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

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2635

RIN 3209–AA04

Widely Attended Gatherings Gifts Exception Under the Standards of Ethical Conduct for Employees of the Executive Branch

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is issuing a final rule revising the gift exception contained in the Standards of Ethical Conduct for Employees of the Executive Branch to permit employees to accept invitations to certain widely attended gatherings from persons other than the sponsors of those events, subject to appropriate limitations, and to clarify that only those events attended by a large number of persons qualify as widely attended gatherings. The rule also permits agency authorization for a guest, other than the employee's spouse, to accompany the employee to a widely attended gathering or to a conference or other event at which the employee is assigned to participate as a speaker, panel participant, or other presenter of information.

EFFECTIVE DATE: September 19, 1996.

FOR FURTHER INFORMATION CONTACT: William E. Gressman or Vincent J. Salamone, 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:

I. Background

On June 15, 1995, the Office of Government Ethics published a proposed amendment to the Standards of Ethical Conduct for Employees of the Executive Branch (Standards), as codified at 5 CFR part 2635, that would allow acceptance by agency employees of certain invitations of free attendance at widely attended gatherings from persons (individuals or organizations) other than sponsors of the events and to otherwise modify the gifts exception for such gatherings. See 60 FR 31415–31418, which provided for a 60-day public comment period. The Office of Government Ethics received eleven comment letters on the proposed rule from eight executive agencies, two agency employees and one private organization, as well as a few telephonic comments. In this rulemaking document, OGE is finalizing the proposed amendment, with certain changes (noted below) mostly in response to certain of the comments received.

The section of the Standards subject to this rulemaking is 5 CFR 2634.204(g), one provision of subpart B of the Standards which implements the outside source gift restrictions contained in 5 U.S.C. 7353 and section 101(d) of Executive Order 12674, as modified by Executive Order 12731. In accordance with those authorities, § 2635.204 sets forth exceptions to the primary constraint at § 2635.202(a), which provides that, in the absence of an exception, an employee shall not directly or indirectly solicit or accept a gift from a prohibited source or a gift that is given because of the employee's official position.

Section 2635.204(g)(2), as it has been in effect for the past three and a half years, provides that an agency employee may accept an unsolicited gift of free attendance at all or part of a widely attended gathering from the sponsor of the event, subject to a determination of agency interest. Unlike the de minimis exception at § 2635.204(a) for unsolicited gifts having a market value of $20 or less per occasion (with a calendar year aggregate limit of $50), § 2635.204(g)(2) imposes no limitation on the market value of the gifts of free attendance that may be accepted. While the tickets or other fees for attendance at such gatherings ordinarily cost much less, this exception would permit acceptance of free attendance at events for which the ticket price exceeds even $1,000. In part to ensure that prohibited sources do not use this exception to provide lavish entertainment to employees of the agencies with which they do business or otherwise interact, § 2635.204(g)(2) has to date specified that an invitation to a widely attended gathering can be accepted only if it is from the sponsor of the event.

On March 9, 1993, shortly after the Standards first took effect, the White House declared a six-month suspension of application, with respect to attendance at press dinners, of that portion of § 2635.204(g)(2) that has limited acceptance of invitations of free attendance at widely attended gatherings to those issued by the sponsor of the event. Thus, during that six- month period, executive branch officials were authorized to attend press dinners as guests of individuals or organizations other than the event's sponsor, if the event otherwise met the conditions of the widely attended gathering exception. On December 21, 1993, with another round of press association events in the offing, the White House issued another memorandum to all agency heads once again temporarily suspending administrative enforcement of that portion of the rule affecting widely attended gatherings solely as it relates to dinners sponsored by news associations for which admission for executive branch officials is paid by news organizations.

In a December 21, 1993 letter addressed to OGE, the White House asked OGE to consider a revision to § 2635.204(g)(2) of the Standards to provide that an employee may accept an invitation received directly from a news organization to attend a widely attended gathering sponsored by a news association where there has been a determination that the employee's attendance is in the interest of the agency. In the alternative, the White House suggested that OGE might wish to consider revising § 2635.204(g)(2) to provide an exception for invitations to a broader range of widely attended gatherings from persons other than the sponsors of those events. Both in the rule as proposed and as being finally adopted here, OGE has opted for this alternative approach. The White House specified in its above-referenced December 1993 memorandum that the suspension as to press dinners was to extend until August 1, 1994, or until such later date as OGE responded to its request for revision of § 2635.204(g)(2).

Therefore, as noted in the preamble to the proposed rule, the White House suspension as to press dinners has remained in effect. However, when this final rule takes effect on September 19, 1996, that suspension will be superseded by the broader ''nonsponsor'' free attendance gift provisions of § 2635.204(g) as amended in this rulemaking document.

II. Analysis of Comments

As noted, the Office of Government Ethics has carefully considered the comments submitted on last year's proposed rule and, as discussed below, is modifying a few portions of the rule as proposed in adopting it as final. The discussion below is focused on the major areas of comment regarding the proposed rule changes.

Clarification of Widely Attended Gatherings Definition/A Large Number of Persons

Several agencies commented on the proposed addition of an express clause requiring attendance by ''a large number of persons'' to the definition of a widely attended gathering in § 2635.204(g)(2). One commenter asked that the term be eliminated altogether from the final rule. Four agencies questioned why the proposed change to the rule did not require that a specific minimum number of persons be expected to attend a gathering for it to be considered attended by a ''large number of persons.'' One of these agencies commented that such a minimum number designation would assist program administration by helping to reduce the number of employee inquiries on this matter. However, three agencies wanted ethics officials to be able to focus more on factors other than the size of the event, such as the nature of the gathering itself and the event's overall importance to the agency's programs and operations when making a determination about a widely attended gathering under § 2635.204(g)(3). One agency suggested that OGE might be able to avoid the limitations of setting a minimum number by providing instead for an acceptable range of numbers. Further, two commenters suggested that OGE could assist agencies more by providing agencies with a list of factors that the agencies could apply to determine if an event qualified as widely attended.

After carefully reviewing these recommendations, including the alternative approaches suggested, OGE has decided not to change the proposed addition of the ''large number of persons'' clause, other than to add the clarification that attendance by such a number is ''expected.'' While a specific minimum number or a range of numbers might, in some ways, facilitate agency administration of the rule and even possibly reduce employee inquiries, OGE believes that setting such numbers for sponsor gifts would unduly limit the flexibility that agencies require to administer this rule effectively. (The newly revised rule does require a minimum number of attendees as to nonsponsor gifts of free attendance, which are subject to additional safeguards (see the discussion below).)

It is OGE's belief that executive agencies are in the best position to determine when unsolicited gifts of free attendance offered by sponsors of widely attended gatherings (or nonsponsors) should be permitted based on a balancing of the event's value in facilitating administration of agency programs/operations versus any appearance concerns. As stated in the proposed rule, agencies should apply the normal meaning of the phrase ''widely attended'' as encompassing those events that are attended by many persons and excluding those events attended by only a few. Additionally, ethics officials should note that the rule requires more than a ''large number'' of attendees—the gathering itself must be of mutual interest to those in attendance. See OGE Informal Advisory Letters 93×15, 93×18 and 94×2, as published in ''The Informal Advisory Letters and Memoranda and Formal Opinions of the United States Office of Government Ethics,'' which is available from the U.S. Government Printing Office and is on OGE's electronic bulletin board TEBBS (''The Ethics Bulletin Board System'').

In sum, the determination of whether an event is widely attended requires ethics officials to carefully examine the particular circumstances of each event in light of all the regulatory factors. Even if an event is expected to be attended by a large number of persons and to have present a diversity of views or interests (see discussion below), agency ethics officials must still make a finding that the agency's interest in the employee's participation in the event outweighs any concern that the acceptance of the gift of free attendance may or may appear to improperly influence the employee in the performance of his or her official duties. We believe that these requirements will help preserve the Government's valid interest in ensuring that employees are free from improper influences and that the acceptance of any gift of free attendance from an outside source will not create the appearance of partiality.

Furthermore, one commentator asked if the term ''a large number of persons'' would include any accompanying spouse or other guest of each invitee. The Office of Government Ethics believes that accompanying spouses and guests can be counted, both for determining whether a large number of persons is expected to attend an event and for purposes of the 100-person threshold applicable to acceptance of gifts of free attendance from nonsponsors.

A few agencies pointed out that an ambiguity in the definition of a widely attended gathering was created by the use of the term ''for example'' in the second sentence of proposed § 2635.204(g)(2). In response to these concerns, OGE is changing the wording of the passage in § 2635.204(g)(2) of this final rule, by adding the words ''persons with a diversity of views or interests'' before the ''for example'' phrase, to clarify that the types of events which are widely attended are those at which a ''large number of persons'' is expected to attend *and* at which persons having a diversity of viewpoints or interests are expected to be present. The latter factor can be satisfied if the event is open to members from throughout a given industry or profession, if persons in attendance represent a range of persons interested in a given matter, or if there is otherwise a diversity of views or interests present. Agencies should consider both factors in determining whether an event is ''widely attended''—the number of persons attending the event and the breadth of the views and interests presented by the group itself.

Several agencies expressed specific concerns with proposed new Example 3 following the regulatory text of § 2635.204(g), focusing on the proposed disqualification of a 20-person dinner party as not meeting the ''large number of persons'' test. Some comments noted that the example might well be overly restrictive in the context of smaller agencies. The desirability of agency discretion in setting a lower limit for sponsor events was also stressed. One agency recommended that Example 3 be revised so that reference to the number of persons in attendance at the dinner party of the major utility be removed from the example and that the event be merely referred to as a small dinner party. In this way, the point would be made that agency officials should consider the size of a gathering as part of their analysis on whether an event was a widely attended gathering. The Office of Government Ethics has rewritten Example 3 to try to clarify the main point intended that a small dinner

party is not a widely attended gathering. Further, OGE has reworked the comment at the end of the example about the additional requirement that a range of persons interested in a given matter be present at any qualified widely attended gathering. This passage has been broken out into a separate sentence and the hypothetical facts have been modified, to reference a larger company ''banquet'' as still not widely attended, in order to emphasize that attendance by persons with a diverse set of views or interests is an additional, separate requirement for finding that a gathering is ''widely attended.''

Sponsor/Nonsponsor Distinction

Although there was general support for the proposed new exception to allow employees to accept an invitation of free attendance to a larger widely attended gathering from a source other than the sponsor in appropriate cases, two agencies and a private organization questioned the need for any distinction between such gifts from the sponsor and from others. After carefully reviewing this matter, OGE has decided to maintain the additional standards imposed as to ''nonsponsor'' gifts. The Office of Government Ethics believes that there is an important distinction between situations in which gifts of free attendance are offered by sponsors of widely attended gatherings, as opposed to those circumstances where gifts of free attendance are tendered by nonsponsors. When a sponsor invites an individual to attend an event, the sponsor is presumably doing so for the benefit of all those in attendance. The sponsor's attention is also not focused solely upon the invitee at the event. Thus, the invitee does have more of an opportunity to meet and mingle with a wider number of people in attendance. This supports more fully the agency's interest in his or her attendance at the event. When a nonsponsor invites an individual to attend an event, however, the attention of the nonsponsor host is more focused upon the employee. The 100-person threshold provides an additional measure of public and press scrutiny of that relationship. In addition, the $250 ceiling on nonsponsor donor gifts constitutes an important further safeguard against more lavish entertainment, which a nonsponsor might be able to afford in a one-on-one situation, but the sponsor could not in any significant numbers. The dollar ceiling also protects against excess in the case of fundraising events that are not lavish, but exclusive because of cost of attendance. Finally, OGE stresses that both nonsponsor and sponsor gifts must still be screened by agencies for any appearance of conflict in accordance with § 2635.204(g)(3) of the Standards. Together, these protections will help ensure that any gifts of free attendance accepted are in the best interests of the agency concerned and do not involve an appearance of undue influence or loss of impartiality.

Press Dinners

One agency suggested that OGE might consider adopting an exception that applies to press dinners, because of the uniqueness of press organizations, rather than carving out a broader sponsor/nonsponsor distinction. Another commenter suggested an alternative approach in which OGE would determine that journalist members of the press groups were themselves ''individual sponsors'' of a dinner. As stated above and in the preamble to the proposed rule, OGE earlier considered and rejected the option of singling out the press under the widely attended gatherings exception. The Office of Government Ethics does not believe that the press should be treated differently than any other private entities that deal with the Government. Thus, in liberalizing this provision, with appropriate safeguards, OGE believes that there is no reason to limit nonsponsor gifts to press entities.

The 100 Person Attendee Threshold for Nonsponsor Gifts

Four commenters recommended that OGE drop the proposed requirement that 100 persons be in attendance at a widely attended gathering before a gift of free attendance can be accepted from a nonsponsor. The general consensus among these four commenters was that this number should be left to the judgment of agency ethics officials and that it would unduly restrict agency discretionary authority in those situations where gifts of free attendance are offered by nonsponsors of widely attended gatherings. An agency and one individual commenting thought that the proposed 100-person threshold would not be fair to smaller agencies or smaller industry groups. The agency indicated that, particularly in the scientific and technical communities, an agency's interest might be advanced by having a representative attend a public meeting at which fewer than 100 persons are expected to disseminate information about its agency functions and policies. Additionally, one agency was concerned that a prohibited source could circumvent the rule by ensuring that a sufficient number of persons were invited to an event at the appropriate cost. One agency, however, favored the use of specific numbers, stating that this would facilitate the administration of the rule.

After reviewing these comments, OGE has decided to maintain the proposed 100-person threshold in the final rule. The Office of Government Ethics recognizes that it may be in the agency's interest, in some cases, to have an employee attend a nonconflicting event where less than 100 persons are expected if it would assist the agency in the accomplishment of its mission. In that regard, OGE notes that the new rule's specific 100-person threshold only applies to nonsponsor gifts. Thus a sponsor's offer of free attendance to an otherwise qualified widely attended gathering (including attendance by ''a large number of persons'') could be accepted, if there were an agency interest determination under § 2635.204(g)(3), even though fewer than 100 persons were expected to attend. Furthermore, if permissible in terms of appropriations principles, the agency could consider paying for the employee's attendance at smaller events. The employee could also pay his or her own way. Finally, as to other events involving fewer than 100 expected attendees, certain separate authorities, such as the Government employees training statute, the law permitting agencies to accept certain travel payments from non-Federal sources, or other agency statutory authority might permit the acceptance of free attendance. See 5 U.S.C. 4111 and 31 U.S.C. 1353, as well as the respective implementing regulations of the Office of Personnel Management, at subpart G of 5 CFR part 410, and the General Services Administration, at 41 CFR part 304–1; see also the note following § 2635.204(g)(4) of the Standards.

The rationale for the 100-person threshold as to nonsponsor gifts of free attendance is that the larger, generally more public events are subject to greater potential press and public scrutiny, which will serve as additional protection against any apparent conflict situation. In combination with the $250 free attendance gift value limitation (discussed below), these two requirements will protect against the possibility that this new exception might result in the provision to Government employees by a nonsponsor donor of lavish entertainment or an opportunity to attend an event made highly exclusive by virtue of the admission price.

One agency suggested that OGE provide agency designees with the authority to except a nonsponsor offer of free attendance from the 100-person

requirement in appropriate circumstances. However, OGE believes that there should be a uniform threshold for nonsponsor gifts and has not accepted that suggestion.

Another agency asked for additional clarification on whether accompanying spouses and other guests are to be counted for purposes of the 100-person requirement. In response, OGE notes that spouses and guests, who often form an integral part of widely attended gatherings, may be counted for purposes of determining whether the 100-person requirement is met for a particular event.

The $250 Ceiling on Nonsponsor Gifts of Free Attendance

One agency comment indicated that having the $250 cap on nonsponsor gifts would facilitate administration of the regulation. However, another agency thought that the amount should be lowered, but that the rule should provide an exemption for charitable events where the face value of the ticket primarily reflects a charitable contribution and not a benefit to the employee. The Office of Government Ethics is concerned that providing for any such exemption would unnecessarily complicate the rule and detract from the uniformity to be accorded as to nonsponsor free attendance offers. Furthermore, the opportunity to attend, free of charge, an event where the ticket prices include a sizable donation, and thus make the event more exclusive, can also be viewed as a benefit to the employee. On the other hand, one agency and a private organization believed that the $250 numerical limitation for free attendance in the case of a nonsponsor was too low. The Office of Government Ethics has neither raised nor lowered the $250 ceiling amount, because we believe that $250 is the right amount, permitting reasonable application of the new authority as to nonsponsor gifts while protecting against lavish entertainment by prohibited sources.

A few commentators suggested that provision be made for periodic reevaluation of the ceiling amount. A commenting organization noted that most hotels that accommodate many widely attended gatherings have an escalation factor built into their contracts with private organizations and that some sort of mechanism was needed to keep up with rising costs. The Office of Government Ethics notes that the $250 ceiling on the value of free attendance that may be accepted from a person other than the event's sponsor coincides generally with the legislative and OGE consensus that gifts of lesser amount do not need to be subjected to public or confidential financial reporting under the Ethics in Government Act, 5 U.S.C. app., sections 102(a)(2) and 107, or OGE's 5 CFR part 2634 regulation thereunder. Considering that the $250 ceiling is imposed only in those situations where the gift of free attendance is coming from a nonsponsor, OGE believes it is a reasonable limitation to protect Government employees and their agencies from the possible appearance of favoritism or undue influence. The Office of Government Ethics notes that it will periodically review the appropriateness of the $250 ceiling in the future. If any adjustment to that dollar amount appears appropriate, OGE will initiate a rulemaking action to change it.

Accompanying Guest Authority

Two commenters supported the proposed revision of § 2635.204(g)(6) to permit acceptance of an offer of free attendance to a widely attended gathering extended, by the same donor, to an accompanying guest of an employee whether or not the guest is the employee's spouse (that provision has been limited to an accompanying spouse). One commenter opposed the proposed change. In this final rule, OGE has decided to retain the change as proposed. The expansion of acceptance authority to another guest, when appropriate, will provide additional flexibility in cases where the agency has determined that acceptance of the gift of free attendance for an accompanying guest, in addition to the employee, at a widely attended gathering of mutual interest to a number of parties will further agency programs and operations. In addition to addressing the fact that many employees are not married, the expanded rule would apply to situations in which a spouse is unable or does not wish to attend an event, but another family member, a colleague or another appropriate guest could attend. The Office of Government Ethics notes that the offer of free attendance for the guest must be from the same person offering to pay for the employee's attendance. Further, only one guest of an employee maybe authorized to accept an offer of free attendance to accompany the employee to an event at which the employee himself or herself is authorized by the employing agency to accept a gift of free attendance. Moreover, in such cases, the value of the guest's free attendance must be aggregated with that of the employee's in applying $250 ceiling for nonsponsor gifts (see § 2635.204(g)(6) and Example 2, the wording of both of which has been slightly revised to reflect their application to an accompanying guest's *free* attendance).

Miscellaneous

Finally, OGE is making a couple of minor clarifications to the rule as proposed in adopting it as final.

III. Matters of Regulatory Procedure

Executive Order 12866

In promulgating this final rule, the Office of Government Ethics has 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 amendatory regulation has also been reviewed by the Office of Management and Budget (OMB) under that Executive order.

Regulatory Flexibility Act

As the Deputy General Counsel of OGE, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this amendatory rule will not have a significant economic impact on a substantial number of small entities because it primarily affects Federal executive branch employees and their agencies.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this amendatory regulation because it does not contain information collection requirements that require OMB approval.

List of Subjects in 5 CFR Part 2635

Conflict of interests, Executive branch standards of ethical conduct, Government employees.

Approved: August 14, 1996.

Marilyn L. Glynn,

Deputy General Counsel, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending part 2635 of chapter XVI of title 5 of the Code of Federal Regulations as follows:

PART 2635—[AMENDED]

1. The authority citation for part 2635 continues to read as follows:

Authority: 5 U.S.C. 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); 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 B—Gifts From Outside Sources

2. Section 2635.204 is amended as set forth below:

A. Revising paragraphs (g)(2) through (g)(5);

B. Revising the text of paragraph (g)(6) preceding Example 1 and

C. Redesignating Examples 2, 3 and 4 of paragraph (g)(6) as Examples 4, 5 and 6, respectively; and

D. Adding new Examples 2 and 3 to paragraph (g)(6). The revisions, and additions read as follows:

§ 2635.204 Exceptions.

* * * * *

(g) * * *

(2) *Widely attended gatherings.* When there has been a determination that his attendance is in the interest of the agency it will further agency programs and operations, an employee may accept an unsolicited gift of free attendance at all or appropriate parts of a widely attended gathering of mutual interest to a number of parties from the sponsor of the event or, if more than 100 persons are expected to attend the event and the gift of free attendance has a market value of $250 or less, from a person other than the sponsor of the event. A gathering is widely attended if it is expected that a large number of persons will attend and that persons with a diversity of views or interests will be present, for example, if it is open to members from throughout the interested industry or profession or if those in attendance represent a range of persons interested in a given matter. For employees subject to a leave system, attendance at the event shall be on the employee's own time or, if authorized by the employee's agency, on excused absence pursuant to applicable guidelines for granting such absence, or otherwise without charge to the employee's leave account.

(3) *Determination of agency interest.* The determination of agency interest required by paragraph (g)(2) of this section shall be made orally or in writing by the agency designee.

(i) If the person who has extended the invitation has interests that may be substantially affected by the performance or nonperformance of an employee's official duties or is an association or organization the majority of whose members have such interests, the employee's participation may be determined to be in the interest of the agency only where there is a written finding by the agency designee that the agency's interest in the employee's participation in the event outweighs the concern that acceptance of the gift of free attendance may or may appear to improperly influence the employee in the performance of his official duties. Relevant factors that should be considered by the agency designee include the importance of the event to the agency, the nature and sensitivity of any pending matter affecting the interests of the person who has extended the invitation, the significance of the employee's role in any such matter, the purpose of the event, the identity of other expected participants and the market value of the gift of free attendance.

(ii) A blanket determination of agency interest may be issued to cover all or any category of invitees other than those as to whom the finding is required by paragraph (g)(3)(i) of this section. Where a finding under paragraph (g)(3)(i) of this section is required, a written determination of agency interest, including the necessary finding, may be issued to cover two or more employees whose duties similarly affect the interests of the person who has extended the invitation or, where that person is an association or organization, of its members.

(4) *Free attendance.* For purposes of paragraphs (g)(1) and (g)(2) of this section, free attendance may include waiver of all or part of a conference or other fee or the provision of food, refreshments, entertainment, instruction and materials furnished to all attendees as an integral part of the event. It does not include travel expenses, lodgings, entertainment collateral to the event, or meals taken other than in a group setting with all other attendees. Where the invitation has been extended to an accompanying spouse or other guest (see paragraph (g)(6) of this section), the market value of the gift of free attendance includes the market value of free attendance by the spouse or other guest as well as the market value of the employee's own attendance.

Note: There are statutory authorities implemented other than by part 2635 under which an agency or an employee may be able to accept free attendance or other items not included in the definition of free attendance, such as travel expenses.

(5) *Cost provided by sponsor of event.* The cost of the employee's attendance will not be considered to be provided by the sponsor, and the invitation is not considered to be from the sponsor of the event, where a person other than the sponsor designates the employee to be invited and bears the cost of the employee's attendance through a contribution or other payment intended to facilitate that employee's attendance. Payment of dues or a similar assessment to a sponsoring organization does not constitute a payment intended to facilitate a particular employee's attendance.

(6) *Accompanying spouse or other guest.* When others in attendance will generally be accompanied by a spouse or other guest, and where the invitation is from the same person who has invited the employee, the agency designee may authorize an employee to accept an unsolicited invitation of free attendance to an accompanying spouse or to another accompanying guest to participate in all or a portion of the event at which the employee's free attendance is permitted under paragraph (g)(1) or (g)(2) of this section. The authorization required by this paragraph may be provided orally or in writing.

Example 1: An aerospace industry association that is a prohibited source sponsors an industrywide, two-day seminar for which it charges a fee of $400 and anticipates attendance of approximately 400. An Air Force contractor pays $2,000 to the association so that the association can extend free invitations to five Air Force officials designated by the contractor. The Air Force officials may not accept the gifts of free attendance. Because the contractor specified the invitees and bore the cost of their attendance, the gift of free attendance is considered to be provided by the company and not by the sponsoring association. Had the contractor paid $2,000 to the association in order that the association might invite any five Federal employees, an Air Force official to whom the sponsoring association extended one of the five invitations could attend if his participation were determined to be in the interest of the agency. The Air Force official could not in any case accept an invitation directly from the nonsponsor contractor because the market value of the gift exceeds $250.

Example 2: An employee of the Department of Transportation is invited by a news organization to an annual press dinner sponsored by an association of press organizations. Tickets for the event cost $250 per person and attendance is limited to 400 representatives of press organizations and their guests. If the employee's attendance is determined to be in the interest of the agency, she may accept the invitation from the news organization because more than 100 persons will attend and the cost of the ticket does not exceed $250. However, if the invitation were extended to the employee and an accompanying guest, her guest could not be authorized to attend for free since the market value of the gift of free attendance would be $500 and the invitation is from a person other than the sponsor of the event.

Example 3: An employee of the Department of Energy (DOE) and his wife have been invited by a major utility

executive to a small dinner party. A few other officials of the utility and their spouses or other guests are also invited, as is a representative of a consumer group concerned with utility rates and her husband. The DOE official believes the dinner party will provide him an opportunity to socialize with and get to know those in attendance. The employee may not accept the free invitation under this exception, even if his attendance could be determined to be in the interest of the agency. The small dinner party is not a widely attended gathering. Nor could the employee be authorized to accept even if the event were instead a corporate banquet to which forty company officials and their spouses or other guests were invited. In this second case, notwithstanding the larger number of persons expected (as opposed to the small dinner party just noted) and despite the presence of the consumer group representative and her husband who are not officials of the utility, those in attendance would still not represent a diversity of views or interests. Thus, the company banquet would not qualify as a widely attended gathering under those circumstances either.

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[FR Doc. 96–21144 Filed 8–19–96; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

RIN 0563–AB11

General Administrative Regulations; Federal Crop Insurance Reform Act of 1994, Regulations for Implementation

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes 7 CFR part 400, subpart T of its General Administrative Regulations. The intended effect of this final rule is to provide noninsured producers, policyholders, and insurance companies the regulations applicable to the catastrophic risk protection program. It will also provide other changes in FCIC insurance programs to comply with statutory mandates of the Federal Crop Insurance Act (Act), as amended by the Federal Crop Insurance Reform Act of 1994 (Reform Act) and the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act).

EFFECTIVE DATE: August 20, 1996.

FOR FURTHER INFORMATION CONTACT: Louise Narber, Program Analyst, Research and Development Division, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866 and Departmental Regulation 1512–1

This action has been reviewed under United States Department of Agriculture (USDA) procedures established by Executive Order No. 12866. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 1, 2001.

