 32713	419.....29039	201.....28525	3500.....59238, 29255, 29258, 29264
567.....29976	17 CFR	250.....29476	Proposed Rules:
571.....29976, 30190	210.....30397	310.....29476	35.....29170
575.....32713	228.....30376, 30397	520.....29477, 29650, 31027, 31397	36.....29170
703.....29697	229.....30376, 30397	522.....29478, 29479, 29480, 31027, 31028	37.....29170
704.....28085	230.....30397	556.....29477, 31028, 31398	25 CFR
709.....28085	232.....30397	558.....29477, 29481, 30133, 32651	63.....32200
741.....28085	239.....30397	700.....27771	65.....27780
1270.....29592	240.....30376, 30396, 30397	701.....28525	66.....27780
14 CFR	249.....30376, 30397	Proposed Rules:	76.....27780
1.....31324	Proposed Rules:	1.....28116	900.....32482
25.....28684	1.....28806	2.....28116	Proposed Rules:
27.....29928, 29931	230.....30405	3.....28116	1.....27821
29.....29931	239.....30405	5.....28116	2.....31875
33.....28430, 31324	240.....30405	10.....28116	142.....31470
39.....28028, 28029, 28031, 28497, 28498, 28730, 28732, 28734, 28736, 28738, 29003, 29007, 29009, 29267, 29269, 29271, 29274, 29276, 29278, 29279, 29465, 29467, 29468, 29641, 29642, 29931, 29932, 29934, 30501, 30505, 30801, 31007, 31009, 31824, 31825, 32317, 32318	249.....30405	12.....28116	150.....27822
71.....28033, 28034, 28035, 28036, 28037, 28038, 28039, 28040, 28041, 28042, 28043, 28044, 28045, 28740, 28741, 28742, 28743, 29472, 29645, 29336, 29937, 29938, 30507, 30670, 30803, 31013, 31014, 31015, 31016, 31017, 31018, 31019, 31020, 32322, 32651	274.....30405	56.....28116	154.....30559
73.....30508, 31021, 31022	18 CFR	58.....28116	161.....29285
91.....28416	35.....30509, 31394	70.....29701	162.....30560
95.....27769	37.....30804	71.....29701	166.....27824
97.....29015, 29016, 31827, 31828, 31830	385.....30509, 31394	80.....29701	175.....29040
119.....30432	19 CFR	101.....28525, 29701, 29708	217.....27831
121.....28416, 30432, 30726, 30734	10.....28932	107.....29701	271.....27833
125.....28416	12.....28500, 28932	170.....29701, 29711	272.....27833
135.....28416, 30432, 30734	102.....28932	171.....29701, 29711	274.....27833
302.....29282	134.....28932	172.....29701, 29711	277.....27833
373.....29284	178.....28500	173.....29701, 29711	278.....27833
399.....29018, 29645, 29646	Proposed Rules:	174.....29701	290.....29044
Proposed Rules:	19.....28808	175.....29701, 29711	26 CFR
Ch. I.....28803	101.....30552	176.....29711	1.....30133, 32653
39.....28112, 28114, 28518, 28520, 29038, 29499, 29501, 29697, 29992, 29994, 29996, 30548, 31059, 31061, 32369	113.....28808	177.....29701, 29711	26.....29653
71.....28803, 29449, 29699, 29700, 30550, 30842, 30843, 31063, 31064, 31065, 31066, 31067, 31068, 31069, 32371, 32372, 32374	122.....30552	178.....29701, 29711	40.....28053
	132.....28522	182.....29711	48.....28053
	144.....28808	184.....29701, 29711	602.....30133
	151.....28522	200.....29502	Proposed Rules:
	351.....28821	250.....29502	1.....27833, 27834, 28118, 28821, 28823, 30845, 31473, 31474, 32728
	353.....28821	310.....29502	26.....29714
	355.....28821	343.....30002	31.....28823
20 CFR	20 CFR	500.....31468	35a.....28823
209.....31395	209.....31395	730.....29708	301.....28823, 29653, 30012
404.....28046, 31022	404.....28046, 31022	801.....32618	502.....28823
416.....31022	416.....31022	864.....30197	503.....28823
		1250.....29701	509.....28823
		22 CFR	513.....28823
		4.....32327	514.....28823
		50.....29651	516.....28823
		51.....29940	517.....28823
		81.....29940	520.....28823
		82.....29940	521.....28823
		83.....29940	602.....29653
		84.....29940	27 CFR
		85.....29940	9.....29949, 29952
		86.....29940	
		87.....29940	
		88.....29940	