This rule has been determined to be economically significant for the purposes of Executive Order No. 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB).

Cost Benefit Analysis

A Cost Benefit Analysis has been completed and is available to interested persons at the address listed above. In summary, the analysis finds that crop insurance reform generally is expected to result in net positive benefits to producers, taxpayers, and society. The effects on individual producers compared to payments under ad hoc disaster programs depends primarily on the farm program payment yield compared to the farm's actual yield and market prices. In general, however, the reform is expected to result in less volatility of producers' incomes and less risk of no income due to adverse weather events. Rural communities and producers will benefit from the certainty of payments in times of catastrophic yield losses. The Government and taxpayers will benefit from a single disaster protection program and consequent reduced Federal outlays. Although producers who had not previously participated in the Federal crop insurance program will have an added burden to make application and report yields and acreage, the benefits in terms of greater risk protection outweigh the costs.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements contained in these regulations have been previously approved by OMB and assigned OMB control number 0563–0003 through September 30, 1998. Copies of the information collection may be obtained from Bonnie Hart, USDA, FSA Advisory and Corporate Operations Staff, Regulatory Review Group, P.O. Box 2415, Ag Box 0572, Washington, D.C. 20013–2415, 8:15 a.m.–4:45 p.m., Monday through Friday, except holidays, telephone (202) 690–2857.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate 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. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of Government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. However, it does provide additional flexibility and cost savings for small entities in the following three areas. First, producers are no longer required to obtain at least CAT coverage for economically significant crops. Instead, they may sign a waiver foregoing emergency crop loss assistance. Insureds likely to decline coverage are those who believe that the costs associated with obtaining insurance exceed the benefits. The producers most likely to fall into this category are those who have insurance policies with low liabilities. For these producers, the $50 fee for CAT would be most likely to outweigh expected indemnities. Second, an allowance has been made to allow all producers with a share in a tobacco crop under one marketing card to insure the crop under one insurance policy. To qualify under this provision, none of the shareholders may have an interest in another tobacco crop in the county. It is estimated that 35,100 policyholders may utilize this allowance, thereby saving the $50

processing fee for each. Third, with specified restrictions, persons who hold an undivided interest in a crop may be eligible to purchase one insurance policy covering all shares to satisfy linkage requirements. The restrictions associated with this allowance include: all landowners must agree in writing to the arrangement; none of the landowners may hold any other interest in the given crop in the county for which they are required to buy at least CAT coverage; and the total liability under the CAT endorsement for all landowners must be $2,500 or less. Because no data are available providing an indication of insureds with an undivided interest, it is not possible to estimate the savings associated with not paying the $50 processing fee in these situations. However, some small entities will benefit from this allowance.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR parts 11 and 780 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

The amendments to the Act, made by the Reform Act, were effective on October 13, 1994. This regulation provides the procedures to carry out the requirements of those amendments.

On Friday, January 6, 1995, FCIC published an interim rule in the Federal Register at 60 FR 1996–2000 to add regulations to carry out the general requirements of the Act. Following publication of that interim rule, the public was afforded 60 days to submit written comments, data, and opinions. On Monday, August 7, 1995, by publication at 60 FR 40055, FCIC reopened and extended the comment period to August 18, 1995. A total of 35 comments were received from the crop insurance industry, FSA, and from producer groups. The comments received and FCIC responses are as follows:

Comment: One comment received from the crop insurance industry suggested clarifying the definition of ''catastrophic risk protection'' by deleting the word ''minimal'' and replacing it with either the word ''minimum'' or ''lowest'' and by deleting the word ''be'' and replacing it with ''offer protection'' after ''such coverage will.''

Response: FCIC agrees with the comment and has amended the definition of ''catastrophic risk protection'' by replacing the word ''minimal'' with the word ''minimum'' and by replacing the word ''be'' with ''offer protection.''

Comment: Another comment received from the crop insurance industry suggested clarifying the definition of ''crop of economic significance'' by deleting ''by the producer'' in the first sentence.

Response: FCIC agrees with the comment and has modified the definition of ''crop of economic significance'' accordingly.

Comment: The crop insurance industry suggested clarifying the definition of ''crop of economic significance'' to explain the consequences if a crop planted in 1994, is planted in 1995 although originally there was no intent to plant the crop in 1995; and to clarify who is responsible for determining which crops are of economic significance.

Response: FCIC agrees with the comment and has added new provisions in section 400.653 to clarify requirements regarding crops of economic significance. Producers who do not intend to plant a crop do not have to obtain crop insurance or execute a waiver of their eligibility for emergency crop loss assistance in connection with the crop to remain eligible for certain other USDA program benefits, even if they produced the crop the previous year. However, if the producer later decides to plant the crop after the sales closing date, the producer cannot obtain insurance on the crop and must execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop to be eligible for certain USDA program benefits. If a waiver is not executed, the producer must return those benefits already received. Provisions were also added indicating that it is the producer's responsibility to determine crops of economic significance in the county and that the producer may have to provide records to permit the insurance provider to verify whether a crop is a crop of economic significance. FCIC has issued a worksheet that may be used by producers to assist them in determining crops of economic significance. USDA will be ultimately responsible for determining eligibility and paying any amount due a person for any applicable USDA program.

Comment: A producer group suggested that the definition of ''crop of economic significance'' is contrary to the Act and invites legal action to test it. They stated that the Act looks to a percentage of all crops grown by the producer and the definition in this regulation provides for a county by county test to be done.

Response: FCIC agrees that § 508(b)(7) and (8) of the Act does not specifically indicate that crops of economic significance are determined on a county basis. However, since FCIC's insurance program has always been county based trying to operate one portion of the program across county lines would be extremely difficult. No changes will be made to conform to this suggestion.

Comment: The Farm Service Agency requested that the term ''limited resource farmer'' be changed to ''limited income farmer.'' Farm Credit Programs, which are part of FSA, have used the term ''limited resource farmer'' for many years and it has a very different definition than the definition of ''limited resource farmer'' used for crop insurance purposes.

Response: Section 508(b)(5) of the Act expressly authorizes FCIC to waive the administrative fee for ''limited resource farmers.'' Since ''resources'' include more than the producer's ''income'' such as farm size, the definition will not be changed.

Comment: The crop insurance industry and a producer group questioned what the phrase ''a need to maximize farm income'' meant in the

definition of ''limited resource farmer'' and recommended an explanation be added to the regulations or the phrase deleted.

Response: FCIC has reconsidered this provision and amended the definition of ''limited resource farmer'' by deleting the phrase ''a need to maximize farm income''.

Comment: A producer group recommended defining or omitting the phrase ''small or family farm'' in the definition of ''limited resource farmer.'' They also questioned how a person is categorized as a limited resource farmer and whether or not such person is required to obtain at least catastrophic risk protection (CAT) coverage, if available. The comment also asked if the limited resource status could be used as a defense if a producer is denied benefits for failure to meet linkage requirements.

Response: FCIC agrees that the terms ''small'' and ''family farm'' are not necessary in the definition and has amended the definition accordingly. All producers, including limited resource farmers, are required to obtain at least CAT coverage, if available, to be eligible for certain other USDA program benefits, unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop. The limited resource farmer status only authorizes FCIC to waive payment of the administrative fees and may not be used as a defense for failure to obtain CAT coverage. Producers may request ''limited resource farmer status'' at the time the application for insurance is made.

Comment: A producer group also suggested that the word ''producer'' be defined and used rather than the word ''person'' because it would be less confusing since ''person'' is specifically defined with regard to payment limitation rules. If this change is not made, the comment suggested adding provisions to indicate that the definition in these provisions does not reference the term ''person'' for payment limitation purposes.

Response: A definition of ''person'' contained in any other statute or regulation is not applicable to the Federal crop insurance program unless expressly provided. Therefore, the definition of a person with respect to payment limitation purposes is not relevant. The term ''person'' is defined for this program and has been used in the crop insurance program for longer than payment limitation has existed. The term ''person'' cannot be replaced with ''producer'' because not all ''persons'' are producers within the context of the program and to alternate between the two terms would be confusing. No change to the provisions will be made.

Comment: The crop insurance industry suggested that the phrase ''at the option of the Secretary'' should be added after ''through approved insurance providers and'' in § 400.652(b) to be consistent with the Act. This change is needed to enable the FSA to cease delivering CAT coverage in counties in which such coverage becomes unnecessary.

Response: The Federal Agriculture Improvement and Reform Act of 1996 provides for CAT coverage to be offered by approved insurance providers if there are a sufficient number available within an area. If approved insurance providers are not sufficiently available, local offices of the USDA will provide CAT coverage. FCIC agrees that the Secretary must now make an affirmative determination that CAT can be delivered through local FSA offices. The provision has been changed accordingly.

Comment: One comment was received from within FCIC recommending that language be included that would deny benefits from other USDA programs if the producers fail to carry out their responsibilities in accordance with policy provisions. It was suggested that language be added to indicate that such failure would be considered a scheme or device to circumvent the insurance requirement. The comment indicates that some people are interpreting current provisions to mean that once a producer applies for crop insurance on a crop of economic significance, by signing an application for insurance, that he or she has met the requirement for eligibility for certain other USDA program benefits, even though he or she has not met the requirements for crop insurance coverage to be in effect.

Response: FCIC agrees that failure to comply with all policy provisions may result in ineligibility for certain program benefits specified in § 400.657. A new § 400.652(e) has been added that states this requirement.

Comment: Two comments were received from the crop insurance industry raising issues involving alternative crops.

(1) One comment suggested that the provisions regarding alternative crops in § 400.653 (now § 400.654) be clarified with respect to crops of economic significance, USDA linkage requirements, and late filed applications.

(2) One comment states that this late application procedure could provide producers with a false sense of security because of the reliance on FCIC to make discretionary determinations following sales closing. It states that the procedure limits the producer to CAT coverage even if he or she had previously determined that a higher level was necessary for the crop intended to be planted. The procedure extends the sales closing date which is not permitted by the statute. The procedure also requires the insured to make application prior to the acreage reporting date, which requires the insured to make a special trip to the agent or FSA office.

Response: Section 400.654 has been amended to clarify the conditions under which a producer may insure a substitute crop. Section 400.651 has also been amended to add a definition of ''substitute crop''. FCIC has not extended sales closing dates, it has simply permitted another crop to be substituted for the intended crop, provided that circumstances warrant such action. This provision was intended to protect farm income by allowing the producer to plant and insure another crop when there was an inability to plant the intended crop or when a crop was planted and failed and replanting of such crop was not practical. Since the producer must still obtain coverage by the sales closing date for the initially intended crop, producers should not have a false sense of security. The substitution of crops simply permits producers to maintain their ability to manage their risks when circumstances beyond their control require a change in the planned farming operation. Since producers who have not executed a waiver of any eligibility for emergency crop loss assistance in connection with the crop must obtain insurance coverage on all crops of economic significance to remain eligible for other farm program benefits, producers had to be given the opportunity to insure such crops planted as a substitute crop. However, although producers may originally have selected higher levels of coverage, they will be limited to CAT coverage on substitute crops to comply with the linkage requirements and limit exposure for losses that occur after the sales closing date. The producer's decision to insure the substitute crop is voluntary and, although it may require another visit to the insurance provider, the producer will be ensured of protection against crop disasters.

Comment: The crop insurance industry strongly protested the requirement that all acreage reports be signed. They stated that a signed acreage report was not a requirement of the Act and must be removed in the final rule. They also stated that such a requirement

should not be imposed on CAT coverage.

Response: Acreage reports are required by the contract and are binding on the producer. If acreage reports are not signed, an insurance provider may not be able to legally challenge the contents. However, § 400.653(d) (now § 400.654(e)) has been amended for CAT coverage only, to permit the operator to sign the acreage report for all other persons with an insurable interest in the crop. These producers will be bound by all statements on that signed acreage report. Any person may sign the application, acreage report, or any other document relative to crop insurance coverage, provided he or she has a properly executed power of attorney or other legal document recognized by the state authorizing such person to sign. Section 400.654(d) has been amended accordingly.

Comment: The crop insurance industry also suggested that a producer be allowed to specify his or her intended acreage at the time of the prior year's production reporting or at the time of application.

Response: Producers may submit ''intended'' acreage reports as suggested by the comment, however, they will be required to confirm acreage reporting information in accordance with the policy on or before the final acreage reporting date. Premium owed and the production guarantee are determined based on actual acreage, not ''intended'' acreage. No change will be made to this provision.

Comment: Both the crop insurance industry and a producer group suggested clarifying the language in § 400.654(b) (now § 400.655(b)) to state how, and to what extent, FCIC intends to reduce an indemnity to reflect out-of-pocket expenses that were not incurred by the producer as a result of not planting, caring for, or harvesting the crop. They asked: If a prevented planting payment that is already less than the guarantee under the policy for a planted crop, will it be further reduced? They also asked: If an insured has a total crop loss, would the guarantee be reduced compared to someone who incurred harvesting costs?

Response: With respect to the prevented planting program, FCIC elected to reduce the guarantee, instead of reducing the indemnity, to reflect out-of-pocket expenses not incurred by the producer. Therefore, prevented planting guarantees or indemnities will not be further reduced and § 400.655(b) will be amended accordingly. Producers with a total crop loss that occurred before harvest may have the indemnity reduced to reflect the costs associated with harvest that were not incurred if such reduction is provided for in the applicable crop policy. Section 400.655(b) has been amended to state that reductions in indemnities will be in an amount determined in accordance with the crop provisions or the Special Provisions for the specific crop.

Comment: One comment from a producer group suggested that there is insufficient guidance as to the procedure that will be followed in the event of a loss or for appeal rights.

Response: Each individual crop policy contains procedures to be followed in the event of a crop loss. These policies are published in chapter IV of title 7 of the CFR. The applicable appeal procedures are published at 7 CFR parts 11 and 780 for determinations made by FCIC. Therefore, no change will be made.

Comment: The crop insurance industry recommended that § 400.654(c)(1) (now § 400.655(d)(2)) contain a provision indicating that when the insured with CAT coverage files a claim for indemnity under the policy, that filing indicates the insured has made the election to receive a CAT indemnity rather than a benefit under any other USDA program that compensates for the same crop loss. It stated that the regulations need to specify how the producer is to make this election, when he or she must make it, and who is responsible for enforcing it.

Response: The Act expressly provides the producer with the choice of programs under which to receive benefits. Since information about other program benefits may not be available until long after the crop loss has occurred, producers cannot be presumed to have made a choice because they have not delayed receipt of benefits to which they are entitled. Producers cannot make informed choices with respect to which program benefits to choose until they know what benefits will be available. Therefore, § 400.655(d)(2) has been amended to permit producers to receive a CAT indemnity and, if other program benefits are later made available, to reimburse the entire amount of the CAT indemnity to be eligible for a benefit under the other program. USDA will be responsible for determining if a crop insurance payment has been made prior to making payment under any other applicable USDA program.

Comment: A producer group stated that § 400.654(c)(1) (now § 400.655(d)(2)), which provides that a person can receive either CAT benefits or other USDA benefits for the same loss, but not both, should be clarified to state that a producer will not have to forego other USDA payments that are not specifically related to the crop loss, *e.g.*, regular deficiency payments.

Response: Deficiency payments did not compensate a producer for a crop loss, they provided compensation for changes in the market price. Therefore, deficiency payments could be made regardless of whether or not the producer collected an indemnity. No changes have been made in the provisions in response to the comment.

Comment: One comment from FSA stated that previous legislation required emergency loan applicants to have obtained crop insurance the previous year. The reform legislation prohibits the applicant from collecting the CAT indemnity, or noninsured crop disaster assistance program (NAP) payment, for the same loss that qualifies for the emergency loan. This requires the producers to pay for coverage on which they are never allowed to collect because if they collect the CAT or NAP payment, they will immediately become ineligible for an emergency loan. The commentor suggested a more reasonable approach would be to limit the total benefits from all sources for a loss to the total amount of loss, rather than limiting the benefit to a single source. Otherwise the producer will often collect the payment and then apply for a regular farm operating or farm ownership loan, rather than an emergency loan. Denying the producer the opportunity to collect the CAT or NAP payment will put a further strain on the Farm Credit Programs already limited loan funds.

Response: The provision in previous legislation that required emergency loan applicants to have obtained crop insurance the previous year was removed in the Reform Act. The statute is clear that, for CAT coverage policies, if another program provides compensation for the same crop loss, the producer must elect only one program under which to receive benefits. Therefore, the producer cannot receive benefits from all sources up to the total amount of the loss. Further, since the Act expressly provides the producer with the choice of which program to receive benefits, FCIC cannot administratively abrogate that right. However, any producer who receives a CAT indemnity payment is not automatically prohibited from receiving assistance for the same loss under other USDA programs. Such producers will be given the opportunity to reimburse the entire amount of the indemnity and receive assistance under the other USDA program. Farm ownership and operating loans which are not conditioned on a production loss, may be obtained from the USDA in addition

to crop insurance indemnities. This provision will not be changed in response to the comment.

Comment: A producer group suggested that it is unnecessarily confusing when one section requires that a person must obtain at least catastrophic risk protection coverage, if available, for each crop on all insurable acreage in the county; another section allows limited or additional coverage on portions of the crop in the county; and yet another section refers to linkage requirements if a crop is a crop of economic significance. These requirements could be clarified, distinguished, or perhaps even combined to make them easier to comprehend.

Response: FCIC has combined these requirements into § 400.655 for clarity.

Comment: The crop insurance industry suggested that the provisions need to be clarified to indicate that CAT coverage for high risk land must be obtained from the same insurance provider from which limited or additional coverage is obtained, if that provider sells and services CAT coverage.

Response: FCIC agrees with the comment and has amended § 400.655(c)(2) to clarify this requirement.

Comment: The crop insurance industry suggested that the hail and fire exclusion should be available for limited coverage as well as additional coverage.

Response: Section 508(c)(7) of the Act specifies that the hail and fire exclusion is available only for additional coverage. This provision cannot be changed.

Comment: The crop insurance industry suggested that the administrative fees for CAT coverage should be addressed separately from those for limited coverage (see § 400.655(a)) (now § 400.656(a)).

Response: The provisions of the Act mandate aggregation of the fees for CAT and limited coverage in order to ensure that the producer does not pay any administrative fee in excess of the amount required on a per county or per producer basis. Further, the use of the administrative fee to offset the costs of delivery of the program is the same for both CAT and limited coverage. This aggregation of fees is more clearly communicated by the proposed language than it would be if the provisions were separated, therefore, no revisions will be made.

Comment: The crop insurance industry suggests that the terms ''additional'' and ''limited'' be clarified.

Response: FCIC believes that the terms are clearly defined with respect to the applicable coverage level. No changes have been made in the definitions of these terms.

Comment: Two comments received from the crop insurance industry were against the provision requiring the administrative fee for limited coverage being due at acreage reporting time.

(1) One comment stated that the administrative fee should be payable with the premium for limited coverage as well as for additional coverage. This comment also stated that it would be more consistent if CAT policies had a $50 fee, and the limited and additional coverage levels had a $10 fee in addition to the premium.

(2) One comment stated that they strongly protest the requirement that the administrative fee for limited coverage must be paid at acreage reporting time for carry-over policies.

Response: FCIC agrees that the administrative fee for limited coverage should be paid during the normal premium billing cycle and has modified § 400.656(a)(3) accordingly. However, sections 508(b)(5) and 508(c)(10) of the Act specifies that the administrative fee for both CAT and limited coverage will be $50 per crop per county. No changes in these amounts can be made.

Comment: The crop insurance industry suggested that § 400.655(a) (now § 400.656(a)) fails to include provisions requiring an insured to refund any benefits received prior to the policy being terminated for nonpayment of fees.

Response: FCIC agrees with the comment and has amended § 400.656(a)(5) and (6) accordingly.

Comment: One comment received from the crop insurance industry asked if the regulation as proposed would permit a company to collect the $50 fee for a crop year at the same time it collects the production information from the prior crop year for purposes of computing the current crop year Actual Production History. They also stated that the regulations should be flexible enough so that if a particular producer has CAT, limited and additional coverage, all fees and premium could be collected at the usual premium billing time.

Response: Section 508(b)(5)(A) of the Act requires that administrative fees for CAT coverage be paid at the time of application. Since the Act requires that administrative fees be paid up front, FCIC only has the discretion to permit the payment of administrative fees on or before the acreage reporting date for carry-over policies the date the producer indicates the intention to continue coverage for the crop year. Administrative fees for limited and additional coverage may be collected during the normal billing cycle. Any fee may be paid prior to the due date, however, the insurance provider cannot require such payment. No change will be made.

Comment: The crop insurance industry suggested that § 400.655(b) (now § 400.656(b)) be clarified to state, ''Payment of an administrative fee will not be required if the insured files a zero acreage report.''

Response: FCIC agrees with the comment and has added a new § 400.656(b)(3) accordingly. However, producers who falsely file a zero acreage report may be subject to administrative and criminal sanction.

Comment: The crop insurance industry also suggested that § 400.656(c) (now § 400.657(c)) be clarified to provide that eligibility for Conservation Reserve Program benefits is limited to new or amended contracts and not contracts already in existence.

Response: FCIC agrees with the comment and has modified § 400.657(c) accordingly.

Comment: FSA suggested that the requirement for a producer to have at least CAT coverage only applies to ''new'' Farm Credit loans not ''new and amended'' loans. The Act specifically listed the applicable benefits in three loan-making authorities and the authority to service (reschedule, reamortize, subordinate, write-down or otherwise amend) loans is given in other sections of the Consolidated Farm and Rural Development Act. There is a discrepancy over the effective date of the CAT requirement. The requirement was effective upon enactment, however, applicants could not be required to purchase CAT coverage before it was available. The commentor continued to say that the effective implementation date for their loan programs is January 23, 1995.

Response: Section 508(b)(7)(A) of the Act was effective on October 13, 1994, and mandated that the producer obtain at least CAT coverage on crops of economic significance to be eligible for certain farm credit benefits. Therefore, producers who obtained farm credit programs, loans, or amended existing loans after October 13, 1994, are statutorily required to comply with this provision. Amendments to existing loans were included because such amendments can have a significant effect on the terms and duration of such loans. Further, Congress realized that some producers obtained loans in 1995, prior to enactment of the Act. To permit producers to comply with the requirements of section 508(b)(7)(A),

sales closing dates for CAT coverage were extended to April 13, 1995.

Comment: One comment received from FSA disagreed with provisions that require the producer to obtain CAT coverage for the crop year in which a farm credit loan is sought. The producer is not always able to anticipate credit needs by the CAT sales closing date so it would be more workable to allow the producer to obtain coverage for the following year if the sales closing date had passed and it was not possible to obtain coverage for the current year.

Response: The requirement for CAT coverage in the crop year for which a benefit is sought is a statutory requirement, although the producer may execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop and remain eligible for certain USDA program benefits. Therefore, no changes have been made. It is the responsibility of the producer and the lender to anticipate credit needs in the worst case scenario so crop insurance can be obtained prior to the applicable sales closing date.

Comment: The crop insurance industry questioned why only insureds who had participated in a conserving use program established for the 1994 crop year were eligible to receive the special prevented planting benefits.

Response: Section 116 of the Reform Act specifically requires that producers have participated in a conserving use program established for the 1994 crop year for wheat, feed grains, upland cotton, or rice to be eligible for the prevented planting payments.

In addition to the changes described above, FCIC has made the following changes:

1. § 400.651 has been amended to add definitions for ''Act,'' ''administrative fee,'' ''expected market price,'' ''FSA,'' ''insurable interest,'' ''intended crop,'' ''linkage requirement,'' ''Reform Act,'' ''substitute crop,'' and ''zero acreage report'' for clarification purposes.

2. § 400.651 has been amended by clarifying the definition of ''approved yield.''

3. § 400.654(c) has been amended to allow CAT coverage for a crop planted as a substitute for the intended crop when the intended crop is prevented from being planted or is planted and fails.

4. § 400.654(d)(1) (now § 400.655(e)(1)) has been amended by deleting the phrase ''as determined by the approved insurance provider.'' An insurance company is responsible for administering its contract with an insured producer. The FSA will be responsible for determining and paying the additional amount due the insured for any applicable USDA program benefit, after first considering the amount of any crop insurance payment.

5. § 400.655 has been amended to add a new paragraph § 400.655(d)(4) to allow a tobacco producer to obtain catastrophic risk protection for 100 percent of the tobacco crop that is identified by a tobacco marketing card issued by FSA for a specific producer and Farm Serial Number, when the producer and other persons share in the crop and none of the persons hold any interest in another tobacco crop for which they are required to obtain at least CAT coverage. This change will alleviate the burden on each shareholder to pay separate administrative fees in situations when numerous small shareholders have a share in the crop.

6. § 400.655 has been amended to add a new paragraph § 400.655(d)(5) to allow a landowner to obtain catastrophic risk protection and establish linkage for all other landowners who hold an undivided interest in the land, provided the landowners do not have multiple farming interests and the total liability for all landowners is $2,500 or less.

7. § 400.655(b)(2) (now § 400.656(b)(4)) has been amended to include the provision that the administrative fee for additional coverage is not subject to any limits.

List of Subjects in 7 CFR Part 400

Administrative practice and procedure, Claims, Crop insurance, Reporting and recordkeeping requirements.

Final Rule

Accordingly, for the reasons set out in the preamble, the interim rule adding a new subpart T to 7 CFR part 400, published at 60 FR 1996–2000, is adopted as a final rule effective for the 1997 and succeeding crop years for all crops with a 1997 crop year contract change date after the effective date of this rule and for the 1998 and succeeding crop years for all crops with a 1997 crop year contract change date prior to the effective date of this rule, with changes as follows:

Subpart T of part 400 is revised to read as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart T—Federal Crop Insurance Reform, Insurance Implementation; Regulations for the 1997 and Subsequent Crop Years

Sec.

400.650 Purpose.
400.651 Definitions.
400.652 Insurance availability.
400.653 Determining crops of economic significance.
400.654 Application and acreage report.
400.655 Coverage provided.
400.656 Administrative fees and waivers.
400.657 Eligibility for other program benefits.
400.658 Coverage for acreage that is prevented from being planted.
400.659 Transitional yields for forage or feed crops, 1995–1997 crop years.

Authority: 7 U.S.C. 1506(l), and 1506(p)

§ 400.650 Purpose.

The Reform Act requires FCIC to implement a crop insurance program that offers several levels of insurance coverage for producers. These levels of protection include catastrophic risk protection, limited coverage, and additional coverage insurance. This subpart provides notice of the availability of these crop insurance options and establishes provisions and requirements for implementation of the insurance provisions of the Reform Act.

§ 400.651 Definitions.

Act—The Federal Crop Insurance Act, as amended (7 U.S.C. §§ 1501 *et seq.*).

Additional coverage—Plans of crop insurance providing a level of coverage equal to or greater than sixty-five percent (65%) of the approved yield indemnified at one hundred percent (100%) of the expected market price, or comparable coverage as established by FCIC.

Administrative fee—The $50 fee the producer must pay on a per crop and county basis with a maximum of $200 per producer per county and $600 per producer for catastrophic and limited coverage on an annual basis. Also, the $10 fee the producer must pay annually on a per crop and county basis for additional coverage.

Approved insurance provider—A private insurance company, including its agents, that has been approved and reinsured by FCIC to provide insurance coverage to producers participating in the Federal crop insurance program.

Approved yield—The amount of production per acre computed in accordance with FCIC's Actual Production History Program (7 CFR part 400, subpart G) or for crops not included under 7 CFR part 400, subpart G, the yield used to determine the guarantee in accordance with the crop provisions or the Special Provisions.

Catastrophic risk protection—The minimum level of coverage offered by FCIC which is required before a person may qualify for certain other USDA program benefits unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop. For the 1995

through 1998 crop years, such coverage will offer protection equal to fifty percent (50%) of the approved yield indemnified at sixty percent (60%) of the expected market price, or a comparable coverage as established by FCIC. For the 1999 and subsequent crop years, such coverage will offer protection equal to fifty percent (50%) of the approved yield indemnified at fifty-five percent (55%) of the expected market price, or a comparable coverage as established by FCIC.

Catastrophic Risk Protection Endorsement—The part of the crop insurance policy that contains provisions of insurance that are specific to catastrophic risk protection.

Crop of economic significance—A crop that has either contributed in the previous crop year, or is expected to contribute in the current crop year, ten percent (10%) or more of the total expected value of the producer's share of all crops grown in the county. However, a crop will not be considered a crop of economic significance if the expected liability under the Catastrophic Risk Protection Endorsement is equal to or less than the administrative fee required for the crop.

Expected market price—(price election) The price per unit of production (or other basis as determined by FCIC) anticipated during the period the insured crop normally is marketed by producers. This price will be set by FCIC before the sales closing date for the crop. The expected market price may be less than the actual price paid by buyers if such price typically includes remuneration for significant amounts of post-production expenses such as conditioning, culling, sorting, packing, etc.

FCIC—The Federal Crop Insurance Corporation, a wholly owned Government Corporation within USDA.

FSA—The Farm Service Agency, an agency of the United States Department of Agriculture or any successor agency.

Insurable interest—The value of the producer's interest in the crop that is at risk from an insurable cause of loss during the insurance period. The maximum indemnity payable to the producer may not exceed the indemnity due on the producer's insurable interest at the time of loss.

Intended crop—A crop stated on the application as submitted on or before the sales closing date for the crop which the producer intended to plant in the crop year for which application is made.

Limited coverage—Plans of insurance offering coverage that is equal to or greater than fifty percent (50%) of the approved yield indemnified at one hundred percent (100%) of the expected market price, or a comparable coverage, but less than sixty-five percent (65%) of the approved yield indemnified at one hundred percent (100%) of the expected market price, or a comparable coverage.

Limited resource farmer—A producer or operator of a farm, with an annual gross income of $20,000 or less derived from all sources of revenue, including income from spouse's or other members of the household, for each of the prior two years. Notwithstanding the previous sentence, a producer on a farm or farms of less than 25 acres aggregated for all crops, where a majority of the producer's gross income is derived from such farm or farms, but the producer's gross income from farming operations does not exceed $20,000, will be considered a limited resource farmer.

Linkage requirement—The legal requirement that a producer must obtain at least catastrophic risk protection coverage for any crop of economic significance as a condition of receiving benefits for such crop from certain other USDA programs in accordance with § 400.657, unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

Person—An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a state or a political subdivision or agency of a state.

Reform Act—The Federal Crop Insurance Reform Act of 1994, Public Law 103–354.

Secretary—The Secretary of the United States Department of Agriculture.

Substitute crop—An alternative crop whose sales closing date has passed and that is planted on acreage that is prevented from being planted to an intended crop or where an intended crop is planted and fails.

Zero acreage report—An acreage report filed by the producer that certifies that the producer does not have a share in the crop for that crop year.

§ 400.652 Insurance availability.

(a) If sufficient actuarial data are available, FCIC will offer catastrophic risk protection, limited, and additional coverage plans of insurance to indemnify persons for FCIC insured or reinsured crop loss due to loss of yield or prevented planting, if the crop loss or prevented planting is due to an insured cause of loss specified in the applicable crop insurance policy.

(b) Catastrophic risk protection coverage may be offered through approved insurance providers and through local offices of the Farm Service Agency specified by the Secretary. Limited and additional coverage will only be offered through approved insurance providers unless there is not a sufficient number of approved insurance providers that offer such insurance within a service area.

(c) A person must obtain at least catastrophic risk protection for the crop on all insurable acreage in the county in which the person has a share on or before the sales closing date designated by FCIC for the crop in the county in order to satisfy the linkage requirements unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

(d) For limited and additional coverage, in areas where insurance is not available for a particular agricultural commodity that is insurable elsewhere, FCIC may enter into a written agreement with a person to insure the commodity, provided that the person has actuarially sound data relating to the production of the commodity that is acceptable to FCIC and that such written agreement is specifically allowed by the crop insurance regulations applicable to the crop.

(e) Failure to comply with all provisions of the policy constitutes a breach of contract and may result in ineligibility for certain other farm program benefits for that crop year and any benefit already received must be refunded. If a producer breaches the insurance contract, the execution of a waiver of eligibility for emergency crop loss assistance will not be effective for the crop year in which the breech occurred.

§ 400.653 Determining crops of economic significance.

To be eligible for certain other program benefits under § 400.657 the following conditions will apply with respect to crops of economic significance if the producer does not execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

(a) If a producer planted a crop of economic significance in the preceding crop year, and does not intend to plant the same crop in the present crop year, the producer does not have to obtain insurance coverage or execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop in the present crop year to comply with the linkage requirements. However, if the producer later decides to plant that crop, the producer will be unable to obtain insurance after the sales closing date and must execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop to be eligible for benefits as

specified in § 400.657. Failure to execute such a waiver will require the producer to refund any benefits already received under a program specified in § 400.657.

(b) The producer is initially responsible to determine the crops of economic significance in the county. The insurance provider may assist the producer in making these initial determinations. However, these determinations will not be binding on the insurance provider. To determine the percentage value of each crop:

(1) Multiply the acres planted to the crop times the producer's share, times the approved yield, and times the price;

(2) Add the values of all crops grown by the producer (in the county); and

(3) Divide the value of the specific crop by the result of paragraph (b)(2).

(c) The producer may use the type of price, such as the current local market price, futures price, established price, highest amount of insurance, etc., for the price when calculating the value of each crop, provided that the producer uses the same type of price for all crops in the county.

(d) The producer may be required to justify the calculation and provide adequate records to enable the insurance provider to verify whether a crop is of economic significance.

§ 400.654 Application and acreage report.

(a) To participate in catastrophic risk protection, limited, or additional coverage plans of insurance, a producer must submit an application for insurance on or before the applicable sales closing date.

(b) In order to remain eligible for certain farm programs, as specified in § 400.657, a producer must obtain at least catastrophic risk protection on all crops of economic significance, if catastrophic risk protection is available in the county, unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

(c) Notwithstanding the requirements of § 400.654(a) that applications for insurance be submitted on or before the applicable sales closing date, FCIC may permit a producer to insure crops other than those specified on the application under the following conditions:

(1) The producer must be unable to plant the intended crop or it is not practical to replant a failed crop before the final planting date. FCIC will take into consideration marketing windows when determining whether it was not practical to replant.

(2) Conditions must exist to warrant allowing a producer to insure crops other than the intended crop.

(3) The producer must submit an application for the substitute crop on or before the acreage reporting date for the substitute crop and pay any applicable administrative fee. A producer may not substitute a crop that the producer planted in the preceding crop year unless that crop was listed on a timely filed application for the current crop year.

(4) If the producer plants a substitute crop that is a crop of economic significance, the producer must obtain CAT coverage, if available, to comply with the linkage requirements specified in § 400.657. The producer may not substitute a crop under this provision if the producer has signed or intends to sign a waiver for emergency crop loss assistance for the crop year.

(5) The substitute crop must be planted on or before the final planting date or within the late planting period, if applicable, for the substitute crop.

(6) Under no circumstances may a producer submit an application for limited or additional coverage after the sales closing date for the substitute crop.

(d) For all coverages, including catastrophic risk protection, limited, and additional coverages, the producer must file a signed acreage report on or before the acreage reporting date. Any person may sign any document relative to crop insurance coverage on behalf of any other person covered by such a policy, provided that the person has a properly executed power of attorney or other legally sufficient document authorizing such person to sign.

(e) Under catastrophic risk protection, unless the other person with an insurable interest in the crop objects in writing prior to the acreage reporting date and provides a signed acreage report on their own behalf an operator may sign the acreage report for all other persons with an insurable interest in the crop without a power of attorney. All persons with an insurable interest in the crop, and for whom the operator purports to sign and represent, are bound by the information contained in that acreage report.

§ 400.655 Coverage provided.

(a) The specific causes of loss for which insurance coverage is offered are designated in the crop insurance policy for each crop.

(b) An indemnity paid to a producer may be reduced, in an amount determined in accordance with crop provisions or Special Provisions, to reflect out-of-pocket expenses that were not incurred by the producer as a result of not planting, caring for, or harvesting the crop. Indemnities paid for acreage that is prevented from being planted will be based on a reduced guarantee as provided for in the crop policy and will not be further reduced to reflect expenses not incurred.

(c) The producer must obtain the same level of coverage (catastrophic, limited, or additional) for all acreage of the crop in the county unless one of the following applies:

(1) The applicable crop insurance policy allows the producer the option to separately insure individual crop types or varieties. In this case each individual type or variety insured by the producer will be subject to separate administrative fees. For example, if two grape varieties in California are insured under a CAT policy and two varieties are insured under a limited coverage policy, a separate administrative fee will be charged for each of the four varieties. Although insurance may be elected by type or variety in these instances, failure to insure a type or variety that is of economic significance may result in the denial of other farm program benefits, unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

(2) The producer with limited or additional coverage for the crop in the county has acreage that has been designated as ''high risk'' by FCIC. Such producers will be able to obtain a High Risk Land Exclusion Option for the high risk acreage under the limited or additional coverage policies and insure the high risk acreage under a separate CAT policy provided that the CAT coverage is obtained from the same insurance provider from which the limited or additional coverage was obtained. The producer may only obtain CAT from another insurance provider if the original insurance provider does not deliver CAT policies.

(d) Catastrophic risk protection.

(1) Any person who has a bona fide insurable interest in a crop is eligible for catastrophic risk protection subject to any limitations contained in the crop insurance contract.

(2) A person who is eligible to receive an indemnity under catastrophic risk protection and is also eligible to receive compensation for the same crop loss under any other USDA programs, must elect the program from which to receive benefits. A payment or program benefit under only one of the programs is allowed. If other USDA program benefits are not available until after the producer filed a claim for indemnity, the producer may refund the total amount of the indemnity and receive the other program benefit. Farm ownership and operating loans may be obtained from USDA in addition to crop insurance indemnities.

(3) Catastrophic risk protection may, on a commodity-by-commodity basis, be elected on an individual yield and loss basis, or, where offered, may be elected on an area yield and loss basis.

(4) A tobacco producer may insure one hundred percent (100%) of the tobacco crop that is identified by a tobacco marketing card issued by FSA for a specific producer and Farm Serial Number under one CAT policy, provided the producer and other persons each have a share in the crop, all the shareholders agree in writing to such arrangement, and none of the shareholders hold any other interest in another tobacco crop for which they are required to obtain at least catastrophic coverage. If the tobacco crop is insured under one policy:

(i) The linkage requirements will be satisfied for each shareholder of the crop; and

(ii) The producer insuring the crop will:

(A) Make application for insurance and provide the name and social security number or employer identification number of each person with a share in the tobacco crop;

(B) File the acreage report showing a one-hundred percent (100%) share in the crop (all insurable acreage covered by such marketing card will be considered as one unit);

(C) Be responsible to pay one administrative fee for all the producers within the county;

(D) Fulfill all requirements under the crop insurance contract; and

(E) Receive any indemnity payment under his or her social security number or employer identification number and distribute the indemnity payments to the other person sharing in the crop.

(5) A landowner will be allowed to obtain catastrophic coverage to satisfy linkage requirements for all other landowners who hold an undivided interest in the insurable acreage, provided:

(i) All landowners agree in writing to such arrangement and have their social security number or employer identification number listed on the application, without regard to the actual amount of their interest in the insured acreage;

(ii) All landowners must have an undivided interest in the insurable acreage;

(iii) None of the landowners may hold any share in other acreage for which they are required to obtain at least catastrophic coverage;

(iv) The total cumulative liability under the Catastrophic Risk Protection Endorsement for all landowners must be $2,500 or less;

(v) The landowner insuring the crop will:

(A) Make application for insurance and provide the name and social security number or employer identification number of each person with an undivided interest in the insurable acreage;

(B) Be responsible to pay one administrative fee for all the producers within the county;

(C) Fulfill all requirements under the insurance contract; and

(D) Receive any indemnity payment under the landowner's social security number or employer identification number and distribute the indemnity payments to the other persons sharing in the crop.

(E) Limited and additional coverage. (1) A producer who is eligible to receive an indemnity under a limited or an additional coverage plan of insurance and who also is eligible to receive benefits for the same loss under any other USDA program may receive benefits under both programs, unless specifically limited by the crop insurance contract or by law. However, the total amount received from all such sources may not exceed the amount of the actual loss sustained by the insured. The total amount of the actual loss is the difference between the fair market value of the insured commodity before and after the loss, based upon the producer's production records and the highest price election or amount of insurance available for the applicable crop. FSA will determine and pay the additional amount due the producer for any applicable USDA program, after first considering the amount of any crop insurance indemnity. Farm ownership and operating loans may be obtained from the USDA in addition to crop insurance indemnities.

(2) Limited or additional coverage may, on a commodity-by-commodity basis, be elected on an individual yield and loss basis, or, where offered, on an area yield and loss basis.

(3) Hail and fire coverage may be excluded from the covered causes of loss for a crop policy only if additional coverage is elected.

§ 400.656 Administrative fees and waivers.

(a) Catastrophic risk protection and limited coverage. (1) The producer must pay an administrative fee each year of fifty dollars ($50.00) per crop per county, not to exceed two hundred dollars ($200.00) per county, and six hundred dollars ($600.00) for all counties in which the producer has elected to obtain catastrophic or limited coverage.

(2) The producer must pay this administrative fee for catastrophic coverage at the time of application for the first year, and by the acreage reporting date for all subsequent years that crop insurance coverage is in effect.

(3) The administrative fee for limited coverage must be paid no later than the time that premium is due.

(4) Except for the initial application year of a crop, payment of an administrative fee will not be required for a crop if the insured files a bona fide zero acreage report for the crop on or before the acreage reporting date. Any producer who falsely files a zero acreage report may be subject to administrative and criminal sanctions.

(5) For Catastrophic coverage, if the administrative fee is not paid when due, the crop insurance contract will terminate effective at the beginning of the crop year for which the administrative fee was not paid. Persons failing to pay the administrative fee, and all persons with an insurable interest in the crop under the same contract, may not be eligible for certain other USDA program benefits as set out in § 400.657 and all such benefits already received for the crop year must be refunded. If a producer fails to pay the administrative fee when due, the execution of a waiver of any eligibility for emergency crop loss assistance in connection with the crop will not be effective for any crop year in which payment was not made.

(6) For limited coverage, persons failing to pay the administrative fee by the due date, and all persons with an insurable interest in the crop under the same contract, will not be eligible for certain other USDA program benefits as set out in § 400.657 and all such benefits already received for the crop year must be refunded. Since insurance coverage was in effect throughout the insurance period, the producer will be required to pay both the administrative fee and the premium for that crop year in accordance with provisions regarding any amounts due us contained in the applicable crop policy. If a producer fails to pay the administrative fee when due, the execution of a waiver of any eligibility for emergency crop loss assistance in connection with the crop will not be effective for any crop year for which payment was not made.

(7) The administrative fee may not be waived unless the insured qualifies as a limited resource farmer.

(8) The administrative fee will be refunded if the insured has previously obtained catastrophic risk protection or limited coverage for the crop year, paid the administrative fee, and subsequently purchased additional coverage for that same crop in the same county on or

before the sales closing date. Administrative fees will not be refunded if, after the purchase of the additional coverage, the producer still has four or more crops insured in the county, or four or more crops insured in each of three or more counties, at the catastrophic or limited coverage level.

(9) The administrative fee will not be refunded for the year of application even if the insured does not plant the crop for that year.

(10) For limited coverage, the administrative fee is in addition to the amount of premium owed by the person.

(b) Additional coverage. (1) If additional coverage is elected, the insured must pay, in addition to the premium, an administrative fee of ten dollars ($10) per crop, per county, for the year of application and each subsequent year in which crop insurance coverage remains in effect. The administrative fee must be paid no later than the time that premium is due.

(2) Persons failing to pay the administrative fee by the due date, and all persons with an insurable interest in the crop under the same contract, will not be eligible for certain other USDA program benefits as set out in § 400.657, and all such benefits already received for the crop year must be refunded. Since insurance coverage was in effect throughout the insurance period, the producer will be required to pay both the administrative fee and the premium for that crop year in accordance with provisions regarding any amounts due us contained in the applicable crop policy. If a producer fails to pay the administrative fee when due, the execution of a waiver of any eligibility for emergency crop loss assistance in connection with the crop will not be effective for any crop year for which payment was not made.

(3) Payment of an administrative fee will not be required if the insured files a bona fide zero acreage report on or before the acreage reporting date for the crop. Any producer who falsely files a zero acreage report may be subject to criminal and administrative sanctions.

(4) The administrative fee for additional coverage is not refundable, is not subject to any limits, and may not be waived.

(c) When obtaining catastrophic risk protection, limited, or additional coverage, a producer must provide information regarding crop insurance coverage on any crop previously obtained at any other local FSA office or from an approved insurance provider, including the date such insurance was obtained and the amount paid in administrative fees. If the producer paid more than the maximum allowable amount in administrative fees, the producer will receive a refund of the excess fees paid from the local FSA office or from the approved insurance provider that last collected such fees.

§ 400.657 Eligibility for other program benefits.

The producer must obtain at least catastrophic coverage for each crop of economic significance in the county in which the producer has an insurable share, if insurance is available in the county for the crop, unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop, to be eligible for:

(a) Benefits under the Agricultural Market Transition Act;

(b) Loans or any other USDA provided farm credit, including: guaranteed and direct farm ownership loans, operating loans, and emergency loans under the Consolidated Farm and Rural Development Act provided after October 13, 1994; and

(c) Benefits under the Conservation Reserve Program derived from any new or amended application or contract executed after October 13, 1994.

§ 400.658 Coverage for acreage that is prevented from being planted.

For the 1995 and succeeding crop years, the insurance period for prevented planting for those crop insurance policies containing prevented planting coverage shall be extended so that prevented planting coverage begins:

(a) On the sales closing date for the insured crop in the county for the crop year the application for insurance is accepted; or

(b) For any crop year following the crop year the application for insurance is accepted, or for any crop year the insurance policy is transferred to a different insurance provider, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. *For example:* If the producer makes application and purchases a corn crop insurance policy for the 1995 crop year (which is not terminated or canceled during or after the 1995 crop year), prevented planting coverage for the 1996 crop year began on the 1995 sales closing date. Cancellation for the purpose of transferring the policy to a different insurance provider when there is no lapse in coverage will not be considered terminated or canceled coverage for the purpose of the preceding sentence.

§ 400.659 Transitional yields for forage or feed crops, 1995–1997 crop years.

(a) For the 1995 through the 1997 crop years, producers who produce feed or forage will be eligible for an adjustment in the assigned yield described in 7 CFR 400.55(b)(1) if:

(1) The feed or forage is primarily for use by the producer as livestock, dairy, or poultry operations; and

(2) At least fifty percent (50%) of the producer's net farm income is derived from the livestock, dairy, or poultry operations.

(b) Producers that qualify under paragraph (a) of this section will receive an assigned yield, if required, under 7 CFR 400.55(b)(1) equal to eighty percent (80%) of the T- or D-Yield.

Signed in Washington, DC, on August 13, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–21116 Filed 8–19–96; 8:45 am]

BILLING CODE 3410–FA–P

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7 CFR Part 402

RIN 0563–AB09

Catastrophic Risk Protection Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes part 402 chapter IV of title 7 of the Code of Federal Regulations (CFR). The intended effect of this rule is to provide for a catastrophic risk protection plan of insurance. This coverage is the lowest level required to be purchased by a producer to be eligible for certain other agricultural farm program benefits. The producer may execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop rather than obtain insurance coverage to be eligible for certain other agricultural farm program benefits. This action is needed to comply with statutory mandates of the Federal Crop Insurance Act (Act), as amended by the Federal Crop Insurance Reform Act of 1994 (Reform Act) and the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act).

EFFECTIVE DATE: August 20, 1996.

FOR FURTHER INFORMATION CONTACT: Louise Narber, Program Analyst, Research and Development Division, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435

Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866 and Departmental Regulation 1512–1

This action has been reviewed under United States Department of Agriculture (USDA) procedures established by Executive Order No. 12866. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 1, 2001.

This rule has been determined to be economically significant for the purposes of Executive Order No. 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB).

Cost Benefit Analysis

A Cost Benefit Analysis has been completed and is available to interested persons at the address listed above. In summary, the analysis finds that crop insurance reform, generally is expected to result in net positive benefits to producers, taxpayers, and society. The effects on individual producers compared to payments under *ad hoc* disaster programs depends primarily on the farm program payment yield compared to the farm's actual yield and market prices. In general, however, the reform is expected to result in less volatility of producers' incomes and less risk of no income due to adverse weather events. Rural communities and producers will benefit from the certainty of payments in times of catastrophic yield losses. The Government and taxpayers will benefit from a single disaster protection program and consequent reduced Federal outlays. Although producers who had not previously participated in the Federal crop insurance program will have an added burden to make application and report yields and acreage, the benefits in terms of greater risk protection outweigh the costs.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements contained in these regulations have been previously approved by OMB and assigned OMB control number 0563–0003 through September 30, 1998. The 1996 Act alleviates producers from the requirement to obtain at least catastrophic coverage on crops of economic significance to be eligible for certain other USDA program benefits if the producer waives any eligibility for emergency crop loss assistance in connection with the crop. Due to this provision, FCIC anticipates that fewer producers will obtain insurance coverage. This will reduce the paperwork burden. We estimate that approximately 30 percent of the insureds with CAT coverage will cancel their crop insurance coverage. As a result the paperwork burden approved under OMB Number 0563–0003 will be reduced by 44,176 hours. Copies of the information collection may be obtained from Bonnie Hart, USDA, FSA, Advisory and Corporate Operations Staff, Regulatory Review Group, P.O. Box 2415, Ag Box 0572, Washington, D.C. 20013–2415, 8:15 a.m.–4:45 p.m., Monday through Friday, except holidays, telephone (202) 690–2857.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate 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. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of Government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. However, it does provide additional flexibility and cost savings for small entities in the following three areas. First, producers are no longer required to obtain at least CAT coverage for economically significant crops. Instead, they may sign a waiver foregoing emergency crop loss assistance. Insureds likely to decline coverage are those who believe that the costs associated with obtaining insurance exceed the benefits. The producers most likely to fall into this category are those who have insurance policies with low liabilities. For these producers, the $50 fee for CAT would be most likely to outweigh expected indemnities. Second, an allowance has been made to allow all producers with a share in a tobacco crop under one marketing card to insure the crop under one insurance policy. To qualify under this provision, none of the shareholders may have an interest in another tobacco crop in the county. It is estimated that 35,100 policyholders may utilize this allowance, thereby saving the $50 processing fee for each. Third, with specified restrictions, persons who hold an undivided interest in a crop may be eligible to purchase one insurance policy covering all shares to satisfy linkage requirements. The restrictions associated with this allowance include: all landowners must agree in writing to the arrangement; none of the landowners may hold any other interest in the given crop in the county for which they are required to buy at least CAT coverage; and the total liability under the CAT endorsement for all landowners must be $2,500 or less. Because no data are available providing an indication of insureds with an undivided interest, it is not possible to estimate the savings associated with not paying the $50 processing fee in these situations. However, some small entities will benefit from this allowance.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR parts 11 and 780 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

The amendments to the Act, made by the Reform Act, were effective on October 13, 1994. This regulation provides the policy and procedures to carry out the catastrophic risk protection insurance requirements of those amendments.

On Friday, January 6, 1995, FCIC published an interim rule in the Federal Register at 60 FR 2000–2005 to add a new catastrophic risk protection (CAT) level of insurance through the Catastrophic Risk Protection Endorsement which amends new and existing crop insurance policies, endorsements, and crop provisions when elected by the insured. Following publication of that interim rule, the public was afforded 60 days to submit written comments, data, and opinions. On Monday, August 7, 1995, by publication at 60 FR 40055, FCIC reopened and extended the comment period to August 18, 1995. A total of 40 comments were received from the crop insurance industry, FSA, producer groups, and producers. The category, comments received, and FCIC responses are as follows:

General Comments

Comment: One comment received from the crop insurance industry suggested that the phrase ''at the option of the Secretary'' should be added after, ''Catastrophic risk protection coverage may be offered through approved insurance providers and'' in Section 402.1, to be consistent with the Act. This change is needed to enable the FSA to cease delivering CAT coverage in counties in which such coverage becomes unnecessary.

Response: The Federal Agriculture Improvement and Reform Act of 1996 provides for CAT coverage to be offered by approved insurance providers if there are a sufficient number available within an area. If approved insurance providers are not sufficiently available, local offices of the USDA will provide CAT coverage. FCIC agrees that the Secretary must now make an affirmative determination that CAT can be delivered through local FSA offices. The provision has been changed accordingly.

Comments Regarding Definitions

Comment: One comment received from a producer group suggested that the definitions should include a reference to the standards that will be used in determining whether a producer's crop loss was due to drought, flood, or other natural disaster as determined by the Secretary. The comment recommended referencing other FCIC regulations that are applicable in making this determination and similarly referencing coverage exclusions.

Response: The insured is responsible for demonstrating that any loss of production or value has been directly caused by one or more of the insured causes during the insurance period. Catastrophic risk protection is only available through an endorsement which becomes part of the crop insurance policy. Each crop policy contains a section regarding the causes of loss for which insurance is provided. Coverage exclusions, such as failure to follow good farming practices, are also specified in these policies. Therefore, a change to the definitional section of this rule is not necessary.

Comment: Another comment received from a producer group indicated that sustainable and alternative agricultural practices are frequently and erroneously labeled as not being ''good farming practices'' simply because they may be different from the traditional approach in the area.