17.....31399	668.....29898, 29960, 31035	Proposed Rules:	161.....28260
19.....31399	685.....29898, 31358	Ch. I.....31883	252.....32705
24.....31029	Proposed Rules:	35.....30472	272.....32706
70.....29954, 31029, 31399	701.....27990	50.....29719	Proposed Rules:
71.....29954	36 CFR	52.....28531, 28541, 29508, 29515, 29725, 30023, 30024, 31073, 31885, 32385, 32386	10.....31332
170.....31029, 31399	6.....28504	59.....32729	15.....31332
194.....31399	7.....28505, 28751	60.....31736	47 CFR
200.....29956	17.....28506	62.....29725	Ch. I.....30531
250.....31399	1228.....32335	63.....30846	0.....29311, 31044
Proposed Rules:	1232.....32335	70.....30570, 32391	2.....31044
0.....30013	Proposed Rules:	73.....28830, 28996	15.....29679, 30532, 31044
5.....30015	3.....32383	81.....28541, 29508, 29515, 29726, 32386	22.....29679, 31051
18.....30017	7.....28530	180.....28118, 28120, 30200, 30202, 30204, 31073, 31075, 31077, 31079, 31081	24.....29679
20.....30019	37 CFR	185.....31081	73.....28766, 29311, 29491, 29492, 31449, 32706
22.....30019	201.....30845	186.....30204	74.....28766
70.....30013	Proposed Rules:	261.....32746, 32753	76.....28698, 29312, 32706, 32707
250.....30021	202.....28829	270.....30472	90.....31051, 32709
28 CFR	38 CFR	271.....30472	95.....28768, 32710
Proposed Rules:	1.....29023, 29024, 29481, 29657	300.....30207, 30575, 32765	101.....29679, 31051
74.....29715, 29716	2.....27783	41 CFR	Proposed Rules:
513.....32186	6.....29024	50-203.....32910	Ch. I.....30579, 32766
29 CFR	7.....29025	Proposed Rules:	0.....28122
1910.....31477	8.....29289	101-20.....30028	25.....32399
1915.....29957, 31427	8a.....29027	42 CFR	36.....30028, 30847
1926.....31427	14.....27783	405.....32347	64.....30581, 31481
1952.....28053	17.....29293	417.....32347	69.....30028, 30847
2619.....30160	20.....29027	431.....32347	73.....30584, 30585, 31083, 31084, 31085, 31489, 31490
2676.....30160	21.....28753, 28755, 29028, 29294, 29297, 29449	473.....32347	76.....29333, 29336
Proposed Rules:	36.....28057	498.....32347	80.....28122
102.....30570	Proposed Rules:	Proposed Rules:	48 CFR
1904.....27850	38.....31479	72.....29327	Ch. I.....31612
1915.....28824	39 CFR	412.....29449	4.....31616, 31617
1952.....27850	233.....28059	413.....29449	6.....31618
2509.....29586	3001.....32656	489.....29449	14.....31618, 31619
30 CFR	Proposed Rules:	43 CFR	15.....31618, 31619, 31620
75.....29287	111.....32606	2120.....29030	16.....31621
906.....32328	40 CFR	2920.....32351	17.....31618
925.....31610	15.....28755	4100.....29030	19.....31622, 31642, 31643
943.....30805	32.....28755	4600.....29030	22.....31643
Proposed Rules:	51.....30162, 32339	Proposed Rules:	23.....31645
218.....28829	52.....28061, 29483, 29659, 29662 29961, 29963, 29965, 29970, 31035, 31831, 32339, 32341	6000.....28546	25.....31618, 31646, 31649, 31650
250.....28525	55.....28757	6100.....28546	27.....31617, 31646
256.....28528	60.....29485, 29876	6200.....28546	28.....31651
935.....29504, 32382	62.....29666	6300.....28546	31.....31655, 31656, 31657
946.....29506, 31071	63.....27785, 29485, 29876, 30814, 30816, 31435	6400.....28546	32.....31658
31 CFR	68.....31668, 31730	6500.....28546	33.....31658
Proposed Rules:	70.....31442, 32693	6600.....28546	34.....31659
202.....31879	73.....28761	7100.....28546	37.....31660
356.....31072	80 763	7200.....28546	42.....31621, 31658, 31660
33 CFR	81.....29667, 29970, 31831	7300-9000.....28546	46.....31661, 31662
Ch. IV.....32655	82.....29485	8000.....29678	52.....31616, 31617, 31618, 31619, 31621, 31642, 31643, 31645, 31646, 31650, 31651, 31658, 31659, 31660, 31663, 31664, 31665
3.....29958	152.....30163	8300.....29679	911.....30823
62.....27780, 29449	180.....29672 29674, 29676, 30163, 30165, 30167, 30170, 30171, 31037	44 CFR	917.....32584
100.....27782, 28501, 28502, 28503, 29019, 32328, 32331, 32333	186.....30171	64.....28067, 32704	952.....30823
117.....29654, 29959, 31434	264.....28508	65.....29488, 29489	970.....30823, 32584
165.....28055, 29020, 29021, 29022, 29655, 29656	265.....28508	67.....29490	1452.....31053
Proposed Rules:	270.....28508	Proposed Rules:	1453.....31053
117.....31881	271.....28508, 32345, 32700	67.....29518	Proposed Rules:
34 CFR	300.....27788, 28511, 29678, 30510	46 CFR	5.....32580
535.....31350	716.....32702	Ch. III.....32655	9.....31814
562.....31350	799.....29486	108.....28260	12.....32240
600.....29898	35 CFR	110.....28260	13.....31814, 32580
639.....32656	201.....30845	111.....28260	14.....32580
651.....32656	Proposed Rules:	112.....28260	15.....32580
652.....32656	202.....28829	113.....28260	16.....31798
667.....32656	36 CFR	Proposed Rules:	19.....32580