Response: The definition of ''good farming practices'' contained in various crop policies does not exclude the use of sustainable or alternative practices. However, farming practices must control weeds, provide sufficient nutrients, protect against disease and insects, etc., to be considered good farming practices. The definition will not be changed.

Comment: Another comment received from the crop insurance industry suggested clarifying the definition of ''catastrophic risk protection'' by deleting the word ''minimal'' and replacing it with either the word ''minimum'' or ''lowest.''

Response: FCIC agrees with the comment and has amended the definition of ''catastrophic risk protection'' by replacing the word ''minimal'' with the word ''minimum.''

Comment: The crop insurance industry suggested clarifying the definition of ''crop of economic significance'' to explain the consequences if a crop planted in 1994, is planted in 1995 although originally there was no intent to plant the crop in 1995; and to clarify who is responsible for determining which crops are of economic significance.

Response: FCIC agrees with the comment and has added provisions in section 12 to clarify requirements regarding crops of economic significance. Producers who do not intend to plant a crop do not have to obtain crop insurance or execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop to remain eligible for certain USDA program benefits, even if they produced the crop the previous year. However, if the producer decides to plant the crop after the sales closing date, the producer cannot obtain insurance on the crop and must execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop to be eligible for certain other USDA program benefits. If a waiver is not executed, the producer must return those benefits already received. Provisions were also added indicating that it is the producer's responsibility to determine crops of economic significance in the county and that the producer may have to provide records to permit the insurance provider to verify whether a crop is a crop of economic significance. FCIC has issued a worksheet that may be used by producers to assist them in determining crops of economic significance. USDA will be ultimately responsible for determining eligibility and paying any amount due a person for any applicable USDA program.

Comment: A producer group suggested that the definition of ''crop of economic significance'' is contrary to the Act and invites legal action to test it. They stated that the Act looks to a percentage of all crops grown by the producer and the definition in this regulation provides for a county by county test to be done.

Response: FCIC agrees that § 508(b)(7) and (8) of the Act does not specifically indicate that crops of economic significance are determined on a county basis. However, an administrative interpretation was made to operate on a county basis because of the language in § 508(b)(7)(A) of the Federal Crop Insurance Act. In addition, operating on a county basis is consistent with the long standing practice of insuring acreage on a county basis. Although the provisions of the Act may have changed, the insurance rationale has not. No changes will be made to conform to this suggestion.

Comment: The Farm Service Agency requested that the term ''limited resource farmer'' be changed to ''limited income farmer.'' Farm Credit Programs, which are part of FSA, have used the term ''limited resource farmer'' for many years and it has a very different definition than the definition of

''limited resource farmer'' used for crop insurance purposes.

Response: Section 508(b)(5) of the Act expressly authorizes FCIC to waive the administrative fee for ''limited resource farmers.'' Since ''resources'' include more than the producer's ''income'' such as farm size, the definition will not be changed.

Comment: The crop insurance industry and a producer group questioned what the phrase ''a need to maximize farm income'' meant in the definition of ''limited resource farmer'' and recommended an explanation be added to the endorsement or the phrase deleted.

Response: FCIC has reconsidered this provision and amended the definition of ''limited resource farmer'' by deleting the phrase ''a need to maximize farm income.''

Comment: A producer group recommended defining or omitting the phrase ''small or family farm'' in the definition of ''limited resource farmer.'' They also questioned how a person is categorized as a limited resource farmer and whether or not such person is required to obtain at least catastrophic risk protection (CAT) coverage, if available. The comment also asked if the limited resource status could be used as a defense if a producer is denied benefits for failure to meet linkage requirements.

Response: FCIC agrees that the terms ''small'' and ''family farm'' are not necessary in the definition and has amended the definition accordingly. All producers, including limited resource farmers, are required to obtain at least CAT coverage, if available, to be eligible for certain other USDA program benefits, unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop. The limited resource farmer status only authorizes FCIC to waive payment of the administrative fees and may not be used as a defense for failure to obtain CAT coverage. Producers may request limited resource farmer status at the time the application for insurance is made.

Comment: A producer stated that a spouse's salary from a job in town should not be included in total income when considering all sources of revenue for a limited resource farmer.

Response: The purpose of this provision is to excuse producers from paying the administrative fee when it would impose a financial hardship. Since part of the farm's income is usually used to defray the personal expenses of the producer, outside income such as a spouse's salary will affect the determination. All of the income within the family entity, from all sources of revenue, including the spouses' will be considered as the annual gross income.

Comment: A producer group suggested that the word ''producer'' be defined and used rather than the word ''person'' because it would be less confusing since ''person'' is specifically defined with regard to payment limitation rules. If this change is not made, the comment suggested adding provisions to indicate that the definition in these provisions does not reference the term ''person'' for payment limitation purposes.

Response: A definition of ''person'' contained in any other statute or regulation is not applicable to the Federal crop insurance program unless expressly provided. Therefore, the definition of a person with respect to payment limitation purposes is not relevant. The term ''person'' is defined for this program and has been used in the crop insurance program for longer than payment limitation has existed. The term ''person'' cannot be replaced with ''producer'' because not all ''persons'' are producers within the context of the program and to alternate between the two terms would be confusing. No change to the provisions will be made.

Comments Regarding Insurance Units

Comment: A producer observed that coverage was available only by basic units, and stated that unit division on share basis was very misleading.

Response: Unit division on a share basis is explained in section 3 (Unit Division) of the Catastrophic Risk Protection Endorsement. This document is provided to all insureds who elect the endorsement. Provisions contained therein are complete with examples and should not be misleading to insureds. No change will be made.

Comments Regarding Linkage Requirements

Comment: Twenty-three (23) comments were received from producers who disagreed with the mandatory requirement to purchase crop insurance to remain eligible for certain other USDA program benefits. One additional comment received from a FSA employee discussed producers' aversion to the mandatory requirement to purchase crop insurance to be eligible for certain other USDA benefits.

Response: (1) The mandatory requirement that producers obtain crop insurance has been amended in the 1996 Act. (2) Now, section 508(b)(7) of the Act requires the producer to obtain at least a CAT plan of insurance or comparable coverage unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop, to remain eligible for certain other USDA program benefits. The intent of the Act is to encourage the fullest possible participation in the Federal Crop Insurance program since *ad hoc* disaster legislation is repealed. Crop insurance provides greater assurance that producers are protected from the impacts of widespread disaster causing a crop loss. The CAT endorsement will be amended to conform to the statutory change.

Comment: Nine comments received from producers stated that it is unfair to have to obtain insurance on other crops such as corn, wheat and soybeans in order to remain eligible for the tobacco price support program.

Response: The statutory requirement to obtain insurance for all crops of economic significance, unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop, is applicable to all Agriculture Marketing Transition Act benefits, the conservation reserve program, and certain farm credit programs. Producers who do not participate in these programs are not required to obtain insurance on any of their crops. However, with the elimination of *ad hoc* disaster assistance, a producers only available protection is through crop insurance.

Comments Regarding Administrative Fees

Comment: Twenty-two (22) comments received from producers and 1 comment received from FSA state that: (1) Charging the same administrative fee for both small producers and large producers was unfair; (2) the larger producer will receive greater payments than the small producer due to the differences in the acreages; (3) the number of people involved in an operation does not increase the risk; (4) the size of the operation affects the liability covered; (5) in determining the administrative fees, factors should be used to compensate the differences in the size of the acreage, not the number of crops; (6) the amount of coverage or size of the operation should be a consideration in determining the administrative fee; and (7) fees should be pro-rated based on the size of the operation, a given amount per acre, or something fair for the small farmer in respect to the benefit they could attain from it.

Response: Section 508(b)(5) of the Act mandates the amount of administrative

fee. The Act expressly states that the fee will be paid on a per crop and per county basis. FCIC does not have the authority to change this requirement. Further, this fee is not related to the amount of liability or the risk associated with the size of the operation. The fee is intended to defray the costs associated with calculating the actual production history and processing applications, acreage reports, etc., which do not normally vary greatly between small and large farming operations. Producers who do not wish to obtain insurance and pay the administrative fee for any or all of their crops may execute a waiver of any eligibility for emergency crop loss assistance for the crop. Therefore, no change will be made.

Comment: Seven comments received from producers claimed the administrative fee is not fair because separate fees are required for (1) each crop; (2) each county; and (3) crops in two or more counties when farms are consolidated in one FSA Farm Serial Number and administered in one FSA office.

Response: Section 508(b)(5) of the Act mandates that the fee be paid on a per crop and per county basis. FCIC does not have the authority to change this requirement. Producers who do not wish to obtain insurance and pay the administrative fee for any or all of their crops may execute a waiver of any eligibility for emergency crop loss assistance for the crop. Therefore, no change will be made.

Comment: One comment from a producer claimed that as a result of the narrow definition of ''limited resource farmer'' and ''crop of economic significance,'' small farmers with several crops are required to pay $200 plus idle acreage to be eligible for certain other USDA program benefits. In return, they receive little more in program benefits than the administrative fees incurred. The producer stated that he would like to pay the administrative fee for each farm rather than one fee per crop or have the fee based on acreage or something fair for the small farmer.

Response: FCIC is statutorily mandated to charge an administrative fee on a per crop basis. However, if the amount of liability under the policy is equal to or less than the administrative fee, the crop is not considered a ''crop of economic significance'' and the producer is not required to obtain insurance for the crop. Further, under the 1996 Act, producers of program crops are no longer required to idle acres. Producers who do not wish to obtain insurance and pay the administrative fee for any or all of their crops may execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop. Therefore, no change will be made.

Comment: Seven (7) comments received from producers stated that it is unreasonable for each person sharing in a crop to pay separate administrative fees.

Response: (1) Section 508(b)(7) states that each ''person'' must obtain crop insurance on any crop of economic significance in which the person has an interest. (2) The Act further states that each producer must pay an administrative fee. However, persons who execute a waiver of their eligibility for emergency crop loss assistance are still eligible for the specified USDA benefits. FCIC has amended section 7 to specify that, for tobacco producers, only one administrative fee will be charged when one policy is issued for multiple shareholders, provided: (1) A tobacco marketing card has been issued by FSA for a specific producer and Farm Serial Number; (2) all of the shareholders agree in writing; (3) this producer and other persons have a share in the crop; and (4) neither this producer nor the other persons hold any interest in another tobacco crop for which they are required to obtain at least CAT coverage. Linkage requirements will be satisfied for each shareholder of the crop. Section 7 has also been amended to allow a landowner to obtain catastrophic risk protection and establish linkage for all other landowners who hold an undivided interest in the insurable acreage provided: (1) The landowners do not have multiple farming interests; (2) all the landowners agree in writing to such arrangement and have their social security number or employer identification number listed on the application without regard to the actual amount of their interest in the insured acreage; (3) the total liability for all landowners is $2,500 or less; and (4) the landowner insuring the crop will make application for insurance, provide name and identification number for each person, pay the one administrative fee for all the producers within the county, fulfill all agreements under the contract, and receive and distribute the indemnity payments. This is a new provision that will alleviate each producer in an undivided interest from being required to pay a separate administrative fee when all of the producers share in the crop and have no other insurable interest in that crop and the total liability is $2,500 or less.

Comment: The crop insurance industry suggested that the administrative fees for CAT coverage should be addressed separately from those for limited coverage (see section 6).

Response: The provisions of the Act mandate aggregation of the fees for CAT and limited coverage in order to ensure that the producer does not pay any administrative fee in excess of the amount required on a per county per producer basis. Further, the use of the administrative fee to offset the costs of delivery of the program is the same for both CAT and limited coverage. This aggregation of fees is more clearly communicated by the proposed language than it would be if the provisions were separated therefore, no revisions will be made.

Comment: The crop insurance industry suggested clarifying the language in section 5 (now 6) which explains that an insured may not receive a refund of an administrative fee if the producer has insured enough crops to generate fees in excess of the caps included in the regulations.

Response: This provision has been clarified. Administrative fees will not be refunded if, after the purchase of the additional coverage, the producer still has 4 or more crops insured in the county, or 4 or more crops insured in each of three or more counties, at the CAT or limited coverage level.

Comment: The crop insurance industry stated that the endorsement fails to include provisions requiring an insured to refund any benefits received prior to the policy being terminated for nonpayment of fees.

Response: FCIC agrees with the comment and has amended section 6(f) of the endorsement accordingly.

Comments Regarding Insureds' Duties and Rights

Comment: A producer group suggested that there is insufficient guidance as to appeal rights or the procedure that will be followed in the event of a loss.

Response: Each crop policy contains provisions for procedure to be followed in the event of a crop loss. These policies are published in chapter IV of Title 7 of the CFR. The applicable appeal procedures are published at 7 CFR parts 11 and 780. In addition, each reinsured company has established mediation, arbitration, or similar procedures to address insureds concerns. Therefore, no change will be made.

Claim for Indemnity

Comment: The crop insurance industry recommended that the CAT endorsement contain a provision indicating that when the insured with

CAT coverage files a claim for indemnity under the policy, that filing indicates the insured has made the election to receive a CAT indemnity rather than a benefit under any other USDA program that compensates for the same crop loss. It stated that the regulations need to specify how the producer is to make this election, when he or she must make it, and who is responsible for enforcing it.

Response: (1) The Act expressly provides the producer with the choice of which program under which to receive benefits. (2) Since information about other program benefits may not be available until long after the crop loss has occurred, producers cannot be presumed to have made a choice because they have not delayed receipt of benefits to which they are entitled. (3) Producers cannot make informed choices with respect to which program benefits to choose until they know what benefits will be available. Therefore, section 9(b) of the endorsement has been amended to permit producers to receive a CAT indemnity and, if other program benefits are later made available, to reimburse the entire amount of the CAT indemnity to be eligible for a benefit under the other program. USDA will be responsible for determining if a crop insurance payment has been made prior to making payment under any other applicable USDA program.

Comment: Another comment from FSA stated that previous legislation required emergency loan applicants to have obtained crop insurance the previous year. The reform legislation forbids the applicant from collecting the CAT indemnity, or noninsured crop disaster assistance program (NAP) payment for the same loss that qualifies for the emergency loan. This requires the producers to pay for coverage on which they are never allowed to collect because if they collect the CAT or NAP payment, they will immediately become ineligible for an emergency loan. The commentor suggested a more reasonable approach would be to limit the total benefits from all sources for a loss to the total amount of loss, rather than limiting the benefit to a single source. Otherwise the producer will often collect the payment and then apply for a regular farm operating or farm ownership loan, rather than an emergency loan. Denying the producer the opportunity to collect the CAT or NAP payment will put a further strain on the Farm Credit Programs already limited loan funds.

Response: The provision in previous legislation that required emergency loan applicants to have obtained crop insurance the previous year was removed in the Reform Act. The statute is clear that, for CAT coverage policies, if another program provides compensation for the same crop loss, the producer must elect only one program under which to receive benefits. Therefore, the producer cannot receive benefits from all sources up to the total amount of the loss. Further, since the Act expressly provides the producer with the choice of which program to receive benefits, FCIC cannot administratively abrogate that right. However, any producer who receives a CAT indemnity payment is not automatically prohibited from receiving assistance for the same loss under other USDA programs. Such producers will be given the opportunity to reimburse the entire amount of the indemnity and receive assistance under the other USDA program. No change will be made.

Comments Regarding Eligibility

Comment: One comment was received from within FCIC recommending that language be included that would deny benefits from other USDA programs if the producer fails to carry out the producer's responsibilities in accordance with policy provisions. It was suggested that language be added to indicate that such failure would be considered a scheme or device to circumvent the insurance requirement. The comment indicates that some people are interpreting current provisions to mean that once a producer applies for crop insurance on a crop of economic significance, by signing an application for insurance, that he or she has met the requirement for eligibility for certain other USDA program benefits, even though he or she has not met the requirements for crop insurance coverage to be in effect.

Response: FCIC agrees that failure to comply with all policy provisions may result in ineligibility for certain other program benefits specified in section 12(e). A new section 12(f) has been added that states this requirement.

Comment: A producer group stated that section 9(b), which provides that a person can receive either CAT benefits or other USDA benefits for the same loss, but not both, should be clarified to state that a producer will not have to forego other USDA payments that are not specifically related to the crop loss, *e.g.*, regular deficiency payments.

Response: Deficiency payments do not compensate a producer for a crop loss, they provided compensation for changes in the market price. Therefore, deficiency payments could be made regardless of whether or not the producer collected an indemnity. No changes have been made in the provisions in response to this comment.

Comment: FSA suggested that the requirement for a producer to have at least CAT coverage only applies to ''new'' Farm Credit loans not ''new and amended'' loans. The Act specifically listed the applicable benefits in three loan-making authorities and the authority to service (reschedule, reamortize, subordinate, write-down or otherwise amend) loans is given in other sections of the Consolidated Farm and Rural Development Act. There is a discrepancy over the effective date of the CAT requirement. The requirement was effective upon enactment, however, applicants could not be required to purchase CAT coverage before it was available. The commentor continued to say that the effective implementation date for their loan programs is January 23, 1995.

Response: Section 508(b)(7)(A) of the Act was effective on October 13, 1994, and mandated that the producer obtain at least CAT coverage on crops of economic significance to be eligible for certain farm credit benefits. Therefore, producers who obtained farm credit programs, loans, or amended existing loans after October 13, 1994, are statutorily required to comply with this provision. Amendments to existing loans were included because such amendments can have a significant effect on the terms and duration of such loans. Further, Congress realized that some producers obtained loans in 1995, prior to enactment of the Act. To permit producers to comply with the requirements of section 508(b)(7)(A), sales closing dates for CAT coverage were extended to April 13, 1995.

Comment: One comment received from FSA disagreed with provisions that require the producer to obtain CAT coverage for the crop year in which a farm credit loan is sought. The producer is not always able to anticipate credit needs by the CAT sales closing date so it would be more workable to allow the producer to obtain coverage for the following year if the sales closing date had passed and it was not possible to obtain coverage for the current year.

Response: The requirement for CAT coverage in the crop year for which a benefit is sought is a statutory requirement, although now producers may execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop and remain eligible for certain USDA program benefits. Therefore, no changes have been made. It is the responsibility of the producer and the lender to anticipate credit needs in the worst case scenario

so crop insurance can be obtained prior to the applicable sales closing dates.

In addition to the changes described above, FCIC has made the following changes to the CAT endorsement:

1. § 402.1—Amend this section by adding, ''if provided by the Corporation,'' after ''The Federal Crop Insurance Act, as amended by the Federal Crop Insurance Reform Act of 1994, requires the Federal Crop Insurance Corporation to implement a catastrophic risk protection plan of insurance that provides a basic level of insurance coverage to protect producers in the event of a catastrophic crop loss due to loss of yield, or prevented planting'' to clarify that not all policies offer prevented planting coverage.

2. Section 1—Clarify the definition of ''approved yield'' to cover crops not included under 7 CFR part 400, subpart G.

3. Section 1—Delete the phrase ''in which you have an insurable share'' from the definition of ''crop of economic significance''. The Act states that a determination of a ''crop of economic significance'' be based on the producer's share of all crops grown in the county, not just the insurable crops.

4. Section 1—Add a definition for ''expected market price,'' ''linkage requirement,'' and ''zero acreage report'' for clarification purposes.

5. Section 1—Delete the definition of ''price election'' because the definition of ''expected market price'' replaced it.

6. Section 1—Delete the definition of ''CFSA'' and add the definition of ''FSA'' to reflect the change in the agency's name.

7. Section 4—Add a new section 4(e) to clarify that a producer must have suffered at least a 50 percent loss in yield to be eligible for an indemnity under this endorsement.

8. A new section 5(a) has been added specifying that acreage reports be signed and filed before the acreage reporting date. To minimize the burden imposed by the requirement, this provision also allows that an operator may sign the acreage report for all other persons with an insurable interest in the policy. All producers are bound by all statements on the signed acreage report. Since the acreage report is an integral part of the insurance contract and the document upon which the premium is based it must be properly executed.

9. A new section 5(b) has been added to consolidate and clarify information on share, share leases, cash leases, and insurance coverage in multiple owner situations. Consequently, the definition of share and section 3(c) of the interim rule has been deleted.

10. Section 6(c) (now 7(a)) has been amended to allow a producer to obtain catastrophic risk protection coverage on high risk land from an insurance provider other than the insurance provider where the limited or additional coverage was obtained, if the provider of the limited or additional coverage does not sell or service CAT policies. This change was necessary because some companies who provide limited and additional coverage do not provide CAT coverage.

11. Section 11(a) (now 12(e)) has been amended by replacing the specifically named price support and production adjustment programs under which producers receive benefits to benefits under the Agricultural Market Transition Act.

List of Subjects in 7 CFR Part 402

Claims, Crop insurance, Reporting and recordkeeping requirements.

Final Rule

Accordingly, for the reasons set out in the preamble, the interim rule, ''Catastrophic Risk Protection Endorsement,'' published at 60 FR 2000–2005, is adopted as a final rule, effective for the 1997 and succeeding crop year for all crops with a 1997 crop year contract change date following the effective date of this rule and for the 1998 and succeeding crop years for all crops with a 1997 crop year contract change date prior to the effective date of this rule, with changes as follows:

7 CFR Part 402 is revised to read as follows:

PART 402—CATASTROPHIC RISK PROTECTION ENDORSEMENT; REGULATIONS FOR THE 1997 AND SUBSEQUENT CROP YEARS

Sec.

402.1 General statement.
402.2 Applicability.
402.3 OMB control numbers.
402.4 Catastrophic risk protection endorsement.

Authority: 7 U.S.C. 1506(l) and 1506(p).

§ 402.1 General statement.

The Federal Crop Insurance Act, as amended by the Federal Crop Insurance Reform Act of 1994, requires the Federal Crop Insurance Corporation to implement a catastrophic risk protection plan of insurance that provides a basic level of insurance coverage to protect producers in the event of a catastrophic crop loss due to loss of yield or prevented planting, if provided by the Corporation, provided the crop loss or prevented planting is due to an insured cause of loss specified in the crop insurance policy. This Catastrophic Risk Protection Endorsement is a continuous endorsement that is effective in conjunction with a crop insurance policy for the insured crop. Catastrophic risk protection coverage will be offered through approved insurance providers if there are a sufficient number available to service the area. If there are an insufficient number available, as determined by the Secretary, local offices of the Farm Service Agency will provide catastrophic risk protection coverage.

§ 402.2 Applicability

This Catastrophic Risk Protection Endorsement is applicable to each crop for which catastrophic risk protection coverage is available and for which the producer elects such coverage.

§ 402.3 OMB control numbers.

The information collection activity associated with this rule has been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563–0003.

§ 402.4 Catastrophic Risk Protection Endorsement Provisions.

The Catastrophic Risk Protection Endorsement Provisions for the 1997 and succeeding crop years are as follows:

Department of Agriculture

Federal Crop Insurance Corporation

Catastrophic Risk Protection Endorsement

(This is a continuous endorsement)

If a conflict exists between this Endorsement and any of the policies specified in section 2 or the Special Provisions for the insured crop, this endorsement will control.

Terms and Conditions

1. Definitions

Additional coverage—Plans of crop insurance providing a level of coverage equal to or greater than sixty-five percent (65%) of your approved yield indemnified at one hundred percent (100%) of the expected market price, or comparable coverage as established by FCIC.

Administrative fee—The $50 fee the producer must pay on a per crop and county basis with a maximum of $200 per producer per county and $600 per producer for catastrophic and limited coverage on an annual basis.

Approved insurance provider—A private insurance company, including its agents, that has been approved and reinsured by FCIC to provide insurance coverage to producers participating in the Federal Crop Insurance program.

Approved yield—The amount of production per acre computed in accordance with FCIC's Actual Production History Program (7 CFR part 400, subpart G) or for

crops not included under 7 CFR part 400, subpart G, the yield used to determine the guarantee in accordance with the crop provisions or the Special Provisions.

Catastrophic risk protection—The minimum level of coverage offered by FCIC which meets the requirements for a person to qualify for certain other USDA program benefits (see sections 4 and 12).

County—The political subdivision of a state listed in the actuarial table and designated on your accepted application, including land in an adjoining county, provided such land is part of a field that extends into the adjoining county and the county boundary is not readily discernable. For peanuts and tobacco, the county will also include any land identified by a FSA farm serial number for the county but physically located in another county.

Crop of economic significance—A crop that has either contributed in the previous crop year, or is expected to contribute in the current crop year, ten percent (10%) or more of the total expected value of your share of all crops grown in the county. However, a crop will not be considered a crop of economic significance if the expected liability under the Catastrophic Risk Protection Endorsement is equal to or less than the administrative fee required for the crop.

Expected market price—(price election) The price per unit of production (or other basis as determined by FCIC) anticipated during the period the insured crop normally is marketed by producers. This price will be set by FCIC before the sales closing date for the crop. The expected market price may be less than the actual price paid by buyers if such price typically includes remuneration for significant amounts of post-production expenses such as conditioning, culling, sorting, packing, etc.

FCIC—The Federal Crop Insurance Corporation, a wholly owned Government Corporation within USDA.

FSA—The Farm Service Agency, an agency of the United States Department of Agriculture or any successor agency.

Insurance is available—When crop information is contained in the county actuarial documents for a particular crop.

Limited coverage—Plans of insurance offering coverage that is equal to or greater than fifty percent (50%) of your approved yield indemnified at one hundred percent (100%) of the expected market price, or a comparable coverage, but less than sixty-five percent (65%) of your approved yield indemnified at one hundred percent (100%) of the expected market price, or a comparable coverage.

Limited resource farmer—A producer or operator of a farm, with an annual gross income of $20,000 or less derived from all sources of revenue, including income from spouse's or other members of the household, for each of the prior two years. Notwithstanding the previous sentence, a producer on a farm or farms of less than 25 acres aggregated for all crops, where a majority of the producer's gross income is derived from such farm or farms, but the producer's gross income from farming operations does not exceed $20,000, will be considered a limited resource farmer.

Linkage requirement—The legal requirement that a producer must obtain at least catastrophic risk protection coverage for any crop of economic significance as a condition of receiving benefits for such crop from certain other USDA programs in accordance with section 12(e), unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

Secretary—The Secretary of the United States Department of Agriculture.

USDA—The United States Department of Agriculture.

Zero acreage report—An acreage report filed by you that certifies you do not have a share in the crop for that crop year.

2. Eligibility, Life of Policy, Cancellation, and Termination

(a) You must have one of the following policies in force to elect this Endorsement:

(1) The General Crop Insurance Policy (7 CFR 401.8) and crop endorsement;

(2) The Common Crop Insurance Policy (7 CFR 457.8) and crop provisions;

(3) The Group Risk Plan Policy, if available for catastrophic risk protection; or

(4) A specific named crop insurance policy.

(b) You must have made application for catastrophic risk protection on or before the sales closing date for the crop in the county.