23.....31814
 25.....32580
 26.....31792
 31.....31790, 31796, 31800
 33.....32580
 36.....32580
 45.....27851
 52.....27851, 31792, 31798,
 31814
 216.....31490
 222.....31490
 225.....31490
 227.....31490
 228.....31490
 229.....31490
 232.....31490
 233.....31490
 236.....31490
 246.....31490
 252.....31490
 917.....32588
 950.....32588
 952.....32588
 970.....32588
 1501.....29314
 1509.....29314
 1510.....29314
 1515.....29314
 1528.....29493
 1532.....29314
 1552.....29314, 29493
 1553.....29314
 1602.....32401
 1604.....32401
 1615.....32401
 1616.....32401
 1622.....32401
 1631.....32401
 1644.....32401
 1652.....32401
 1653.....32401
 6101.....32410

49 CFR

Ch. I.....30444
 27.....32354
 28.....32354
 35.....32900
 56.....32900
 92.....32900
 106.....30175
 107.....27948
 130.....30533
 171.....28666
 172.....28666
 173.....28666
 174.....28666
 178.....28666
 179.....28666
 190.....27789
 191.....27789
 192.....27789, 28770, 30824
 193.....27789
 225.....30940
 541.....29031
 565.....29031
 567.....29031
 571.....28423, 29031, 29493,

30824
 574.....29493
 1002.....32355
 1039.....29036
 1150.....29973, 32355
 1312.....30181
Proposed Rules:
 6.....28831
 10.....29522
 214.....31085
 223.....30672
 229.....30672
 232.....30672
 234.....31802
 238.....30672
 391.....28547
 571.....28123, 28124, 28550,
 28560, 29337, 30209, 30586,
 30848, 31086
 581.....30848
 594.....32411