(c) You must be a ''person'' as defined in the crop policy to be eligible for catastrophic risk protection coverage.

(d) In addition to the provisions specified in the applicable crop policy, this Endorsement will terminate for the crop year for which:

(1) You fail to pay the applicable administrative fee, as specified in section 6;

(2) You elect to purchase limited or additional coverage for the insured crop; or

(3) The applicable crop policy, to which this endorsement attaches, automatically terminates (i.e., the policy must be renewed each year).

3. Unit Division

(a) This section is in lieu of the unit provisions specified in the applicable crop policy.

(b) For catastrophic risk protection coverage, a unit will be all insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

(1) In which you have one hundred percent (100%) crop share; or

(2) Which is owned by one person and operated by another person on a share basis.

(Example: If, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units; one for each crop share lease and one that combines the two cash leases and the land you own.)

(c) Further division of the units described in paragraph (b) above is not allowed under this Endorsement.

4. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

(a) Notwithstanding any provision contained in any other policy document, for the 1995 through 1998 crop years, catastrophic coverage will offer protection equal to fifty percent (50%) of your approved yield indemnified at sixty percent (60%) of the expected market price, or a comparable coverage as established by FCIC.

(b) Notwithstanding any provision contained in any other policy document, for the 1999 and subsequent crop years, catastrophic coverage will offer protection equal to fifty percent (50%) of your approved yield indemnified at fifty-five percent (55%) of the expected market price, or a comparable coverage as established by FCIC.

(c) If the crop policy denominates coverage in dollars per acre or other measure, or any other alternative method of coverage, such coverage will be converted to the amount of coverage that would be payable at fifty percent (50%) of your approved yield indemnified at sixty percent (60%) of the expected market price for the 1995 through 1998 crop years and fifty percent (50%) of your approved yield indemnified at fifty-five percent (55%) of the expected market price for the 1999 and subsequent crop years.

(d) You may elect catastrophic coverage for any crop insured or reinsured by FCIC on either an individual yield and loss basis or an area yield and loss basis, if both options are offered as set out in the Actuarial Table or the Special Provisions.

(e) To be eligible for an indemnity under this endorsement you must have suffered at least a 50 percent loss in yield.

5. Report of Acreage

(a) The report of crop acreage that you file in accordance with the crop policy must be signed on or before the acreage reporting date. For catastrophic risk protection, unless the other person with an insurable interest in the crop objects in writing prior to the acreage reporting date and provides a signed acreage report on their own behalf, the operator may sign the acreage report for all other persons with an insurable interest in the crop without a power of attorney. All persons with an insurable interest in the crop, and for whom the operator purports to sign and represent, are bound by the information contained in that acreage report.

(b) For the purpose of determining the amount of indemnity only, your share will not exceed your insurable interest at the earlier of the time of loss or the beginning of harvest. Unless the accepted application clearly indicates that insurance is requested for a partnership or joint venture, insurance will only cover the crop share of the person completing the application. The share will not extend to any other person having an interest in the crop except as may otherwise be specifically allowed in this endorsement. Any acreage or interest reported by or for your spouse, child or any member of your household may be considered your share. A lease containing provisions for both a minimum payment (such as a specified amount of cash, bushels, pounds, etc.) *and* a crop share will be considered a crop share lease. A lease containing provisions for either a minimum payment (such as a specified amount of cash, bushels, pounds, etc.,) *or* a crop share will be considered a cash lease. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the insured crop on such land will be considered as owned by the lessee.

6. Annual Premium and Administrative Fees

(a) Notwithstanding any provision contained in any other policy document, you will not be responsible to pay a premium, nor will the policy be terminated because the premium has not been paid. FCIC will pay a premium subsidy equal to the premium established for the coverage provided under this endorsement.

(b) In return for catastrophic risk protection, you must pay an administrative fee as follows:

(1) To the insurance provider at the time of application (the fee will not be refunded if you file a zero acreage report the initial crop year for which the application is accepted);

(2) Annually, on or before the acreage reporting date for the applicable crop for any subsequent crop years that catastrophic risk protection is in effect (The fee will not be required if you file a bonafide zero acreage report on or before the acreage reporting date, however, filing a false zero acreage report could subject you to criminal and administrative sanction); and

(3) Equal to $50 per crop per county, subject to a maximum of two hundred dollars ($200) per county and six hundred dollars ($600) for all counties in which you insure crops. In calculating the maximum amount of administrative fees, the fees paid for both catastrophic risk protection and limited coverage will be combined.

(c) The administrative fee provisions of paragraph (b) of this section do not apply if you meet the definition of a limited resource farmer (see section 1). If you qualify as a limited resource farmer and desire to be exempted from paying the administrative fee you must sign the waiver at the time of application (on or before the sales closing date.)

(d) When a crop policy has provisions to allow you the option to separately insure individual crop types or varieties, you must pay a separate administrative fee in accordance with paragraph (b) of this section for each type or variety you elect to separately insure.

(e) The administrative fee will be refunded if, after applying for catastrophic risk protection and paying the administrative fee, you elect to purchase additional coverage for such crop in the same county on or before the sales closing date. Administrative fees will not be refunded, however if, after the purchase of the additional coverage, you still have 4 or more crops insured in the county, or 4 or more crops insured in each of three or more counties, at the CAT or limited coverage level.

(f) If the administrative fee is not paid when due, the crop insurance contract will terminate effective at the beginning of the crop year for which the administrative fee was not paid. You may be ineligible for certain other USDA program benefits as set out in section 12, and all such benefits already received for the crop year must be refunded. If you fail to pay the administrative fee when due, the execution of a waiver of any eligibility for emergency crop loss assistance in connection with the crop will not be effective for any crop year in which payment was not made.

7. Insured Crop

The crop insured is specified in the applicable crop policy, however:

(a) Notwithstanding any other policy provision requiring the same insurance coverage on all insurable acreage of the crop in the county, if you purchase limited or additional coverage for a crop, you may separately insure acreage under catastrophic coverage that has been designated as ''high risk'' land by FCIC, provided that you execute a High Risk Land Exclusion Option and obtain a catastrophic risk protection policy with the same approved insurance provider, if available, on or before the applicable sales closing date. If catastrophic coverage is not available from the same insurance provider, you may obtain the catastrophic risk protection policy for the high risk land from another approved insurance provider or FSA, if available. You will be required to pay a separate administrative fee for both the limited or additional coverage policy and the catastrophic coverage policy unless the maximum administrative fee would be exceeded.

(b) A tobacco producer may insure one hundred percent (100%) of the tobacco crop that is identified by a tobacco marketing card issued by FSA for a specific producer and Farm Serial Number under one CAT policy, provided the producer and other persons each have a share in the crop, all the shareholders agree in writing to such arrangement, and none of the persons hold any other interest in another tobacco crop for which they are required to obtain at least catastrophic coverage. If the tobacco crop is insured under one policy:

(1) The linkage requirements will be satisfied for each shareholder of the crop; and

(2) The producer insuring the crop will:

(i) Make application for insurance and provide the name and social security number, or employer identification number, of each person with a share in the tobacco crop;

(ii) File the acreage report showing a one-hundred percent (100%) share in the crop (all insurable acreage covered by such marketing card will be considered as one unit);

(iii) Be responsible to pay the one administrative fee for all the producers within the county;

(iv) Fulfill all requirements under the crop insurance contract; and

(v) Receive any indemnity payment under his or her social security number or employer identification number and distribute the indemnity payments to the other persons sharing in the crop.

(c) A landowner will be allowed to obtain catastrophic coverage to satisfy linkage requirements for all other landowners who hold an undivided interest in the insurable acreage, provided:

(1) All the landowners must agree in writing to such arrangement and have their social security number or employer identification number listed on the application, without regard to the actual amount of their interest in the insured acreage;

(2) All landowners must have an undivided interest in the insurable acreage;

(3) None of the landowners may hold any share in other acreage for which they are required to obtain at least catastrophic coverage;

(4) The total cumulative liability under the Catastrophic Risk Protection Endorsement for all landowners must be $2,500 or less;

(5) The landowner insuring the crop will:

(i) Make application for insurance and provide the name and social security number or employer identification number of each person with an undivided interest in the insurable acreage;

(ii) Be responsible to pay the one administrative fee for all the producers within the county;

(iii) Fulfill all requirements under the insurance contract; and

(iv) Receive any indemnity payment under the landowner's social security number, or when applicable, employer identification number, and distribute the indemnity payments to the other persons sharing in the crop.

8. Replanting Payment

Notwithstanding any provision contained in any other crop insurance document, no replant payment will be paid whether or not replanting of the crop is required under the policy.

9. Claim for Indemnity

(a) If two or more insured crop types, varieties, or classes are insured within the same unit, and multiple price elections are applicable, the dollar amount of insurance and the dollar amount of production to be counted will be determined separately for each type, variety, class, etc., that have separate price elections and then totaled to determine the total liability or dollar amount of production to be counted for the unit.

(b) If you are eligible to receive an indemnity under this endorsement and benefits compensating you for the same loss under any other USDA program, you must elect the program from which you wish to receive benefits. Only one payment or program benefit is allowed. However, if other USDA program benefits are not available until after you filed a claim for indemnity, you may refund the total amount of the indemnity and receive the other program benefit. Farm ownership and operating loans, may be obtained from the USDA in addition to crop insurance indemnities.

10. Concealment or Fraud

Notwithstanding any provision contained in any other crop insurance document, your CAT policy may be voided by us on all crops without waiving any of our rights, including the right to collect any amounts due:

(a) If at any time you conceal or misrepresent any material fact or commit fraud relating to this or any other contract issued under the authority of the Federal Crop Insurance Act with any insurance provider; and

(b) The voidance will be effective as of the beginning of the crop year during which such act or omission occurred. After the policy has been voided, you must make a new application to obtain catastrophic risk protection coverage for any subsequent crop year. If your policy is voided under this

section, any waiver of eligibility for emergency crop loss assistance in connection with the crop will not be effective for the crop for the year in which the voidance occurred.

11. Exclusion of Coverage

(a) Options or endorsements that extend the coverage available under any crop policy offered by FCIC will not be available under this endorsement, except the Late Planting Agreement Option. Written agreements are not available for any crop insured under this endorsement.

(b) Notwithstanding any provision contained in any other crop policy, hail and fire coverage and high-risk land may not be excluded under catastrophic risk protection.

12. Eligibility for Other USDA Program Benefits

(a) Even if it was a crop of economic significance for the previous crop year, if you do not intend to plant the crop in the current crop year, you do not have to obtain crop insurance or execute a waiver of your eligibility for any emergency crop loss assistance in connection with the crop to remain eligible for the USDA program benefits specified in subsection (e). However, if, after the sales closing date, you plant that crop, you will be unable to obtain insurance for that crop and you must execute a waiver of your eligibility for emergency crop loss assistance in connection with the crop to remain eligible for the USDA program benefits specified in section 12(e). Failure to execute such a waiver will require you to refund any benefits already received under a program specified in section 12(e).

(b) You are initially responsible to determine the crops of economic significance in the county. The insurance provider may assist you in making these initial determinations. However, these determinations will not be binding on the insurance provider. To determine the percentage value of each crop:

(1) Multiply the acres planted to the crop, times your share, times the approved yield, and times the price;

(2) Add the values of all crops grown by the producer in the county; and

(3) Divide the value of the specific crop by the result of section 12(b)(2).

(c) You may use the type of price such as the current local market price, futures price, established price, highest amount of insurance, etc., for the price when calculating the value of each crop, provided that you use the same type of price for all crops in the county.

(d) You may be required to justify the calculation and provide adequate records to enable the insurance provider to verify whether a crop is of economic significance.

(e) You must obtain at least catastrophic coverage for each crop of economic significance in the county in which you have an insurable share, if insurance is available in the county for the crop, unless you execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop to be eligible for:

(1) Benefits under the Agricultural Market Transition Act;

(2) Loans or any other USDA provided farm credit, including: guaranteed and direct farm ownership loans, operating loans, and emergency loans under the Consolidated Farm and Rural Development Act provided after October 13, 1994; and

(3) Benefits under the Conservation Reserve Program derived from any new or amended application or contracts executed after October 13, 1994.

(f) Failure to comply with all provisions of the policy constitutes a breach of contract and may result in ineligibility for certain other farm program benefits for that crop year and any benefit already received must be refunded. If you breach the insurance contract, the execution of a waiver of any eligibility for emergency crop loss assistance will not be effective for the crop year in which the breach occurs.

Signed in Washington, D.C., on August 13, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–21117 Filed 8–19–96; 8:45 am]

BILLING CODE 3410–FA–P

Agricultural Marketing Service

7 CFR Part 922

[Docket No. FV96–922–1FIR]

Apricots Grown in Designated Counties in Washington; Temporary Suspension of Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule suspending for the 1996 season only, the minimum grade requirements (Washington No. 1), for fresh shipments of apricots grown in Washington. This change was recommended by the Washington Apricot Marketing Committee (committee), which works with the Department in administering the marketing order covering apricots grown in designated counties in Washington. This rule enables handlers to ship more fruit in fresh market channels, taking into consideration the damage caused to Washington apricots by freezing temperatures during the growing season. This change is expected to increase returns to producers and to make more fresh apricots available to consumers.

EFFECTIVE DATE: September 19, 1996.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, OR 97204; telephone: (503) 326–2724; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–5331. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 132 and Marketing Order No. 922 (7 CFR Part 922), both as amended, regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the ''order.'' The order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

The purpose of the RFA is to fit regulatory actions to the scale of

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

There are approximately 75 handlers of Washington apricots who are subject to regulation under the order and approximately 400 producers in the regulated area. Small agricultural service firms, which includes handlers of Washington apricots, have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of Washington apricot handlers and producers may be classified as small entities.

This rule finalizes an interim final rule suspending minimum grade requirements and therefore is a relaxation in regulations which should result in reduced costs and increased returns to handlers and producers. This will lower inspection costs and also enable handlers to ship a larger portion of their crop to the fresh market to meet consumer needs. Therefore, AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

The interim final rule was issued on June 12, 1996, and published in the Federal Register (61 FR 30495, June 17, 1996), with an effective date of June 15, 1996. That rule amended § 922.321 of the rules and regulations in effect under the order. That rule provided a 30-day comment period which ended July 17, 1996. No comments were received.

Section 922.52 of the order authorizes the issuance of grade, size, quality, maturity, container markings, pack, and container regulations for any variety or varieties of apricots grown in any district or districts of the production area. Section 922.53 further authorizes the modification, suspension, or termination of regulations issued under § 922.52. Section 922.55 provides that whenever apricots are regulated pursuant to §§ 922.52 or 922.53, such apricots must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations.

The minimum grade, maturity, color, and size requirements for Washington apricots regulated under the order are specified in § 922.321 *Apricot Regulation 21* [7 CFR 922.321]. This final rule finalizes the interim final rule to temporarily suspend the minimum grade requirement in § 922.321. This provides that no handler shall handle any container of apricots unless such apricots grade not less than Washington No. 1, except for shipments subject to exemption under the regulation. Other parts of § 922.321 that remain in effect, provide that the Moorpark variety in open containers must be generally well matured. Also remaining in effect is the provision that with the exception of exempt shipments, apricots must be at least reasonably uniform in color, and be at least 1⅝ inches in diameter, except for the Blenheim, Blenril, and Tilton varieties which must be at least 1¼ inches in diameter. Individual shipments of apricots are also exempt from all these requirements if sold for home use only, do not exceed 500 pounds net weight, and containers are stamped or marked with the words ''not for resale.''

This rule finalizes the interim final rule that amended paragraph (a)(1) of § 922.321 by continuing temporary suspension of the minimum grade requirements for fresh shipments of apricots for the 1996 season only. The grade requirements currently specified in § 922.321 will resume April 1, 1997, for 1997 and future seasons.

At its May 16, 1996, meeting, the committee unanimously recommended suspending the grade requirements for the 1996 season. The committee requested that this suspension be effective by June 15, the date shipments of the 1996 Washington apricot crop are expected to begin.

The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Washington apricots which have been issued on a continuing basis. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

The committee reports that the apricot crop was severely damaged by several freezes last winter and early this spring. The severe weather conditions resulted in a high percentage of damage from russeting, scab spots, and other grade defects making it difficult for apricots to meet the minimum grade requirements of Washington No. 1. The committee estimates that only 2,300 tons of apricots will be shipped fresh during the 1996 season, even with the grade requirements suspended as requested. This amount is 52 percent of last season's fresh shipments of 4,452 tons and 46 percent of the five-year average of 4,965 tons.

This final rule continues the suspension of the grade requirements specified in § 922.321. Thus, the color and minimum size requirements for all varieties and the well matured requirements for the Moorpark variety will remain unchanged.

This final rule enables handlers to continue to ship a larger portion of their crop to the fresh market this season, taking into account the abnormal growing conditions, than they would be allowed if the minimum grade requirements were not suspended. Continued suspension of the grade requirements for Washington apricots is intended to increase fresh shipments to meet consumer needs and improve returns to producers. It is the Department's view that the impact of this action upon producers and handlers, both large and small, will be beneficial because it will enable handlers to provide apricots consistent with 1996 season growing conditions.

After consideration of all relevant material presented, the information and recommendations submitted by the committee, and other information, it is found that finalizing the interim final rule, without change, as published in the Federal Register (61 FR 30495, June 17, 1996) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 922

Marketing agreements, Apricots, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 922 is amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 922 which was published at 61 FR 30495 on June 17, 1996, is adopted as a final rule without change.

Dated: August 13, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–21118 Filed 8–19–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 981

[Docket No. FV96–981–3IFR]

Almonds Grown in California; Change in Quality Control Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule changes the quality control requirements currently prescribed under the California almond marketing order. The marketing order regulates the handling of almonds grown in California and is administered locally by the Almond Board of California (Board). This rule removes the exemption from inspection for the Peerless variety of almonds sold inshell. This change is needed to bring the administrative rules and regulations into conformance with amendments to the marketing order recently approved by a majority vote of producers. In addition, this change will better reflect current industry practices because most almonds are already inspected, including the Peerless variety.

DATES: Effective August 21, 1996; comments received by September 19, 1996 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, Fax # (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–1509, Fax # (202) 720–5698; or Martin Engeler, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax # (209) 487–5906.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 981 (7 CFR Part 981), as amended, regulating the handling of almonds grown in California, hereinafter referred to as the ''order.'' This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 115 handlers of almonds who are subject to regulation under the order and approximately 7,000 producers of almonds in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of California almonds may be classified as small entities. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This rule modifies language in the order's administrative rules and regulations to remove an exemption from inspection for the Peerless variety of almonds sold inshell as bleaching stock. It also modifies the definition of adjusted kernel weight so that adjusted kernel weight for the Peerless variety is based on actual weight, consistent with other almonds, rather than calculated with a predetermined conversion factor known as a shelling ratio. The majority of handlers already have all almonds inspected, including the Peerless variety. Therefore, this rule will better reflect current industry practice. In addition, this rule is needed to bring the administrative rules and regulations into conformance with amendments to the marketing order recently approved by a majority vote of producers. Since virtually all of the Peerless almonds sold inshell are currently inspected, there is little or no impact expected on small businesses.

Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

The almond marketing order authorizes quality control provisions which include a requirement that almonds must be inspected prior to processing to determine the percentage of inedible kernels in each lot, and to determine the adjusted kernel weight of almonds in each lot. Inedible kernels are reported to individual handlers and the Board, and handlers are required to dispose of a quantity of almonds equal to their inedible obligation as determined by the inspection. Inedible kernels are disposed of to non-human consumption outlets for such uses as animal feed or crushing into oil. Adjusted kernel weight is reported to handlers by the Federal-State Inspection Service (FSIS). Handlers are then required to report adjusted kernel weight to the Board, who uses the information to report industry statistics.

The rules and regulations under the marketing order currently exempt from inspection the Peerless variety of almonds used as bleaching stock and sold inshell. When the quality control regulations were initially implemented, it was determined there was no need to establish the percentage of inedible kernels of almonds sold inshell, which at that time were predominately of the Peerless variety, because inedible kernels could not be removed from

product sold inshell and thus could not be disposed of in non-human consumption outlets. Therefore, inshell almonds, including Peerless, are exempt from meeting the inedible disposition obligation. However, in order to determine the kernel weight of Peerless almonds sold inshell for reporting to the Board, a predetermined shelling ratio contained in the marketing order has been used in the absence of inspection. This shelling ratio converted the weight of inshell almonds to a shelled weight, or kernel weight. Over time, the total quantity and varieties of all almonds sold inshell have increased, while Peerless bleaching stock sales have declined. There has also been an increased desire and need to obtain an accurate product weight for growers, handlers, and the Board. Thus, it has become common industry practice to have inspections performed on Peerless almonds sold inshell, as with other varieties sold inshell, regardless of the inspection exemption.

Consistent with the Act, the almond marketing order was recently amended by a majority vote of producers to require that the weight of inshell almonds be determined by weighing a representative sample of such almonds. Previously, predetermined shelling ratios were used to determine the kernel weight. Thus, the shelling ratios were removed from the order. The purpose of the quality control amendments was to reflect current industry practices as referenced above, and to provide more accurate information for reporting purposes.

The amendments to the order necessitate conforming changes to the administrative rules and regulations. Section 981.442 of the quality control regulations is revised to remove an inspection exemption for Peerless inshell almonds. Thus, all almonds, regardless of form or variety, will be inspected.

In addition, § 981.401 is revised to remove the exemption for Peerless almonds from the definition of adjusted kernel weight. Currently, the adjusted kernel weight of Peerless inshell almonds is based on a predetermined weight contained in the shelling ratio table that was removed from the marketing order. Since Peerless inshell almonds will be required to have inspection, the actual kernel weight will be determined, thus providing an accurate weight.

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This rule invites comments on a change to the quality control requirements currently prescribed under the California almond marketing order. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The marketing order amendments prompting these changes were implemented on July 1, 1996; (2) related issues were discussed in amendatory proceedings to the marketing order (including a public hearing) and amendments to the order were subsequently approved by producers; (3) the Board unanimously recommended these changes at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 981.401 [Amended]

2. In § 981.401, the first sentence in paragraph (a) is amended by removing the words ''Except for Peerless bleaching stock,'' and capitalizing the first letter in the word ''adjusted'', and by removing the last sentence; and by amending the first sentence in paragraph (b) by removing the words ''Except for Peerless bleaching stock,'' and capitalizing the first letter of the word ''the''.

3. In § 981.442, paragraph (a)(1), the first sentence is amended by removing the words '', except lots of Peerless variety designated as bleaching stock,'' and in paragraph (a)(4), the last sentence is revised to read as follows:

§ 981.442 Quality Control.

(a) * * *

(4) * * * For any almonds sold inshell, the weight may be reported to the Board and the disposition obligation for that variety reduced proportionately.

* * * * *

Dated: August 14, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–21120 Filed 8–19–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 982

[Docket No. FV96–982–1 FIR]

Hazelnuts Grown in Oregon and Washington; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that established an assessment rate for the Hazelnut Marketing Board under Marketing Order No. 982 for the 1996–97 and subsequent marketing years. The Board is responsible for local administration of the marketing order which regulates the handling of hazelnuts grown in Oregon and Washington. Authorization to assess hazelnut handlers enables the Board to incur expenses that are reasonable and necessary to administer the program.

EFFECTIVE DATE: Effective on July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, FAX 202–720–5698, or Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503–326–2724, FAX 503–326–7440. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–2491, FAX 202–720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 982, both as amended (7

CFR part 982; April 22, 1996, 61 FR 17556), regulating the handling of hazelnuts grown in Oregon and Washington. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Oregon-Washington hazelnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable hazelnuts beginning July 1, 1996, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 1,000 producers of Oregon and Washington hazelnuts in the production area and approximately 25 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Oregon and Washington hazelnut producers and handlers may be classified as small entities.

The Oregon and Washington hazelnut marketing order provides authority for the Board, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of hazelnuts. They are familiar with the Board's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is recommended by a mail vote and discussed and reconfirmed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Board, in a mail vote, unanimously recommended 1996–97 expenditures of $558,974 and an assessment rate of $0.007 per pound of hazelnuts. In comparison, last year's budgeted expenditures were $483,685. The assessment rate of $0.007 is the same as last year's established rate. Major expenditures recommended by the Board for the 1996–97 year include $50,020 for personal services (salaries), $5,640 for rent, $5,000 for auditing, $5,000 for compliance, $15,000 for a crop survey, $275,000 for promotion, and $182,364 for the emergency fund. Budgeted expenses for these items in 1995–96 were $50,735, $5,650, $3,500, $5,000, $11,000, $250,000, and $140,000, respectively. The Board will consider using emergency funds for authorized activities when it is reasonably certain that its estimate of assessable hazelnuts will be reached. It will not be able to make this determination until December 1996, the month in which the hazelnut harvest and deliveries to handlers usually are completed. Hence, any decision on whether or not to undertake additional activities will not be made until December 1996, at the earliest.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of Oregon and Washington hazelnuts. Hazelnut shipments for the year are estimated at 20,000,000 pounds which should provide $280,000 in assessment income. Income derived from handler assessments, interest, and from the Nut Growers Society in payment for services performed by the Board under an agreement with the Society, along with funds from the Board's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

An interim final rule regarding this action was published in the June 13, 1996, issue of the Federal Register (61 FR 29924). That interim final rule added § 982.340 to establish an assessment rate for the Board. That rule provided that interested persons could file comments through July 15, 1996. No comments were received.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other available information.

Although this assessment rate is effective for an indefinite period, the Board will continue to conduct a mail vote prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. Any mail votes will be discussed and reconfirmed at a public meeting. The dates and times of Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may express their views at those meetings. The Department will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Board's 1996–97 budget and those for subsequent marketing years will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth,

will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996–97 marketing year began on July 1, 1996, and the marketing order requires that the rate of assessment for each marketing year apply to all assessable hazelnuts handled during such marketing year; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years; and (4) an interim final rule was published on this action and provided for a 30-day comment period, and no comments were received.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

Note: This section will appear in the Code of Federal Regulations.

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

Accordingly, the interim final rule which was published at 61 FR 29924 on June 13, 1996, is adopted as a final rule without change.

Dated: August 13, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–21119 Filed 8–19–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Parts 997 and 998

[Docket No. FV96–998–1 FIR]

Increased Assessment Rate for Domestically Produced Peanuts Handled By Persons Not Subject to Peanut Marketing Agreement No. 146 and for Marketing Agreement No. 146; Regulating the Quality of Domestically Produced Peanuts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that increased the administrative assessment rate under Marketing Agreement 146 (agreement) for the 1995–96 crop year. Authorization of the increase in the administrative assessment rate enabled the Peanut Administrative Committee (Committee) to collect sufficient funds to pay expenses for the remainder of the year. Funds to administer this program are derived from assessments on handlers who have signed the agreement. Public Law 103–66 requires the Department to impose an administrative assessment on farmers' stock peanuts received or acquired by handlers who are not signatory (non-signatory handlers) to the agreement. Therefore, the increase in the assessment rate under the agreement must be applied to all non-signatory handlers.

EFFECTIVE DATE: Effective July 1, 1995, through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, FAX 202–720–5698, or William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883–2276, telephone 941–299–4770, FAX 941–299–5169. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–2491, FAX 202–720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued pursuant to the requirements of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and as further amended December 12, 1989, hereinafter referred to as the ''Act''; Pub. L. 101–220, section 4 (1), (2), 103 Stat. 1878, December 12, 1989; Pub. L. 103–66, section 8b(b)(1), 107 Stat. 312, August 10, 1993; and under Marketing Agreement 146 (7 CFR part 998) regulating the quality of domestically produced peanuts.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Department established a 1995–96 crop year assessment rate applicable to non-signatory and signatory handlers effective July 1, 1995, through June 30, 1996. This rule increases the administrative assessment rates for the crop year which began July 1, 1995. Farmers' stock peanuts received or acquired by non-signatory handlers and farmers' stock peanuts received or acquired by handlers signatory to the agreement, other than from those described in §§ 998.31 (c) and (d), are subject to the assessments. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The interim final rule incorrectly stated that there are approximately 45 non-signers and 76 signatory handlers subject to the two regulations. Also, there are approximately 47,000 producers of peanuts in the 16 States covered under the agreement. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. A majority of the producers and the non-signatory handlers may be classified as small entities, and some of the handlers covered under the agreement are small entities.

Under the agreement, the assessment rate for a particular crop year applies to all assessable tonnage handled from the beginning of such year (i.e., July 1). Funds to administer the peanut agreement program are paid to the Committee and are derived from signatory handler assessments. An annual budget of expenses is prepared by the Committee and submitted to the Department for approval. The members of the Committee are handlers and producers of peanuts. They are familiar with the Committee's needs and with the costs for goods and services, and personnel for program operations and, thus, are in a position to formulate appropriate budgets. The budgets are formulated and discussed at industry-wide meetings. Thus, all directly affected persons have an opportunity to provide input in recommending the budget and assessment rate. The handlers of peanuts who are directly affected have signed the marketing agreement authorizing the expenses that

may be incurred and the imposition of assessments.

The assessment rate recommended by the Committee for the 1995–96 crop year was derived by dividing anticipated expenses by expected receipts and acquisitions of farmers' stock peanuts. It applies to all assessable peanuts received or acquired by handlers from July 1, 1995. Farmers' stock peanuts received or acquired by handlers signatory to the agreement, other than from those described in §§ 998.31 (c) and (d), are subject to assessments. Because that rate is applied to actual receipts and acquisitions, it must be established at a rate which will produce sufficient income to pay the Committee's expenses. Approximately 95 percent of the domestically produced peanut crop is marketed by handlers who are signatory to the agreement.

Public Law 101–220 amended section 608b of the Act to require that all peanuts handled by persons who have not entered into the agreement (non-signers) be subject to quality and inspection requirements to the same extent and manner as are required under the Agreement. Approximately 5 percent of the U.S. peanut crop is marketed by non-signer handlers.

Public Law 103–66 (107 Stat. 312) provides for mandatory assessment of farmers' stock peanuts acquired by non-signatory peanut handlers. Under this law, paragraph (b) of section 1001, of the Agricultural Reconciliation Act of 1993, specified that: (1) Any assessment (except indemnification assessments) imposed under the Agreement on signatory handlers also shall apply to non-signatory handlers, and (2) such assessment shall be paid to the Secretary.

The 1995–96 Committee budget was published in the Federal Register as an interim final rule on May 17, 1995 (60 FR 26348), and finalized on July 18, 1995 (60 FR 36635). The non-signatory handler assessment rate was published in the Federal Register as an interim final rule on August 21, 1995 (60 FR 43353), and finalized on November 24, 1995 (60 FR 57907). The administrative expenses and assessment rate for the 1995–96 crop year were based on an estimated assessable tonnage of 1,525,000. The Committee now projects that total tonnage will only be about 1,300,000. In order to have sufficient revenue to cover budgeted expenses of $1,067,500, the Committee met on March 19, 1996, and unanimously recommended that the 1995–96 crop year administrative assessment be increased from $0.70 to $0.83 per net ton of assessable farmers' stock peanuts.

An interim final rule regarding this action was published in the June 13, 1996, issue of the Federal Register (61 FR 29926). That interim final rule amended §§ 997.100 and 998.408 to increase the administrative assessment rate for the 1995–96 crop year for the Committee and non-signatory handlers. That rule provided that interested persons could file comments through July 15, 1996. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers signatory to the agreement. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing agreement. This administrative assessment is required by law to be applied uniformly to all non-signatory handlers and will be of benefit to all. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) Public Law 103–66 requires the Department to impose an administrative assessment on peanuts received or acquired for the account of non-signatory handlers; (3) the 1995–96 crop year began on July 1, 1995, and the marketing agreement and Pub. L. 103–66 require that the rate of assessment for the crop year apply to all peanuts handled during the crop year; (4) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other budget actions issued in past years; and (5) an interim final rule was published on this action and provided for a 30-day comment period, and no comments were received.

List of Subjects

7 CFR Part 997

Food grades and standards, Peanuts, Reporting and recordkeeping requirements.

7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

PART 997—PROVISIONS REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS HANDLED BY PERSONS NOT SUBJECT TO THE PEANUT MARKETING AGREEMENT

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

Accordingly, the interim final rule amending 7 CFR parts 997 and 998 to increase the administrative assessment rates which was published at 61 FR 29926 on June 13, 1996, is adopted as a final rule without change.

Dated: August 9, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–20790 Filed 8–19–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–54–AD; Amendment 39–9718; AD 96–17–09]

RIN 2120–AA64

Airworthiness Directives; Beech (Raytheon) Model Hawker 1000 and BAe 125–1000A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Beech (Raytheon) Model Hawker 1000 and BAe 125–1000A series airplanes, that currently requires inspections to detect various discrepancies of the fuel hose assemblies on the auxiliary power unit (APU), and correction of any discrepancy found. That AD was prompted by several reports of heat damage to the fuel hose assembly on the APU. This amendment adds a requirement to replace the existing conduit of the fuel feed hose with new

improved conduit, which will terminate the repetitive inspections. The actions specified by this AD are intended to prevent failure of a fuel hose due to heat damage caused by incorrect routing or bleed air leakage; such failure could result in a malfunction of the APU, a fuel fire in the fuselage rear equipment bay, and reduced structural integrity of the surrounding structure.

DATES: Effective September 24, 1996.

The incorporation by reference of Beech (Raytheon/Hawker) Service Bulletin SB.49–47–25A825A, dated August 1, 1995, listed in the regulations is approved by the Director of the Federal Register as of September 24, 1996.

The incorporation by reference of Raytheon Service Bulletin SB 49–44, dated January 20, 1995, listed in the regulations was approved previously by the Director of the Federal Register as of May 23, 1995 (60 FR 22501, May 8, 1995).

ADDRESSES: The service information referenced in this AD may be obtained from Beech Aircraft Corporation, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, ACE–116W, Wichita Aircraft Certification Office, FAA, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; telephone (316) 946–4146; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–10–01, amendment 39–9218 (60 FR 22501, May 8, 1995), which is applicable to certain Beech (Raytheon) Model Hawker 1000 and BAe 125–1000A series airplanes, was published in the Federal Register on May 21, 1996 (61 FR 25418). That action proposed to supersede AD 95–10–01 to continue to require inspections to detect various discrepancies of the fuel hose assemblies on the auxiliary power unit (APU), and correction of any discrepancy found. That action also proposed to add a new requirement to replace the existing vinyl conduit of the fuel feed hose for the APU with a new improved conduit, which would constitute terminating action for the repetitive inspection requirements.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 48 Beech Model Hawker 1000 and BAe 125–1000A series airplanes of the affected design in the worldwide fleet. The FAA estimates that 31 airplanes of U.S. registry will be affected by this proposed AD.

The actions that are currently required by AD 95–10–01 and retained in this new AD take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $1,860, or $60 per airplane.

The new actions that are required by this new AD will take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $218 per airplane. Based on these figures, the cost impact on U.S. operators of the new requirements of this AD is estimated to be $14,198, or $458 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9218 (60 FR 22501, May 8, 1995), and by adding a new airworthiness directive (AD), amendment 39–9718, to read as follows:

96–17–09 Beech Aircraft Corporation (formerly DeHavilland; Hawker Siddeley; British Aerospace, plc; Raytheon Corporate Jets, Inc.): Amendment 39–9718. Docket 96–NM–54–AD. Supersedes AD 95–10–01, Amendment 39–9218.

Applicability: Model Hawker 1000 and BAe 125–1000A series airplanes, post modification 259722C; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Note 2: Beech (Raytheon) Model BAe 125–1000B series airplanes are similar in design to the airplanes that are subject to the requirements of this AD and, therefore, also may be subject to the unsafe condition

addressed by this AD. However, as of the effective date of this AD, those models are not type certificated for operation in the United States. Airworthiness authorities of countries in which the Model BAe 125–1000B series airplanes are approved for operation should consider adopting corrective action, applicable to those models, that is similar to the corrective action required by this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a fuel hose assembly on the auxiliary power unit (APU), which could result in a malfunction of the APU, a potential fuel fire in the fuselage rear bay, and reduced structural integrity of the surrounding structure, accomplish the following:

(a) Within 30 days after May 23, 1995 (the effective date of AD 95–10–01, amendment 39–9218), perform inspections to detect discrepancies of the fuel feed hose assemblies on the APU; an inspection to assure proper positioning of the air leak detection system; and an inspection of the bleed air system for signs of leakage; in accordance with paragraph 2.B. of the Accomplishment Instructions of Raytheon Service Bulletin SB 49–44, dated January 20, 1995.

(1) If no discrepancy is found: Thereafter, following the last flight of each day, perform an inspection to detect discoloration of the fuel hose assembly (outlet from the fuel pump box) on the APU, in accordance with paragraph 2.B.(2) and 2.C. of the Accomplishment Instructions of the service bulletin.

(2) If any discrepancy is found, prior to further flight, correct the discrepancy in accordance with paragraph 2.B. of the Accomplishment Instructions of the service bulletin.

(b) Within 200 flight hours after the effective date of this AD, replace the existing conduit of the fuel feed hose for the auxiliary power unit (APU) with new improved conduit (modification 25A825A), in accordance with Beech (Raytheon/Hawker) Service Bulletin SB.49–47–25A825A, dated August 1, 1995. Accomplishment of the replacement constitutes terminating action for paragraph (a) of this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

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

(e) The actions shall be done in accordance with Raytheon Service Bulletin SB 49–44, dated January 20, 1995, or Beech (Raytheon/Hawker) Service Bulletin SB.49–47–25A825A, dated August 1, 1995. The incorporation by reference of Beech (Raytheon/Hawker) Service Bulletin SB.49–47–25A825A, dated August 1, 1995, was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The incorporation by reference of Raytheon Service Bulletin SB 49–44, dated January 20, 1995, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of May 23, 1995 (60 FR 22501, May 8, 1995). Copies may be obtained from Beech Aircraft Corporation, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on September 24, 1996.

Issued in Renton, Washington, on August 12, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–21009 Filed 8–19–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–255–AD; Amendment 39–9719; AD 96–17–10]

RIN 2120–AA64

Airworthiness Directives; Beech Model 400, 400A, MU–300–10, and 2000 Airplanes, and Model 200, B200, 300, and B300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Beech Model 400, 400A, MU–300–10, and 2000 airplanes, and Model 200, B200, 300, and B300 series airplanes, that requires replacement of outflow/safety valves with serviceable valves. This amendment is prompted by a report of cracking and subsequent failure of outflow safety valves in the pressurization system. The actions specified by this AD are intended to prevent such cracking and subsequent failure of the outflow/safety valves, which could result in rapid decompression of the airplane.

DATES: Effective September 24, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 24, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from AlliedSignal Aerospace, Technical Publications, Dept. 65–70, P.O. Box 52170, Phoenix, Arizona 85072–2170. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5336; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Beech Model 400, 400A, MU–300–10, and 2000 airplanes, and Model 200, B200, 300, and B300 series airplanes was published in the Federal Register on April 15, 1996 (61 FR 16416). That action proposed to require replacement of certain discrepant outflow/safety valves with serviceable valves.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 150 Beech Model 400, 400A, MU–300–10, and 2000 airplanes, and Model 200, B200, 300, and B300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 105 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. The parts manufacturer has advised that it will provide replacement parts at no cost to operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $75,600, or $720 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

96–17–10 Beech Aircraft Corporation: Amendment 39–9719. Docket 95–NM–255–AD.

Applicability: Model 400, 400A, MU–300–10, and 2000 airplanes, Model 200 and B200 series airplanes having a maximum altitude capability of greater than 31,000 feet, and Model 300 and B300 series airplanes; equipped with AlliedSignal outflow/safety valves, as identified in AlliedSignal Aerospace Service Bulletins 103570–21–4012 and 103648–21–4022, both Revision 1, both dated May 30, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking and subsequent failure of the outflow/safety valves, which could result in rapid decompression of the airplane, accomplish the following:

(a) Within 18 months after the effective date of this AD, replace the outflow/safety valve in accordance with AlliedSignal Aerospace Service Bulletin 103570–21–4012 (for airplanes equipped with valves having part number 103570–25, 103570–26, or 103570–27), or 103648–21–4022 (for airplanes equipped with valves having part number 103648–1, 103648–3, 103648–4, 103648–5, 103648–6, 103648–7, or 103648–13), both Revision 1, both dated May 30, 1995, as applicable.

(b) As of the effective date of this AD, no person shall install an outflow/safety valve, having a part number and serial number identified in AlliedSignal Aerospace Service Bulletin 103570–21–4012 (for airplanes equipped with valves having part number 103570–25, 103570–26, or 103570–27), or 103648–21–4022 (for airplanes equipped with valves having part number 103648–1, 103648–3, 103648–4, 103648–5, 103648–6, 103648–7, or 103648–13), both Revision 1, both dated May 30, 1995, on any airplane unless that valve is considered to be serviceable in accordance with the applicable service bulletin.

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

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

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

(e) The replacement shall be done in accordance with AlliedSignal Aerospace Service Bulletin 103570–21–4012, or 103648–21–4022, both Revision 1, both dated May 30, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Aerospace, Technical Publications, Dept. 65–70, P.O. Box 52170, Phoenix, Arizona 85072–2170. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on September 24, 1996.

Issued in Renton, Washington, on August 12, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–21008 Filed 8–19–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–CE–41–AD; Amendment 39–9720; AD 96–15–01]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Corporation Model 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the Federal Register an amendment adopting Airworthiness Directive (AD) 96–15–01, which was sent previously to all known U.S. owners and operators of Raytheon Aircraft Corporation (formerly Beech) Model 1900D airplanes. This AD requires immediately pulling and banding the circuit breakers leading to the windshield heat control on both the pilot and co-pilot sides, inserting a copy of the priority letter AD into the Limitations section of the Airplane Flight Manual (AFM), and fabricating and installing a placard instructing the pilot to avoid flight into known icing conditions. Reports of smoke and fire in the cockpit on two Beech Model 1900D airplanes caused by a high resistence short circuit condition in the heated windshield wiring prompted the action. The actions specified by this AD are intended to prevent smoke and fire

around the forward edge of the glare shield in the cockpit, which could result in loss of control of the airplane.

DATES: Effective September 19, 1996, to all persons except those to whom it was made immediately effective by priority letter AD 96–15–01, issued July 10, 1996, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before October 21, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96–CE–41–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Information related to this AD may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Harvey E. Nero, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, 67209; telephone (316) 946–4137, facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has received reports of smoke and fire in the cockpit of two Beech Model 1900D airplanes. The reports indicate that a high resistence short circuit situation was created by the braid wire that is attached to the low heat power terminal block mounted on the pilot and co-pilot windshields, which led to arcing and substantial amounts of heat, causing smoke and fire in the cockpit. This condition, if not corrected, will result in a fire in the cockpit and possible loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Beech Model 1900D airplanes of the same type design, the FAA issued priority letter AD 96–15–01 to prevent smoke and fire around the forward edge of the glare shield in the cockpit and loss of control of the airplane.

The AD requires immediately pulling and banding the circuit breakers leading to the windshield heat control on both the pilot and co-pilot sides. The affected circuit breakers are the LEFT WSHLD, CONTROL and PWR circuit breakers located on the circuit breaker panel on the co-pilot's side (Zone 246) and the CO-PILOT WSHLD ANTI-ICE circuit breaker located on the aft side of the forward pressure bulkhead above the co-pilot left rudder pedal (Zone 222). This AD also requires inserting a copy of this priority letter AD into the Limitations section of the Airplane Flight Manual (AFM), fabricating a placard that says ''FLIGHT IN KNOWN ICING CONDITIONS IS PROHIBITED,'' using letters at least 0.10-inch in height, and installing this placard within the pilot's clear view on the instrument panel. This is considered to be an interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on July 10, 1996 to all known U.S. owners and operators of Beech Model 1900D airplanes. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 96–CE–41–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

96–15–01. Raytheon Aircraft Corporation (Raytheon): Amendment 39–9720; Docket No. 96–CE–41–AD.

Applicability: Model 1900D airplanes (serial numbers UE–1 through UE–239), certificated in any category, with either windshield part number 114–384020–1 or 114–384020–2 installed.

Note 1: The pilot windshield and co-pilot windshield may not have the same windshield configuration. The actions of this AD are only required on those windshields

incorporating part number 114–384020–1 or 114–384020–2.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it. Compliance: Required prior to further flight after the effective date of this AD, unless already accomplished, except to those operators receiving this action by priority letter issued July 10, 1996, which made these actions effective immediately upon receipt.

To prevent smoke and fire around the forward edge of the glare shield in the cockpit, accomplish the following:

(a) Pull and band the circuit breakers leading to the windshield heat control on both the pilot and the co-pilot sides. The affected circuit breakers are the LEFT WSHLD, CONTROL and PWR circuit breakers located on the circuit breaker panel on the co-pilot's side (Zone 246) and the CO-PILOT WSHLD ANTI-ICE circuit breaker located on the aft side of the forward pressure bulkhead above the co-pilot left rudder pedal (Zone 222).

(b) If either the pilot or co-pilot windshield heat is disabled, then this action (de-activation of the circuit breaker) prohibits flight into known icing conditions.

(c) A copy of this priority letter AD must be placed in the Limitations section of the Airplane Flight Manual (AFM).

(d) Fabricate a placard with the following words in letters at least 0.10-inch in height and install this placard within the pilot's clear view of the instrument panel: ''FLIGHT IN KNOWN ICING CONDITIONS IS PROHIBITED.''

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

(f) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, 67209.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(g) Information related to this airworthiness directive may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(h) This amendment (39–9720) becomes effective on September 19, 1996, to all persons except those persons to whom it was made immediately effective by priority letter AD 96–15–01, issued July 10, 1996, which contained the requirements of this amendment.

Issued in Kansas City, Missouri, on August 13, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–21122 Filed 8–19–96; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Correction of Trading Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') has amended Commission regulations, which address the preparation, submission and correction of trading cards, to make its provisions applicable to all trading records. The Commission also has amended regulations, which require the use of non-erasable ink and addresses correction of errors, to require that the correction of erroneous information on trading records will be accomplished in such a manner that the originally recorded information must not be obliterated or otherwise made illegible. The Commission has further amended the regulations to require that a ply of the trading card, or in the absence of plies the original trading card, that subsequently is rewritten to correct erroneous information must be submitted to contract market personnel or the clearing member in accordance with contract market rules which set forth the required collection schedule for trading cards. Contract markets are required to promulgate rules to that effect.

EFFECTIVE DATE: October 21, 1996.

FOR FURTHER INFORMATION CONTACT: Duane C. Andresen, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5490.

SUPPLEMENTARY INFORMATION:

I. Introduction

Regulation 1.35(d)(7), which became effective on May 7, 1990,[1] requires that trading cards prepared by members of contract markets must be completed in non-erasable ink and submitted in accordance with contract market rules adopted pursuant to Regulation 1.35(j)(1).[2] It also provides, in paragraph (d)(7)(ii), that a member of a contract market may correct any errors by crossing out erroneous information or rewriting the trading card. Regulation 1.35(d)(7) was one of various rule amendments adopted by the Commission that were intended, among other things, to limit the opportunity for the fabrication or alteration of trading records, to ensure accountability for trading cards and to enhance exchange audit trails and trade surveillance.

Notwithstanding these provisions, the Commission has found, based upon its oversight activities, instances in which it appears that trade prices and quantities have been altered on trading records in order to accomplish abuse of customer orders. The Commission believes that this type of activity may be accomplished under the guise of correcting erroneous information on a trading record if the information originally recorded is obscured. Such treatment of trading records renders it more difficult for the Commission and the exchanges to detect potentially fraudulent activity. Further, correcting erroneous information by obliteration of the original data can facilitate illegal purposes and increases the difficulty of determining how to correctly reconstruct and surveill trade activity.

The Commission believes that obscuring trade information originally recorded not only can be used to facilitate illegal or fraudulent conduct, but also is in itself illegal. Obscuring the information originally recorded violates the Regulation 1.35 requirement that members prepare accurate and complete trading records. The requirement to record trades in non-erasable ink, found in Regulations 1.35 (d)(7)(ii) and (j)(8), was implemented, in part, to prevent the obliteration of trade data through erasures. The paragraph (d)(7)(ii) requirement that members be fully accountable for trading cards that are rewritten in order to correct errors exists to assure that the originally recorded data are maintained. As the Commission

[1] 55 FR 8127 (March 7, 1990).

[2] Regulation 1.35(j)(1) requires that each contract market maintain in effect rules which require, among other things, that trading records prepared by a member of the contract market pursuant to paragraphs (a–1) and (d) of this section be submitted to contract market personnel or the clearing member within 15 minutes of designated intervals not to exceed 30 minutes. Paragraph (a–1) requires the creation of order tickets; paragraph (d) requires the preparation of trading cards or other records showing purchases or sales executed on or subject to the rules of a contract market.

has stated with regard to the requirement that members be accountable for their trading cards, ''[b]ased on Regulations 1.35(d)(6) and (j)(6), the Commission and the contract markets should be assured that trading cards which may assist in determining whether improper activity has occurred are available.''[3]

On June 6, 1996 the Commission published for public comment in the Federal Register proposed amendments to Regulation 1.35(d)(7)[4] to expressly address the issue by specifically prescribing the method by which a member of a contract market may correct errors on trading records.

II. Comments Received

The Commission received four comment letters on the proposed amendments, all from contract markets.[5] Two of the commenters supported, and one raised no objection to, the regulatory goals of the proposal but were opposed to the proposal's requirement that a specific method be used, *i.e.*, crossing out erroneous information with no more than a single line through each character. One commenter believed that the amendment was unnecessary and provided no additional benefits to the exchange. This commenter further stated that original trade information that is erroneous and subsequently changed such that the original information is illegible is contrary to the provisions of the current Regulation 1.35(d)(7). The Commission has carefully reviewed and considered the comments received and, as a result, has modified and clarified the proposed amendments as appropriate.

III. Amendments to Regulation 1.35(d)(7)

The final amendments would make paragraph (d)(7), which addresses, among other things, the preparation of trading cards, applicable to all trading records. The final amendments would modify paragraph (d)(7)(ii), to require that the correction of erroneous information on trading records must be accomplished in such a manner that the originally recorded information would not be obliterated or otherwise made illegible. The final amendments also would modify paragraph (d)(7)(ii) to require that a ply of the trading card, or in the absence of plies the original trading card, that subsequently is rewritten to correct erroneous information must be submitted to contract market personnel or the clearing member in accordance with contract market rules which set forth the required collection schedule for trading cards.

A. Proposed Paragraph (d)(7)

1. The Proposed Amendments

The proposed amendments would have made the provisions of paragraph (d)(7) applicable to all trading records, not just trading cards. Thus, the error correction provisions of paragraph (d)(7)(ii) would be applicable to all trading records, thereby assuring that all trading records are subject to the same error correction standards currently in existence with regard to trading cards.[6] Further, contract markets would be required to maintain in effect rules that would require errors on other trading records to be corrected in the manner prescribed by paragraph (d)(7)(ii).[7]

The other trading records to which this provision would have applied included order tickets or other written records prepared under Regulation 1.35(a–1) (2), (3) or (4), as well as order tickets received on the floor through electronic order routing systems, and trading records prepared for ''flashed'' orders.

2. Comments Received

In its comment letter, the CSCE stated that it had no objection to the proposal to amend Regulation 1.35(d)(7) to make the error correction procedure applicable to all trading records. The other commenters did not specifically address this issue.

3. Regulation 1.35(d)(7)

Accordingly, the Commission has determined to make the proposed amendment final as written, applying the provisions of paragraph (d)(7) to all trading records, including order tickets or other written records prepared under Regulation 1.35(a–1) (2), (3) or (4), order tickets received on the floor through electronic order routing systems, and trading records prepared for ''flashed'' orders.

B. Proposed Paragraph (d)(7)(ii)

1. The Proposed Amendments

The proposed amendments to paragraph (d)(7)(ii) would have required that erroneous information crossed out on a trading record would have to be crossed out with no more than a single line through each character, without obliterating or otherwise making illegible any of the originally recorded information. Thus, the erroneous information being crossed out would not be obliterated and an audit would reveal the original information recorded on the trading record, as well as any information subsequently recorded.

2. Comments Received

Although all commenters recognized the need to maintain the integrity of the originally recorded information, they were opposed to the specificity of the amendment's proposed requirement that the erroneous information be crossed out with no more than a single line through each character. The CME commented that the requirement to cross out erroneous information with a single line will prove counter-productive and could conceivably result in greater outtrade percentages with potentially significant economic impact. Further, the CME stated that the CME and other contract markets are in the best position to determine what constitutes ''obliteration'' and are best able to police such activity. In its comment, NYMEX stated that the requirement of a ''single line'' deletion is unnecessary and that the Commission's goal would be furthered simply by requiring that erroneous information not be obliterated or otherwise made illegible so that exchanges would retain the flexibility to determine the most effective means for determining compliance. The CSCE commented that the single line requirement overreaches in achieving the objective of preventing the creation of fictitious trading records and recommended that the Commission permit the correction of trade record errors as is usual and customary for a particular member provided the original trade information is not obscured or rendered illegible. The KCBT commented that it was highly unlikely that the single line would always be recognized as erroneous information by clerks entering trade information for clearing, thus resulting in an outtrade.

3. Regulation 1.35(d)(7)(ii)

After reviewing the comments, the Commission is persuaded that the method by which the erroneous information is corrected need not be

[3] 55 FR 8127, 8135 (March 7, 1990).