50 CFR

Ch. VI.....30543
 13.....31850
 14.....31850
 17.....31054, 32356
 32.....31459, 31461
 36.....29495
 216.....27793
 230.....29628
 247.....27793
 285.....30182, 30183
 301.....29695, 29975
 600.....32538
 601.....32538
 602.....32538
 603.....32538
 605.....32538
 611.....32538
 619.....32538
 620.....27795, 32538
 621.....32538
 625.....32711
 656.....29321
 661.....31873
 663.....28786, 28796
 671.....31228
 672.....28069, 28070, 31228
 673.....31228
 675.....27796, 28071, 28072,
 29696, 30544, 31228, 31463
 676.....31228
 677.....31228
 679.....31228
 697.....29321

Proposed Rules:

17.....28834, 29047, 30209,
 30588, 32416
 20.....30114, 30490
 32.....31888, 31891, 31893,
 31895, 31897, 31899, 31901,
 31904, 31906, 31908, 32415
 216.....30212
 217.....30588
 227.....30588
 285.....30214

625.....27851
 641.....29339, 32422
 650.....27862
 651.....27862, 27948, 30029
 652.....31499
 669.....30589
 675.....29726
 676.....29729, 32767

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT TODAY**AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service**

Exportation and importation of animals and animal products:

Pork and pork products from Mexico transiting United States; published 6-25-96

AGRICULTURE DEPARTMENT**Commodity Credit Corporation**

Loan and purchase programs:

Emergency livestock assistance regulations; redesignation; published 6-25-96

Foreign markets for agricultural commodities; development agreements; correction; published 6-25-96

AGRICULTURE DEPARTMENT**Farm Service Agency**

Freedom of Information Act; implementation; published 6-25-96

North American Free Trade Agreement (NAFTA):

End-use certificate program; published 6-25-96

AGRICULTURE DEPARTMENT**Rural Business-Cooperative Service**

Freedom of Information Act; implementation; published 6-25-96

AGRICULTURE DEPARTMENT**Rural Housing Service**

Freedom of Information Act; implementation; published 6-25-96

AGRICULTURE DEPARTMENT**Rural Utilities Service**

Freedom of Information Act; implementation; published 6-25-96

ENVIRONMENTAL PROTECTION AGENCY

Acquisition regulations:

Monthly progress reports; invoices submission, etc.; published 6-10-96

Hazardous waste program authorizations: Kentucky; published 4-26-96 South Carolina; published 4-26-96

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Open video systems; implementation; published 6-25-96

Radio and television broadcasting:

Broadcast blanketing interference; published 5-28-96

Radio services, special:

Private land mobile services-- 800 MHz frequency band SMR systems; future development facilitation and competitive bidding; correction; published 6-25-96

HEALTH AND HUMAN SERVICES DEPARTMENT**Food and Drug Administration**

Animal drugs, feeds, and related products:

New drug applications-- Ivermectin and lincomycin; published 6-25-96

TRANSPORTATION DEPARTMENT**Maritime Administration**

Subsidized vessels and operators:

Bulk cargo vessels; operating differential subsidy, surveys, and maintenance and repair subsidy; published 6-25-96

TRANSPORTATION DEPARTMENT**Saint Lawrence Seaway Development Corporation**

Organization, functions, and authority delegations:

Great Lakes pilotage regulations; transfer from Title 46 to Title 33 of CFR; published 6-25-96

COMMENTS DUE NEXT WEEK**AGRICULTURE DEPARTMENT****Agricultural Marketing Service**

Onions grown in--

Idaho and Oregon; comments due by 7-1-96; published 5-31-96

Papayas grown in Hawaii; comments due by 7-5-96; published 6-4-96

Potatoes (Irish) grown in--

Oregon and California; comments due by 7-1-96; published 5-31-96

Southeastern States; comments due by 7-1-96; published 5-31-96

AGRICULTURE DEPARTMENT**Animal and Plant Health Inspection Service**

Exportation and importation of animals and animal products:

Ratites and hatching eggs of ratites from Canada; comments due by 7-3-96; published 6-3-96