[4] 61 FR 28806 (June 6, 1996).

[5] Comment letters were received from the Chicago Mercantile Exchange (''CME''), New York Mercantile Exchange (''NYMEX''), Coffee, Sugar & Cocoa Exchange, Inc. (''CSCE'') and Kansas City Board of Trade (''KCBT'').

[6] With regard to trading cards only, the member would still have been able to correct erroneous information by rewriting the trading card. Pursuant to paragraph (d)(6), the member would have remained accountable for any trading card that was subsequently rewritten.

[7] Regulation 1.35(j)(8) requires that each contract market maintain in effect rules which require that members complete trades in non-erasable ink in the manner prescribed by paragraph (d)(7)(ii).

specified by Commission regulation so long as the regulatory objective, the legibility of the originally recorded information, is met. The Commission is aware that this objective can be attained by more than one method. Accordingly, the amendment has been modified to delete the single line requirement and to state that a member may correct any errors by crossing out erroneous information without obliterating or otherwise making illegible any of the originally recorded information. The method by which this objective is identified to exchange membership and enforced by each exchange may be determined by exchange rules.

The Commission also has decided to amend paragraph (d)(7)(ii) to add the requirement that a ply of the trading card, or in the absence of plies the original trading card, that subsequently is rewritten to correct erroneous information also must be submitted to contract market personnel or the clearing member in accordance with contract market rules which set forth the required collection schedule for trading cards.[8] As stated previously, the Commission should be assured that trading cards which may assist in determining whether improper activity has occurred are available. Accordingly, the Commission is requiring that a ply of the rewritten trading card, or in the absence of plies the original trading card, be collected. The collection of such rewritten cards would occur in accordance with the schedule for collection of trading cards in place under exchange rules which were implemented pursuant to Commission Regulation 1.35(j)(1).[9]

Regulation 1.35(d)(7)(ii) states, in current and amended form, that the member is accountable pursuant to paragraph (d)(6) for any card that subsequently is rewritten. With regard to contract markets on which the member's trading cards ordinarily are retained by his clearing member, the Commission has previously stated, in the context of the responsibility for a rewritten trading card, that the clearing member would be responsible for those trading cards not used for trade submission.[10] With regard to contract markets on which the member retains his own trading cards, a member who has a clerk rewrite his trades on a new trading card because of an error now will have to submit a ply of the rewritten trading card, or in the absence of plies the original trading card, to the contract market.[11] Thus, either the clearing member or the contract market will have a ply of the rewritten trading card, collected from the member within 15 minutes after the 30-minute trading interval, available to assist in any investigation conducted to determine whether improper activity has occurred.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously determined to evaluate within the context of a particular rule proposal whether all or some contract market members should be considered ''small entities'' for purposes of the RFA and, if so, to analyze the economic impact on contract market members of any such rule at that time. 47 FR 18618, 18620 (April 30, 1982).

The Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

The Commission recognizes that contract market members would be subject to the proposed amendments and that certain contract market members could be considered to be small entities for the purposes of the RFA. However, the Commission believes that the final amendment, as designed, would not impose a significant economic impact on such members.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (''ACT''), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Act. While this rule has no burden, the group of rules (3038–0022) of which this is a part has the following burden:

Average burden hours per response—3,546.

Number of Respondents—15,286.

Frequency of Response—On occasion.

Copies of the Office of Management and Budget approved information collection package associated with this rule may be obtained from Jeff Hill, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395–7340.

List of Subjects in 17 CFR Part 1

Commodity futures, Commodity options, Contract markets, Customers, Members of contract markets, Noncompetitive trading, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 4, 4g, 5, 5a, and 8a, 7 U.S.C. 6, 6g, 7, 7a, and 12a, the Commission hereby proposes to amend part 1 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23 and 24, unless otherwise noted.

2. Section 1.35(d)(7) is revised to read as follows:

§ 1.35 Records of cash commodity, futures, and option transactions.

* * * * *

(d) * * *

(7) Trading records prepared by a member of a contract market pursuant to contract market rules must:

(i) Be submitted in accordance with contract market rules adopted pursuant to paragraph (j)(1) of this section; and

(ii) Be completed in non-erasable ink. A member may correct any errors by

[8] As previously noted, trading cards prepared by members must be submitted in accordance with contract market rules adopted pursuant to Regulation 1.35(j)(1). The Commission believes that all exchanges currently use multi-ply trading cards. At least one ply, where practicable the top ply completed in non-erasable ink, must be submitted to contract market personnel or the clearing member pursuant to Regulation 1.35(j)(1). Where the top ply is not submitted to contract market personnel or the clearing member, it must be retained pursuant to Regulation 1.31 by the member as a record required by Regulation 1.35(a).

[9] The Commission recognizes that this creates an exception to the Regulation 1.35(j)(1) provision that contract market rules need not require that those original source documents which cannot be relied upon by the contract market or clearing member for clearing purposes be submitted.

[10] 54 FR 37117, 37122 (September 7, 1989). In these circumstances, the dual requirement to submit a ply of the rewritten trading card, or the original trading card, and remain accountable for the card could be met in two ways. First, if the top ply, or the original card, completed in non-erasable ink, is submitted to and retained by the clearing member, the collection requirement is met and, further, the clearing member assumes accountability for the rewritten card. Second, if the member keeps the top ply and submits a copy to the clearing member, the collection requirement is met and the member remains accountable for the card and must retain the top ply.

[11] On those exchanges where the trading cards are multi-ply and are collected by the exchange rather than a clearing member, whether the member retains the top ply written in ink or a copy would be determined by contract market rules but the member would, nonetheless, be accountable for the rewritten trading card.

crossing out erroneous information without obliterating or otherwise making illegible any of the originally recorded information. With regard to trading cards only, a member may correct erroneous information by rewriting the trading card; provided, however, that the member must submit a ply of the trading card, or in the absence of plies the original trading card, that is subsequently rewritten in accordance with contract market rules which set forth the required collection schedule for trading cards and provided further that the member is accountable for any trading card that subsequently is rewritten pursuant to paragraph (d)(6) of this section.

* * * * *

Issued in Washington, DC on August 13, 1996 by the Commission.

Catherine D. Dixon,

Assistant to the Secretary of the Commission.

[FR Doc. 96–21103 Filed 8–19–96; 8:45 am]

BILLING CODE 6351–01–P

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 212

Public Information

AGENCY: United States Agency for International Development.

ACTION: Final rule.

SUMMARY: These amendments make technical revisions to the Agency's Freedom of Information Act Regulations as set forth in 5 U.S.C. 553(d).

EFFECTIVE DATE: August 20, 1996.

FOR FURTHER INFORMATION CONTACT: Willette L. Smith, Customer Outreach and Oversight Staff, Office of Administrative Services, 703/516–1849, Fax 703/516–1894.

SUPPLEMENTARY INFORMATION: Revisions and updated have been made to the following sections of 22 of Chapter II of Title 22: (a) 212.25—change of addresses for Public Reading Room; (b) 212.33 procedure for making requests for agency's records; (c) 212.34 procedures for responding to requests for records; (d) 212.35 (b) revised method of calculating processing fees and 212.35(e) added an appeal rights to fee waiver decision; 212.36 change appeal time period and update address of Appeal's Officer; 212.38 revised Agency's predisclosure notification procedures for processing request for confidential commercial information.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 22 CFR Part 212

Freedom of information.

For the reasons set forth in the preamble, Part 212 of Chapter II of Title 22 of the Code of Federal Regulations is revised to read as follows:

PART 212—PUBLIC INFORMATION

Subpart A—General

Sec.
212.1 Statement of policy.

Subpart B—Publication in the Federal Register

212.11 Materials to be published.
212.12 Effect of nonpublication.
212.13 Incorporation by reference.

Subpart C—Availability of Information for Public Inspection and Copying

212.21 Public records.
212.22 Protection of personal privacy.
212.23 Current index.
212.24 Effect of noncompliance.
212.25 Procedures for obtaining materials under this subpart.

Subpart D—Access to Agency Records

212.31 Availability of agency records.
212.32 Identification of records.
212.33 Procedure for making requests.
212.34 Procedures for responding to requests for records.
212.35 Schedule of fees and methods of payment for services rendered.
212.36 Denial of request for access to records.
212.37 Procedures for agency consideration of appeals.
212.38 Predisclosure notification procedures for confidential commercial information.

Subpart E—Exemptions From Disclosure

212.41 Exemptions from publication and disclosure requirements of subparts B, C, and D.
212.42 Exemption from 5 U.S.C. 552.

Subpart F—Opening of Records for Nonofficial Research Purposes.

212.51 General Policy

Authority: 22 U.S.C. 2381(a).

Subpart A—General

§ 212.1 Statement of policy.

(a) It is the policy of the United States Agency for International Development (hereinafter ''USAID'' or ''the Agency'') that information about its objectives and operations be freely available to the public in accordance with the provisions of the Freedom of Information Act (''FOIA''), 5 U.S.C. 552, as amended; the President's Memorandum for Heads of Departments and Agencies regarding the FOIA, 29 Weekly Comp. Pres. Doc. 1999 (October 4, 1993); and the Attorney General's Memorandum of the same title and date. The Director, Office of Administrative Services, Bureau for Management, or his/her designee, is responsible on behalf of the Agency for administration of the provisions of the regulations set forth in this part.

(b) In addition, concerning the International Cooperation and Development Agency (''IDCA''), pursuant to executive order and delegations of authority USAID is responsible not only for management of its own affairs but also for those of IDCA. The policy of IDCA in the FOIA area has been determined by USAID to be identical to that of USAID, as stated in this section. Therefore, all policies and procedures set forth in this part apply equally to IDCA as to USAID; and it is intended that references in this part to ''USAID'' or ''the Agency'' shall, wherever appropriate, include or mean a reference to IDCA. Accordingly, all IDCA FOIA-related matters shall be referred to and processed by USAID staff under this part as though they were USAID matters.

(c) All records of USAID shall be made available to the public upon compliance with the procedures established in § 212.33, except to the extent a determination is made to withhold a record exemptible under 5 U.S.C. 552(b). Such a determination shall be made pursuant to procedures set forth in § 212.36, 212.37 and 212.38.

(d) The term ''record'' as used in this part includes all books, papers, maps, photographs, or other documentary material or copies thereof, regardless of physical form or characteristics, made in or received by USAID (including its missions or offices abroad), and preserved as evidence of its organization, functions, policies, decisions, procedures, operations, or other activities. The term does not include copies of the records of other U.S. Government agencies, foreign governments, international organizations, or non-governmental entities which do not evidence organization, functions, policies, decisions, procedures, operations, or activities of USAID.

Subpart B—Publication in the Federal Register

§ 212.11 Materials to be published.

(a) USAID separately states and currently publishes in the Federal Register for the information and guidance of the public:

(1) Descriptions of its central and field organization and the established places

at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

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

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

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

(5) Every amendment, revision or repeal of the material listed in this section.

(b) USAID Public Notice No. 1 and the USAID Regulations published in chapter II of Title 22 and in subtitle A, Chapter 7 of Title 41 of the Code of Federal Regulations implement the provisions of this section.

§ 212.12 Effect of nonpublication.

The materials referenced in § 212.11 shall not be binding upon or otherwise adversely affect a person unless either

(a) The materials were in fact published in the Federal Register or

(b) The person otherwise had actual and timely notice of the content of such materials.

§ 212.13 Incorporation by reference.

For purposes of this subpart B, USAID matters which are reasonably available to the class of persons affected thereby are deemed to be published in the Federal Register when they have been incorporated by reference therein with the approval of the Director of the Federal Register.

Subpart C—Availability of Information for Public Inspection and Copying

§ 212.21 Public records.

In accordance with this subpart, USAID makes the following information and materials available for public inspection and copying:

(a) All final opinions (including concurring and dissenting options), and all orders made in the adjudication of the cases:

(b) those statements of policy and interpretations which have been adopted by the Agency and are not published in the Federal Register; and

(c) Administrative staff manuals and instructions to staff that affect any member of the public.

§ 212.22 Protection of personal privacy.

To the extent required to prevent a clearly unwarranted invasion of personal privacy, USAID may delete identifying details when USAID makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. USAID will, in each such case, explain in writing the justification for the deletion.

§ 212.23 Current index.

USAID maintains and makes available for public inspection and copying a current index providing identifying information for the public as to any matter which has been issued, adopted, or promulgated after July 4, 1967, and which is required by § 212.21 to be made available or published. Publication of an index is deemed both unnecessary and impractical. However, copies of the index are available, upon request, for a fee based on the direct cost of duplication.

§ 212.24 Effect of noncompliance.

No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public will be relied upon, used, or cited as precedent by USAID against any private party unless it has been indexed and either made available or published as provided by this subpart, or unless that private party shall have actual and timely notice of the terms thereof.

§ 212.25 Procedures for obtaining materials under this subpart.

(a) The materials required to be made available for public inspection and copying in accordance with this subpart are available to members of the public at USAID's Public Reading Room, Room 1113, 1621 North Kent Street, Rosslyn, Virginia 22209, which is open from 9 a.m. to 5 p.m., Monday through Friday, except on holidays. All such materials are available in electronic form (disks) only; to a reasonable degree, assistance will be provided in use of necessary equipment.

(b) Requests for materials which are available under this subpart should follow the procedures under § 212.33(a) of this part.

(c) The direct costs of any necessary duplication will be charged in accordance with the fee schedule set forth in § 212.35.

(d) USAID Missions and offices in countries abroad are not responsible for the maintenance of the index and materials available under this subpart. However, insofar as they do have these materials, they will make them available to citizens of the United States who are present in their respective countries upon application made either or in person in writing to the USAID Director, or other principal USAID officer, c/o American Embassy in the applicable country.

Subpart D—Access to Agency Records

§ 212.31 Availability of agency records.

Upon receiving a request which reasonably describes a USAID record, and which is made in accordance with the provisions of this subpart, USAID will make such records, except the following, promptly available to the requesting party:

(a) Matters published in the Federal Register pursuant to subpart B;

(b) Matters made available to the public pursuant to subpart C; and

(c) Matters exempt from disclosure pursuant to § 212.41 or § 241.42 of this part.

§ 212.32 Identification of records.

The request for a record by a member of the public must contain a reasonably specific description of the particular record sought so that a USAID officer who is familiar with the subject matter of the request may be able to locate the record with a reasonable amount of effort. A description that includes as much information as possible, such as the subject matter, format, approximate date and, where pertinent, the name of the country or person involved, will facilitate the search for the requested record.

§ 212.33 Procedure for making requests.

(a) Requests for records, other than records available at the Public Reading Room identified in § 212.24(a), may be made by a member of the public in writing only to the Chief, Customer Outreach and Oversight Staff, Room 1113, SA–16, Agency for International Development, Department of State, 320 21st Street, N.W., Washington, D.C. 20523–1608. The request and the envelope must be plainly marked ''FOIA Request.'' Requests may be made orally, that is, in person, only for records and materials available at the Public Reading Room.

(b) Requests for records may be made directly to a USAID mission or office abroad only by a citizen of the United States who is present in that country and must be by written application to the USAID Director (or other principal USAID officer), care of the American Embassy in that country. Any such written request and its envelope must be plainly marked ''FOIA Request.''

(c) Only signed original (as opposed to electronically transmitted) requests are acceptable for procedures pursuant

to paragraphs (a) and (b) of this section. Telephoned requests, or in-person requests other than to the Public Reading Room, cannot be accepted. If a written request not properly marked ''FOIA Request'' on both the letter and envelope is thereby delayed in reaching the Chief, Office of Customer Outreach and Oversight Staff, such request will not be deemed received by USAID until actually received by that official. In the event of such a delay, the person making the request will be furnished a notice of the effective date of receipt.

§ 212.34 Procedures for responding to requests for records.

(a) Upon receipt by the Chief, Office of Customer Outreach and Oversight Staff, of a reasonably specific request made pursuant to § 212.33 of this part, a maximum of ten working days will normally be taken to determine to what extent the Agency can provide the information requested. Upon the making of that determination, the person making the request will be promptly so informed. Copies of the releasable documents will be made available promptly thereafter upon receipt of applicable fees and charges as set forth in § 212.35.

(b)(1) In unusual circumstances, USAID may not be able to determine the availability of the requested documents within ten working days, in which event the person making the request will be informed by written notice of the delay, the reasons for the delay and the date on which a determination may be expected. In this context, the term ''unusual circumstances'' refers to the following situations:

(i) When there is a need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) When there is a need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are sought in a single request; or

(iii) When there is a need for consultation (which will be conducted with all practicable speed) with another agency having a substantial interest in the determination of the request or among two or more components of the Agency, each having substantial subject-matter interest therein.

(2) The maximum time in making a determination of availability, in the event of such unusual circumstances, will be twenty working days from receipt of the request. In the event that only part of the permissible ten working days extension is used, then USAID reserves the right, if necessary, to use any remainder of such time for the determination of an appeal, if one is made.

(c) If a request is made to USAID for material that is controlled or held by another agency, the person making the request will be immediately notified that USAID does not have or control the requested material and he/she will be advised of the name of the controlling agency and of the address from which the material may be requested, unless the other agency has, by public regulation, delegated the release authority to USAID. If release authority has been delegated, USAID will follow the procedures authorized by the delegation in determining whether to release the information. If a request for material is referred to USAID from another agency, the time period for determination of release of the information will not start until the request is received by the Chief, Office of Customer Outreach and Oversight Staff; and the person making the request will be immediately notified of the referral and of the date the request was received in USAID. USAID will not accept referral of requests unless and until the Chief, Customer Outreach and Oversight Staff, or his/her designee, determines that the material requested is actually within the scope and control of the release authority of USAID.

(d) If only a part of a record is exempt from disclosure, then any reasonably segregable portion of such record will be furnished after deletion of the portions which are exempt, provided that the segregable portion constitutes an intelligible record which is not distorted out of context or contradictory to the substance of the entire record before segregation.

§ 212.35 Schedule of fees and method of payment for services rendered.

(a) *Definitions.* (1) *Direct costs* means those expenditures which the Agency actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents in order to respond to a FOIA request.

(2) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Line-by-line search will not be done when duplicating an entire document would prove the less expensive and quicker method of complying with a request. (''Search'' for this purpose is distinguished from ''review'' (see paragraph (a)(4) of this section).

(3) *Duplication* refers to the process of making a copy of a document available to the FOIA requester. Copies can take the form of paper copy, microfilm or audiovisual materials (among others) and will be in a form that is reasonably usable by requesters.

(4) *Review* refers to the process of examining documents located in response to a commercial use request (see paragraph (a)(5) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, *e.g.*, doing all that is necessary to redact those documents of exempt material and otherwise preparing them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(5) *Commercial use request* refers to a request from or on behalf of one who seeks information for a use or purpose that is related to commerce, trade, or the profit interest of the requester or of the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Agency will determine the use to which a requester will put the documents requested. Where the Agency has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Agency may seek additional clarification before assigning the request to a specific category.

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

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

(8) *Representative of the news media* refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can

qualify as disseminators of ''news'' who make their products available for purchase or subscription by the general public). These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of ''freelance'' journalists, they may be regarded as working for a news organization if they can demonstrate a sound basis for expecting publication through such an organization, even though not actually employed by it. A publication contract would be the clearest evidence, but the Agency may also look to the past publication record of the requester in making this determination.

(b) *Fees to be charged.* The following specific fees shall be applicable with respect to services rendered to members of the public under this part:

(1) *Commercial use requesters.* Fees are intended to cover the full estimated direct costs of researching for, reviewing for release, and duplicating the records requested. *Search costs* are computed based on the following formula: hours spent by Agency personnel, whatever their grade and location, and rounded up to the nearest full hour, and including locality pay for Washington-based personnel only, at the basic annual rate then payable to U.S. Government employees at the GS–9/Step 4 level, times 1.17 (to factor in related benefits) and divided by 2080 (hours per work year). *Review costs* are computed based on the same formula but, instead, using the rate then payable to employees at the GS–13/Step 4 level. *Duplicating costs* are $0.20 per page. Search costs will be assessed even though no records may be found or even if, after review, there is no disclosure of records.

(2) *Educational and non-commercial scientific institution requester.* The Agency will provide documents to requesters in this category for the cost of duplication alone ($0.20 per page), excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that a request is being made under the auspices of a qualifying institution and that the records are sought in furtherance of scholarly research, if the request is from an educational institution or scientific research, if the request is from a non-commercial scientific institution. Requesters eligible for free search must (as with all FOIA requesters) reasonably describe the records sought.

(3) *Requesters who are representatives of the news media.* The Agency will provide documents to requesters in this category for the cost of reproduction alone ($0.20 per page), excluding charges for the first 100 pages. To be eligible for inclusion in this category a requester must meet the criteria in paragraph (a)(8) of this section, and his/her request must not be made for commercial use. In reference to this class of requesters, a request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use. Requesters eligible for free search must also reasonably describe the records sought.

(4) *All other requesters.* The Agency will charge requesters who do not fit into any of the categories in paragraphs (b) (1), (2), and (3) of this section fees which recover the full direct cost of search, and for reproducing records that are responsive to the request, except that the first 100 pages and the first two hours of search time shall be furnished without charge. The hourly rates outlined in paragraph (b)(1) of this section will prevail. Requesters must reasonably describe the records sought. Moreover, requests from subjects for records filed in the Agency's Privacy Act System of Records will continue to be treated under the fee provisions of the Privacy Act of 1975 except that the first 100 pages of reproduction will be furnished without charge.

(c) *Non-payment of fees.* (1) The Agency will begin assessing interest charges on the thirty-first day following the day on which the requester is advised of the fee charge. Interest will be at the rate prescribed in 31 U.S.C. 3717.

(2) Where a requester has previously failed to copy a fee charged in a timely fashion (i.e. within thirty days of the billing date), the Agency will require the requester to pay the full amount owed plus any applicable interest as provided in paragraph (c)(1) of this section, and to make an advance payment of the full amount of the remaining estimated fee before the Agency begins to process a new request or continues processing a then-pending request from the requester.

(3) When the Agency acts under paragraph (c) (1) or (2) of this section the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., ten working days from receipt of initial request and twenty working days from receipt of appeals from initial denial plus permissible extensions of these time limits) will begin only after the Agency has received fee payments described in this section.

(d) *Advance payments or confirmation.* Where USAID estimates or determines that allowable charges to a requester are likely to exceed $250, USAID will require a requester to make an advance payment of the entire estimated charges before continuing to process the request. Where the estimated charges are in the $25–$250 range, then USAID in its discretion, before processing the request, may require either—

(1) An advance deposit of the entire estimated charges or (2) Written confirmation of the requester's willingness, when billed, to pay such charges.

(e) *Waiving or reducing fee.* In accordance with section (4)(A)(ii) of the FOIA, the Agency will furnish documents without charge or at reduced charges if disclosure of the information is ''in the public interest'' in that such disclosure is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester. A requester may at any time, up to a period not to exceed thirty days from the final USAID decision concerning his/her request, request such waiver or reduction of fee by letter addressed to the Chief, Customer Outreach and Oversight Staff; such request shall address the above criteria for waiver. Such request will initially be decided by the Chief, Customer Outreach and Oversight Staff, or his/her designee; such decision will normally be made, and the requester so advised, within ten working days of its receipt. The requester, if dissatisfied with that decision, may appeal pursuant to the same procedures as apply under § 212.36 and § 212.37 of this part.

(f) *Restrictions on assessing fees.* With the exception of requesters seeking documents for a commercial use, Section (4)(A)(iv) of the FOIA, as amended, requires agencies to provide the first 100 pages of duplication and the first two hours of search time without charge. Moreover, this section prohibits agencies from charging fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. These provisions work together so that, except for commercial use requesters, the Agency will not begin to assess fees until it has provided such free search and reproduction. For example, for a request that involved two hours and ten minutes of search time and resulted in 105 pages of documents, the Agency will determine the cost of only ten minutes of search time and only five pages of reproduction. If this

cost is equal to or less than the cost of processing the payment instrument—a figure which the Agency will from time to time review and determine—then there will be no charge to the requester.

(g) *Other provisions*—(1) *Charges for unsuccessful search.* The Agency will assess charges for time spent searching even if the Agency fails to locate the records or if records located are determined to be exempt from disclosure.

(2) *Aggregating requesters.* When the Agency reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Agency will aggregate any such requesters and charge accordingly.

(3) *Effect of the Debt Collection Act of 1982* (Public Law 97–365). The Agency will use the authorities of the Debt Collection Act, including disclosure to consumer reporting agencies and use of collection agencies, where appropriate, to encourage repayment.

(4) *Remittances.* (i) Remittances will be in U.S. Dollars in the form of either a personal check or bank draft drawn on a bank in the United States or a money order.

(ii) Remittances shall be made payable to the order of the U.S. Treasury and mailed to the Chief, Customer Outreach and Oversight Staff, at the address set forth in § 212.33(a) of this part.

§ 212.36 Denial of request for access to records.

(a) If it is determined that the Agency cannot comply with all or part of a request for records, the person making the request shall be immediately notified of the determination, the reasons for the determination, the name and title of each officer responsible for the denial, and the right of the person to appeal the adverse determination.

(b) The denial of a request for records may be made, initially, only by the Chief, Customer Outreach and Oversight Staff, or his/her designee.

(c) (1) Any person who has been denied access to records pursuant to this section may appeal the relevant decision not later than thirty days after the date of the notification of denial or, in the case of a partial denial, not later than thirty days after the date the releasable documents are actually furnished to the person making the request, whichever is later. The appeal shall be in writing addressed to the Agency's FOIA Appeals Officer, who is:

The Director, Office of Administrative Services, Bureau for Management, Room 803, SA–2, Agency for International Development, 21st and Virginia Ave., N.W., Washington, D.C., 20523–0217.

(2) In order for the Agency to make a timely response to the appeal, both the text of the appeal and its envelope must be plainly marked ''FOIA Appeal''. The appeal must contain a reasonable description of the record sought and withheld, a copy of the initial decision to deny access and any other information that will enable the Appeals Officer to make the final decision.

§ 212.37 Procedures for agency consideration of appeals.

(a) Upon receipt of the appeal by the Appeals Officer, a maximum of twenty working days will normally be taken to decide the appeal. In unusual circumstances, as defined in § 212.34, the twenty working days may be extended by ten working days or by the number of days not used in the original denial of the request.

(b) If the appeal is granted, the person making the appeal shall be immediately notified and copies of the releasable documents shall be made available promptly thereafter upon receipt of appropriate fees as set forth in § 212.35. If the appeal is denied in whole or part, the person making the request shall be immediately notified of the decisions and of the provisions for judicial review of the Agency's denial of the request.

(c) In the event a determination is not issued within the applicable time limit and the person making the request therefore chooses to sue the Agency, the Agency-level determination process shall nonetheless continue.