AGRICULTURE DEPARTMENT**Food Safety and Inspection Service**

Meat and poultry inspection:

Cooked beef products, uncured meat patties, and poultry products production; performance standards; comments due by 7-1-96; published 5-2-96

Establishment drawings and specifications, equipment, and partial quality control programs; prior approval requirements elimination; comments due by 7-1-96; published 5-2-96

COMMERCE DEPARTMENT**National Oceanic and Atmospheric Administration**

Fishery conservation and management:

Gulf of Alaska and Bering Sea and Aleutian Islands groundfish; comments due by 7-1-96; published 5-16-96

Gulf of Mexico reef fish; comments due by 7-1-96; published 6-10-96

Northeast multispecies; comments due by 7-1-96; published 6-13-96

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange Act:

Voting by interested members of self-regulatory organization governing boards and committees; broker association membership disclosure; comments due by 7-2-96; published 5-3-96

DEFENSE DEPARTMENT

Acquisition regulations:

Defense articles; pricing for sales; comments due by 7-1-96; published 4-30-96

ENERGY DEPARTMENT

Acquisition regulations:

Federal regulatory review; comments due by 7-2-96; published 5-3-96

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Idaho; comments due by 7-1-96; published 5-30-96

Oregon; comments due by 7-5-96; published 6-5-96

Wisconsin; comments due by 7-5-96; published 6-5-96

Hazardous waste:

Identification and listing-- Exclusions; comments due by 7-5-96; published 5-20-96

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

1,1-Difluoroethane; comments due by 7-5-96; published 6-4-96

3-Dichloroacetyl-5-(2-furanyl)-2,2-dimethylloxazolidine; comments due by 7-5-96; published 6-19-96

A-alkyl(C12-C15)-w-hydroxy poly(oxyethylene) sulfate, etc.; comments due by 7-5-96; published 6-4-96

Capsaicin and ammonium salts of fatty acids; comments due by 7-1-96; published 5-1-96

FEDERAL COMMUNICATIONS COMMISSION

Radio and television broadcasting:

Equal employment opportunity (EEO) requirements; streamlining; comments due by 7-1-96; published 5-20-96

Radio stations; table of assignments:

Kentucky; comments due by 7-1-96; published 5-14-96

FEDERAL EMERGENCY MANAGEMENT AGENCY

Flood insurance program:

Allocated loss adjustment expense fee schedule; comments due by 7-1-96; published 5-15-96

FEDERAL LABOR RELATIONS AUTHORITY

Federal Service Impasses Panel:

Miscellaneous amendments; comments due by 7-5-96; published 6-6-96

Miscellaneous and general requirements:
Documents filing and/or service by facsimile transmissions; comments due by 7-5-96; published 6-6-96

FEDERAL RESERVE SYSTEM

Securities credit transactions (Regulations G, T, and U); comments due by 7-1-96; published 5-6-96

FEDERAL TRADE COMMISSION

Private vocational school guides; comments due by 7-1-96; published 5-3-96

GENERAL ACCOUNTING OFFICE

Bid protest process; timeliness requirement; comments due by 7-1-96; published 5-1-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food additives:

Ajuvants, production aids, and sanitizers--
Hydrogen peroxide, etc. (aqueous solution); comments due by 7-5-96; published 6-4-96

Food for human consumption:

Food labeling--
Uniform compliance date; comments due by 7-1-96; published 4-15-96

Mammography quality standards:

Alternative performance and outcome-based standards; comments due by 7-2-96; published 4-3-96

Mammography equipment; quality standards and assurance; comments due by 7-2-96; published 4-3-96

Mammography facilities; accreditation requirements; comments due by 7-2-96; published 4-3-96

Mammography facilities; quality standards and certification requirements--
General facility requirements; comments due by 7-2-96; published 4-3-96

Personnel requirements; comments due by 7-2-96; published 4-3-96

National Environmental Policy Act; implementation; Federal regulatory review; comments due by 7-2-96; published 4-3-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare and medicaid:

Organ procurement organizations; conditions of coverage; comments due by 7-1-96; published 5-2-96

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community facilities:

Opportunities for youth; Youthbuild program; administrative costs; comments due by 7-1-96; published 5-17-96

Low income housing:

Housing assistance payments (Section 8)--
Fair market rent schedules (1997 FY); comments due by 7-1-96; published 5-8-96

Mortgage and loan insurance programs:

Title 1 property improvement and manufactured home loan insurance programs; comments due by 7-1-96; published 5-2-96

Public and Indian Housing:

Public housing management assessment program; comments due by 7-5-96; published 5-6-96

INTERIOR DEPARTMENT

Indian Affairs Bureau

Fish and wildlife:

Indian fishing; Hoopa Valley Indian Reservation; CFR part removed; comments due by 7-1-96; published 5-2-96

INTERIOR DEPARTMENT

Land Management Bureau

Preservation and conservation; and health, safety, and enforcement; Federal regulatory review; comments due by 7-5-96; published 6-5-96

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Mexican gray wolf; nonessential experimental population establishment in Arizona and New Mexico; comments due by 7-1-96; published 5-1-96

Migratory bird hunting:

Annual hunting regulations; and special youth waterfowl hunting day consideration; comments due by 7-5-96; published 6-14-96

JUSTICE DEPARTMENT

Drug Enforcement Administration

Federal regulatory review; comments due by 7-3-96; published 3-5-96

LABOR DEPARTMENT

Federal Contract Compliance Programs Office

Affirmative action obligations of contractors and subcontractors for disabled veterans and Vietnam era veterans:

Invitation to self-identify; comments due by 7-1-96; published 5-1-96

LABOR DEPARTMENT

Occupational Safety and Health Administration

Occupational injury and illness; recording and reporting requirements; comments due by 7-1-96; published 6-3-96

LABOR DEPARTMENT

Wage and Hour Division

McNamara-O'Hara Service Contract Act:

Federal service contracts; labor standards; minimum health and welfare benefits requirements; comments due by 7-1-96; published 5-2-96

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Cable compulsory license:

Open video systems of telephone companies; eligibility; comments due by 7-5-96; published 5-6-96

Open video systems of telephone companies; eligibility and comment period extended; comments due by 7-5-96; published 5-31-96

INTERIOR DEPARTMENT

National Indian Gaming Commission

Indian Gaming Regulatory Act:

Class III (casino) gaming on Indian lands; authorization procedures when States raise Eleventh amendment defense; comments due by 7-1-96; published 5-10-96

NUCLEAR REGULATORY COMMISSION

Environmental protection; domestic licensing and related regulatory functions:

Nuclear power plant operating licenses; environmental review for renewal; comments due by 7-5-96; published 6-5-96

SECURITIES AND EXCHANGE COMMISSION

Electronic media; use in delivery purposes;

comments due by 7-1-96; published 5-15-96

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

Louisiana; comments due by 7-1-96; published 5-1-96

Merchant marine officers and seamen:

Radar-observer endorsement for uninspected towing vessel operators; comments due by 7-2-96; published 5-3-96

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

de Havilland; comments due by 7-1-96; published 5-21-96

Beech; comments due by 7-1-96; published 5-21-96

I.A.M. Rinaldo Piaggio S.p.A.; comments due by 7-5-96; published 4-29-96

Pratt & Whitney; comments due by 7-5-96; published 5-6-96

Pratt and Whitney; comments due by 7-5-96; published 5-6-96

Class E airspace; comments due by 7-1-96; published 5-20-96

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Hydraulic brake systems--

Light vehicle brake systems; comments due by 7-1-96; published 5-2-96

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Pipeline safety:

Program procedures, reporting requirements, gas pipeline standards, and liquefied natural gas facilities standards; Federal regulatory reform; comments due by 7-3-96; published 6-3-96

TREASURY DEPARTMENT

Fiscal Service

Marketable book-entry

Treasury bills, notes, and bonds; sale and issue; uniform offering circular; amendments; comments due by 7-3-96; published 6-19-96

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes and employment
taxes and collection of
income taxes at source:

Temporary employment;
information reporting and
backup withholding;
hearing; comments due
by 7-3-96; published 5-8-
96