(d) If an appeal not properly marked ''FOIA Appeal'' on the text of the appeal and/or envelope is thereby delayed in reaching the Appeals Officer, it will not be deemed received by the Appeals Officer until actually received by him/her. In such event, the person making the appeal will be furnished notice of the effective date of receipt.

§ 212.38 Predisclosure notification procedures for confidential commercial information.

(a) *In general.* Confidential commercial information provided to the Agency shall not be disclosed pursuant to a FOIA request except in accordance with this section. For purposes of this section, the following definitions apply:

(1) *Confidential commercial information* means records provided to the Agency by a submitter that arguably contain material exempt from release under Exemption 4 of FOIA, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Submitter* means any person or entity who provides confidential commercial information to the Agency. The term ''submitter'' includes, but is not limited to, corporations, state governments and foreign governments.

(b) *Notice to submitters.* Whenever the Agency receives a FOIA request for confidential commercial information and, pursuant to paragraph (c) of this section, the submitter of such information is entitled to receive notice of that request, then the Agency shall promptly notify the submitter that it has received the request, unless such a notice is not required pursuant to paragraph (g) of this section. The notice shall be in writing and shall either describe the exact nature of the confidential commercial information requested or provide a copy of the records or portion of the records containing the confidential commercial information. The notice shall be addressed to the submitter and mailed, postage prepaid, first class mail, to the submitter's last known address. Where notice is required to be given to a voluminous number of submitters, in lieu of such a mailing the notice may be posted or published in a manner and place reasonably calculated to provide notice to the submitters.

(c) *When notice is required; related matters.* (1) For confidential commercial information submitted prior to January 1, 1988, the Agency shall provide a submitter with notice of its receipt of a FOIA request whenever:

(i) The records are less than ten years old and the information has been designated by the submitter as confidential commercial information; or

(ii) The Agency has reason to believe that the disclosure of the information could reasonably be expected to cause substantial competitive harm to the submitter thereof.

(2) For confidential commercial information submitted to the Agency on or after January 1, 1988, the Agency shall provide a submitter with notice of its receipt of a FOIA request whenever:

(i) The submitter has designated the information as confidential commercial information pursuant to the requirements of this section; or

(ii) The Agency has reason to believe that the disclosure of the information could reasonably be expected to cause substantial competitive harm to the submitter.

(3) Notice of a request for confidential commercial information falling within paragraph (c)(2)(i) of this section shall be required for a period of not more than ten years after the date of submission unless the submitter

provides reasonable justification for a designation period of greater duration.

(4) A submitter shall use good-faith efforts to designate by appropriate markings, either at the time a record is submitted to the Agency or within a reasonable period of time thereafter, those portions of the record which it deems to contain confidential commercial information. The designation shall be accompanied by a certification made by the submitter, its agent or designee that to the best of the submitter's knowledge, information and belief, the record does, in fact, contain confidential commercial information that theretofore has not been disclosed to the public.

(5) Whenever the Agency provides notice to the submitter in accordance with paragraph (c) of this section, the Agency shall at the same time provide written notice to the requester that it is affording the submitter a reasonable period of time within which to object to the disclosure, and that, therefore, the Agency may be required to enlarge the time within which it otherwise would respond to the request.

(d) *Opportunity to object to disclosure.* To the extent permitted by law, the notice required by paragraph (c) of this section shall afford a submitter a reasonable period of time within which the submitter or its authorized representative may provide the Agency with a written objection to the disclosure of the confidential commercial information and demonstrate why the submitter believes that the records contain confidential commercial information whose disclosure would, probably, cause substantial competitive injury to the submitter. Except where a certification already has been made in conformance with the requirements of paragraph (c)(4) of this section, the objection shall be accompanied by certification made by the submitter, its agent or designee, that to the best of the submitter's knowledge, information and belief, the record does, in fact, contain confidential commercial information that theretofore has not been disclosed to the public. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA.

(e) *Notice of intent to disclose.* (1) The Agency shall give careful consideration to objections made by a submitter pursuant to paragraph (d) of this section prior to making any administrative determination of the issue. Whenever the Agency decides to disclose information despite the objection of a submitter, the Agency shall forward to the submitter a written notice which shall include:

(i) A statement of the reasons for which a submitter's disclosure objections were not sustained; and

(ii) A description of the information to be disclosed.

(2) To the extent permitted by law, the notice required to be given by paragraph (e)(1) of this section shall be provided to the submitter a reasonable number of days prior to the specific disclosure date.

(3) Whenever the Agency provides notice to the submitter in accordance with paragraphs (e) (1) and (2) of this section, the Agency shall at the same time notify the requester

(i) That such a notice has been given and

(ii) Of the proposed date for disclosure.

(f) *Notice of lawsuit.* When a requester brings suit seeking to compel the disclosure of information for which notice is required pursuant to paragraph (c) of this section, the Agency shall promptly notify the submitter that such suit has been filed.

(g) *Exceptions to notice requirements.* The notice requirements of this section shall not apply if:

(1) The Agency determines that the information should not be disclosed;

(2) The information has been published or has been officially made available to the public;

(3) Disclosure of the information is required by an Agency rule that;

(i) Was adopted pursuant to notice and public comment;

(ii) Specifies narrow classes of records submitted to the Agency that are to be released under the FOIA; and

(iii) Provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm;

(4) For purposes of paragraph (c) of this section, the information requested was not designated by the submitter as exempt from disclosure when the submitter had an opportunity to make such designation at the time of submission of the information or within a reasonable time thereafter, unless;

(i) The Agency has substantial reason to believe that disclosure of the information would result in competitive harm; or

(ii) The designation made by the submitter appears obviously frivolous; except that, in such case, the Agency must provide the submitter with written notice of any final administrative disclosure determination within a reasonable number of days prior to the specified disclosure date.

Subpart E—Exemptions From Disclosure

§ 212.41 Exemptions from publication and disclosure requirements of subparts B, C, and D.

None of the provisions of subparts B, C, and D which provide for publication and disclosure of certain information and records shall be applicable to matters that are:

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

(b) Related solely to the internal personnel rules and practices of the Agency;

(c) Specifically exempted from disclosure by statute;

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

(e) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

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

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

(1) Would reasonably be expected to interfere with enforcement proceedings;

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

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

(4) Could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful security intelligence investigation, information furnished by a confidential source;

(5) Would disclose techniques and procedure for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

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

(h) Contained in or related to examination, operating, or condition

reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and

(i) Geological and geophysical information and data (including maps) concerning wells.

§ 212.42 Exemption from 5 U.S.C. 552.

Whenever a request is made which involves access to records described in paragraph (g) of § 212.41 and the investigation or proceedings involves a possible violation of criminal law; and there is reason to believe that the subject of the investigation or proceeding is not aware of its pendency, and disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the Agency may, during only such time as that circumstances continues, treat the records as not subject to the requirements of 5 U.S.C. 552 and this subpart.

Subpart F—Opening of Records for Nonofficial Research Purposes

§ 212.51 General policy.

(a) The Agency will open its records on an equitable basis to all individuals engaged in private research as soon as such action may be taken without adversely affecting the national security, the maintenance of friendly relations with other nations, the efficient operation of the Agency, or the administrative feasibility of servicing requests for access to such records.

(b) Access for research purposes to the classified foreign policy records in the Agency's custody will be governed by the regulations of the Department of State with respect thereto, as set forth in part 6, chapter II of title II of the Code of Federal Regulations. Application for such access may be made to the Chief, Customer Outreach and Oversight Staff, at the address listed in § 212.33(a) of this part. That officer, or his/her designee, in consultation with the Director, Historical Office, Department of State, or his/her designee, will determine the action to be taken and will so advise the researcher.

Dated: July 31, 1996.

Willette L. Smith,

Public Affairs Specialist, Office of Admin. Services.

[FR Doc. 96–20880 Filed 8–19–96; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 19 and 20

RIN 2900–AI11

Appeals Regulations, Rules of Practice: Hearings Before the Board of Veterans' Appeals at Department of Veterans Affairs Field Facilities

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Appeals Regulations for the Board of Veterans' Appeals (Board) to shorten from 60 days to 30 days the minimum notice the Department of Veterans Affairs (VA) must give an appellant of the date and place of a hearing before the Board at a VA field facility. This change will help reduce the number of ''no shows'' at field hearings.

This document also amends the Board's Rules of Practice to change, from the initiation of an appeal to the perfection of the appeal, the event beginning the period during which an appellant may request a hearing before the Board at a VA field facility. This change would reduce the number of hearings scheduled for appellants who never perfect their appeals.

The Board adjudicates appeals of denials of claims for veterans' benefits.

EFFECTIVE DATE: August 20, 1996.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Chief Counsel, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: Former 38 CFR 19.76 generally required VA to notify an appellant and his or her representative of the time and place of a hearing before the Board at a VA field facility at least 60 days before the hearing. The Board has consistently experienced a high rate of ''no shows'' at such hearings—sometimes as high as 60 percent—which we believe is due, at least in part, to the relatively long time between notice of the hearing and the hearing. VA believes that 30 days' notice to appellants and their representatives is sufficient and may help reduce the rate of ''no shows'' at field hearings. We have therefore changed § 19.76 accordingly.

Former 38 CFR 20.703 permitted an appellant to request a hearing before the Board at a VA field facility any time after filing a notice of disagreement, which initiates an appeal to the Board. A substantive appeal (VA Form 9) must be filed to perfect an appeal. 38 CFR 20.200. Historically, fewer than 65% of VA claimants who initiated an appeal perfected it. By allowing an appellant to request a hearing before perfecting the appeal, VA expended resources scheduling hearings for appellants who never perfected their appeals. We therefore have changed § 20.703 to permit an appellant to request a hearing before the Board at a field facility only when or after filing a substantive appeal.

This final rule concerns agency procedure or practice and, consequently, pursuant to 5 U.S.C. 553, is exempt from notice and comment requirements.

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will affect VA beneficiaries and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

List of Subjects

38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans.

Approved: June 28, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR parts 19 and 20 are amended as set forth below:

PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

Authority: 38 U.S.C. 501(a).

Subpart D—Hearings Before the Board of Veterans' Appeals at Department of Veterans Affairs Field Facilities

§ 19.76 [Amended]

2. Section 19.76 is amended by removing ''60 days'' each time it appears and adding, in its place, ''30 days''.

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

3. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a).

Subpart H—Hearings on Appeal

4. Section 20.703 is revised to read as follows:

§ 20.703 Rule 703. When a hearing before the Board of Veterans' Appeals at a Department of Veterans Affairs field facility may be requested.

An appellant, or an appellant's representative, may request a hearing before the Board of Veterans' Appeals at a Department of Veterans Affairs field facility when submitting the substantive appeal (VA Form 9) or anytime thereafter, subject to the restrictions in Rule 1304 (§ 20.1304 of this part). Requests for such hearings before a substantive appeal has been filed will be rejected.

(Authority: 38 U.S.C. 7105(a), 7107)

[FR Doc. 96–21125 Filed 8–19–96; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–5552–5]

Indiana: Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Indiana 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). The Environmental Protection Agency (EPA) has reviewed Indiana's application and has made a decision, subject to public review and comment, that Indiana's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Indiana's hazardous waste program revisions, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (hereinafter HSWA). Indiana's application for program revision is available for public review and comment.

EFFECTIVE DATE: Final authorization for Indiana shall be effective October 21, 1996 unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Indiana's program revision application must be received by the close of business September 19, 1996.

ADDRESSES: Copies of Indiana's program revision application are available for inspection and copying, from 9 a.m. to 4 p.m., at the following addresses: Indiana Department of Environmental Management, 100 North Senate, P.O. Box 6015, Indianapolis, Indiana 46206–6015, contact: Lynn West (317) 232–3593; U.S. EPA, Region 5, DR–7J, 77 W. Jackson Blvd., Chicago, Illinois 60604, contact: Gary Westefer (312) 886–7450. Written comments should be sent to Mr. Gary Westefer, Indiana Regulatory Specialist, U.S. EPA, Office of RCRA, DR–7J, 77 W. Jackson Blvd., Chicago, Illinois 60604, phone 312/886–7450.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Westefer, U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Phone: 312/886–7450.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act (RCRA or the Act), 42 U.S.C. 6929(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. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter HSWA) allows States to revise their programs to become 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 EPA's regulations in 40 CFR Parts 124, 260–266, 268, 270, 273 and 279.

B. Indiana

Indiana initially received final authorization for its program effective January 31, 1986. (51 FR 3955, January 30, 1986.) Indiana received authorization for revisions to its program effective on December 31, 1986 (51 FR 39752, October 31, 1986), January 19, 1988 (53 FR 128, January 5, 1988), September 11, 1989 (54 FR 29557, July 13, 1989), September 23, 1991 (56 FR 33717, July 23, 1991), September 23, 1991 (56 FR 33866, July 24, 1991), September 27, 1991 (56 FR 35831, July 29, 1991), and September 30, 1991 (56 FR 36010, July 30, 1991). On September 23, 1992, Indiana submitted a program revision application for an additional revision to its authorized program. This program revision is due to an Indiana Legislative Services requirement that the Indiana Department of Environmental Management (IDEM) recodify its hazardous waste management rules in order to incorporate by reference their Federal equivalent. The IDEM became the State agency responsible for administering the authorized RCRA hazardous waste management program in Indiana as of April 1, 1986. Those rules that were codified as title 329 of the Indiana Administrative Code, Article 3 (329 IAC 3) were recodified as title 329 of the Indiana Administrative Code Article 3.1 (329 IAC 3.1). This program revision reflects the recodified rules that became effective February 24, 1992. The recodified rules effectively continue the original 329 IAC 3 rules and in no way alter the State's regulatory and statutory equivalence to the Federal RCRA program. On August 5, 1992, the Indiana Attorney General certified that the recodification of Indiana's hazardous waste management rules does not affect the IDEM's authority to implement the State's authorized RCRA program.

EPA has reviewed Indiana's application, and has made an immediate final decision that Indiana's hazardous waste program revision does reflect the State's equivalency with the Federal program and satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization to Indiana for its additional program modification. The public may submit written comments on EPA's immediate final decision up until September 19, 1996. Copies of Indiana's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of Indiana's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

On October 21, 1996, Indiana will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which were recodified at title 329 of the Indiana Administrative Code, Article 3.1, and which are analogous to the following Resource Conservation and Recovery Act rules found at Title 40 of the Code of Federal regulations:

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 124.1	329 IAC 3.1–13–3	329 IAC 3–39–1
40 CFR 124.3	329 IAC 3.1–13–3	329 IAC 3–39–2
40 CFR 124.5	329 IAC 3.1–13–7	329 IAC 3–39–3
40 CFR 124.6	329 IAC 3.1–13–8	329 IAC 3–39–4
40 CFR 124.8	329 IAC 3.1–13–9	329 IAC 3–39–5
40 CFR 124.10	329 IAC 3.1–13–10	329 IAC 3–39–6
40 CFR 124.11	329 IAC 3.1–13–11	329 IAC 3–39–7
40 CFR 124.12	329 IAC 3.1–13–12	329 IAC 3–39–8
40 CFR 124.17	329 IAC 3.1–13–13	329 IAC 3–39–9
40 CFR 260.3	329 IAC 3.1–4–1	329 IAC 3–1–3
40 CFR 260.10	329 IAC 3.1–4–1	329 IAC 3–1–7
40 CFR 260.11	329 IAC 3.1–1–7	329 IAC 3–1–6
40 CFR 260.20	329 IAC 3.1–5–2	329 IAC 3–1–5
40 CFR 260.22	329 IAC 3.1–5–3	329 IAC 3–1–4
40 CFR 260.30	329 IAC 3.1–5–4	329 IAC 3–1–8
40 CFR 260.31	329 IAC 3.1–5–4	329 IAC 3–1–9
40 CFR 260.32	329 IAC 3.1–5–4	329 IAC 3–1–10
40 CFR 260.33	329 IAC 3.1–5–4	329 IAC 3–1–11
40 CFR 260.40	329 IAC 3.1–5–5	329 IAC 3–1–12
40 CFR 260.41	329 IAC 3.1–5–5	329 IAC 3–1–13
40 CFR 261.1	329 IAC 3.1–6–1	329 IAC 3–3–1
40 CFR 261.2	329 IAC 3.1–6–1	329 IAC 3–3–2
40 CFR 261.3	329 IAC 3.1–6–1	329 IAC 3–3–3
40 CFR 261.4	329 IAC 3.1–6–1	329 IAC 3–3–4
40 CFR 261.5	329 IAC 3.1–6–1	329 IAC 3–3–5
40 CFR 261.6	329 IAC 3.1–6–1	329 IAC 3–3–6
40 CFR 261.7	329 IAC 3.1–6–1	329 IAC 3–3–7
40 CFR 261.10	329 IAC 3.1–6–1	329 IAC 3–4–1
40 CFR 261.11	329 IAC 3.1–6–1	329 IAC 3–4–2
40 CFR 261.20	329 IAC 3.1–6–1	329 IAC 3–5–1
40 CFR 261.21	329 IAC 3.1–6–1	329 IAC 3–5–2
40 CFR 261.22	329 IAC 3.1–6–1	329 IAC 3–5–3
40 CFR 261.23	329 IAC 3.1–6–1	329 IAC 3–5–4
40 CFR 261.24	329 IAC 3.1–6–1	329 IAC 3–5–5
40 CFR 261.30	329 IAC 3.1–6–1	329 IAC 3–6–1
40 CFR 261.31	329 IAC 3.1–6–1	329 IAC 3–6–2
40 CFR 261.32	329 IAC 3.1–6–1	329 IAC 3–6–3
40 CFR 261.33	329 IAC 3.1–6–1	329 IAC 3–6–4
40 CFR 261.—Appendix I	329 IAC 3.1–6–1	329 IAC 3–6–5
40 CFR 261.—Appendix II	329 IAC 3.1–6–1	329 IAC 3–6–6
40 CFR 261.—Appendix III	329 IAC 3.1–6–1	329 IAC 3–6–7
40 CFR 261.—Appendix VII	329 IAC 3.1–6–1	329 IAC 3–6–8
40 CFR 261.—Appendix VIII	329 IAC 3.1–6–1	329 IAC 3–6–9
40 CFR 261.—Appendix IX	329 IAC 3.1–6–1	329 IAC 3–6–10
40 CFR 262.10	329 IAC 3.1–7–1	329 IAC 3–7–1
40 CFR 262.11	329 IAC 3.1–7–1	329 IAC 3–7–2
40 CFR 262.12	329 IAC 3.1–7–1	329 IAC 3–7–3
40 CFR 262.20	329 IAC 3.1–7–3	329 IAC 3–8–1
40 CFR 262.21	329 IAC 3.1–7–4	329 IAC 3–8–2
40 CFR 262.22	329 IAC 3.1–7–5	329 IAC 3–8–3
40 CFR 262.23	329 IAC 3.1–7–6	329 IAC 3–8–4
40 CFR 262.30	329 IAC 3.1–7–1	329 IAC 3–9–1
40 CFR 262.31	329 IAC 3.1–7–1	329 IAC 3–9–2
40 CFR 262.32	329 IAC 3.1–7–1	329 IAC 3–9–3
40 CFR 262.33	329 IAC 3.1–7–1	329 IAC 3–9–4
40 CFR 262.34	329 IAC 3.1–7–1	329 IAC 3–9–5
40 CFR 262.40	329 IAC 3.1–7–1	329 IAC 3–10–1
40 CFR 262.41	329 IAC 3.1–7–14	329 IAC 3–10–2
40 CFR 262.42	329 IAC 3.1–7–1	329 IAC 3–10–3
40 CFR 262.43	329 IAC 3.1–7–15	329 IAC 3–10–4
40 CFR 262.44	329 IAC 3.1–7–1	329 IAC 3–10–5
40 CFR 262.50	329 IAC 3.1–7–1	329 IAC 3–11–1
40 CFR 262.51	329 IAC 3.1–7–1	329 IAC 3–11–2
40 CFR 262.52	329 IAC 3.1–7–1	329 IAC 3–11.1–3
40 CFR 262.53	329 IAC 3.1–7–1	329 IAC 3–11.1–4
40 CFR 262.54	329 IAC 3.1–7–1	329 IAC 3–11.1–5
40 CFR 262.55	329 IAC 3.1–7–1	329 IAC 3–11.1–6
40 CFR 262.56	329 IAC 3.1–7–1	329 IAC 3–11.1–7
40 CFR 262.57	329 IAC 3.1–7–1	329 IAC 3–11.1–8

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 262.60	329 IAC 3.1–7–1	329 IAC 3–11.4–1
40 CFR 262.70	329 IAC 3.1–7–1	329 IAC 3–11.5–1
40 CFR 262.—Appendix: Uniform Hazardous Waste Manifest and Instructions.	329 IAC 3.1–7–7	329 IAC 3–14–3
	329 IAC 3.1–7–8.	
	329 IAC 3.1–7–9.	
	329 IAC 3.1–7–10.	
	329 IAC 3.1–7–11.	
	329 IAC 3.1–7–12.	
	329 IAC 3.1–7–13.	
40 CFR 263.10	329 IAC 3.1–8–1	329 IAC 3–12–1
40 CFR 263.11	329 IAC 3.1–8–1	329 IAC 3–12–2
40 CFR 263.12	329 IAC 3.1–8–1	329 IAC 3–12–3
40 CFR 263.20	329 IAC 3.1–8–1	329 IAC 3–13–1
40 CFR 263.21	329 IAC 3.1–8–1	329 IAC 3–13–2
40 CFR 263.22	329 IAC 3.1–8–1	329 IAC 3–13–3
40 CFR 263.30	329 IAC 3.1–8–3	329 IAC 3–14–1
40 CFR 263.31	329 IAC 3.1–8–1	329 IAC 3–14–2
40 CFR 264.1	329 IAC 3.1–9–1	329 IAC 3–40–1
40 CFR 264.3	329 IAC 3.1–9–1	329 IAC 3–40–2
40 CFR 264.4	329 IAC 3.1–9–1	329 IAC 3–40–3
40 CFR 264.10	329 IAC 3.1–9–1	329 IAC 3–41–1
40 CFR 264.11	329 IAC 3.1–9–1	329 IAC 3–41–2
40 CFR 264.12	329 IAC 3.1–9–1	329 IAC 3–41–3
40 CFR 264.13	329 IAC 3.1–9–1	329 IAC 3–41–4
40 CFR 264.14	329 IAC 3.1–9–1	329 IAC 3–41–5
40 CFR 264.15	329 IAC 3.1–9–1	329 IAC 3–41–6
40 CFR 264.16	329 IAC 3.1–9–1	329 IAC 3–41–7
40 CFR 264.17	329 IAC 3.1–9–1	329 IAC 3–41–8
40 CFR 264.18	329 IAC 3.1–9–1	329 IAC 3–41–9
40 CFR 264.30	329 IAC 3.1–9–1	329 IAC 3–42–1
40 CFR 264.31	329 IAC 3.1–9–1	329 IAC 3–42–2
40 CFR 264.32	329 IAC 3.1–9–1	329 IAC 3–42–3
40 CFR 264.33	329 IAC 3.1–9–1	329 IAC 3–42–4
40 CFR 264.34	329 IAC 3.1–9–1	329 IAC 3–42–5
40 CFR 264.35	329 IAC 3.1–9–1	329 IAC 3–42–6
40 CFR 264.37	329 IAC 3.1–9–1	329 IAC 3–42–7
40 CFR 264.50	329 IAC 3.1–9–1	329 IAC 3–43–1
40 CFR 264.51	329 IAC 3.1–9–1	329 IAC 3–43–2
40 CFR 264.52	329 IAC 3.1–9–1	329 IAC 3–43–3
40 CFR 264.53	329 IAC 3.1–9–1	329 IAC 3–43–4
40 CFR 264.54	329 IAC 3.1–9–1	329 IAC 3–43–5
40 CFR 264.55	329 IAC 3.1–9–1	329 IAC 3–43–6
40 CFR 264.56	329 IAC 3.1–9–1	329 IAC 3–43–7
40 CFR 264.70	329 IAC 3.1–9–1	329 IAC 3–44–1
40 CFR 264.71	329 IAC 3.1–9–1	329 IAC 3–44–2
40 CFR 264.72	329 IAC 3.1–9–1	329 IAC 3–44–3
40 CFR 264.73	329 IAC 3.1–9–1	329 IAC 3–44–4
40 CFR 264.74	329 IAC 3.1–9–1	329 IAC 3–44–5
40 CFR 264.75	329 IAC 3.1–9–1	329 IAC 3–44–6
40 CFR 264.76	329 IAC 3.1–9–1	329 IAC 3–44–7
40 CFR 264.77	329 IAC 3.1–9–1	329 IAC 3–44–8
40 CFR 264.90	329 IAC 3.1–9–1	329 IAC 3–45–1
40 CFR 264.91	329 IAC 3.1–9–1	329 IAC 3–45–2
40 CFR 264.92	329 IAC 3.1–9–1	329 IAC 3–45–3
40 CFR 264.93	329 IAC 3.1–9–1	329 IAC 3–45–4
40 CFR 264.94	329 IAC 3.1–9–1	329 IAC 3–45–5
40 CFR 264.95	329 IAC 3.1–9–1	329 IAC 3–45–6
40 CFR 264.96	329 IAC 3.1–9–1	329 IAC 3–45–7
40 CFR 264.97	329 IAC 3.1–9–1	329 IAC 3–45–8
40 CFR 264.98	329 IAC 3.1–9–1	329 IAC 3–45–9
40 CFR 264.99	329 IAC 3.1–9–1	329 IAC 3–45–10
40 CFR 264.100	329 IAC 3.1–9–1	329 IAC 3–45–11
40 CFR 264.101	329 IAC 3.1–9–1	329 IAC 3–45–12
40 CFR 264.110	329 IAC 3.1–9–1	329 IAC 3–46–1
40 CFR 264.111	329 IAC 3.1–9–1	329 IAC 3–46–2
40 CFR 264.112	329 IAC 3.1–9–1	329 IAC 3–46–3
40 CFR 264.113	329 IAC 3.1–9–1	329 IAC 3–46–4
40 CFR 264.114	329 IAC 3.1–9–1	329 IAC 3–46–5
40 CFR 264.115	329 IAC 3.1–9–1	329 IAC 3–46–6
40 CFR 264.116	329 IAC 3.1–9–1	329 IAC 3–46–7
40 CFR 264.117	329 IAC 3.1–9–1	329 IAC 3–46–8
40 CFR 264.118	329 IAC 3.1–9–1	329 IAC 3–46–9
40 CFR 264.119	329 IAC 3.1–9–1	329 IAC 3–46–10

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 264.120	329 IAC 3.1–9–1	329 IAC 3–46–11
40 CFR 264.140	329 IAC 3.1–15–1	329 IAC 3–47–1
40 CFR 264.141	329 IAC 3.1–15–2	329 IAC 3–47–2
40 CFR 264.142	329 IAC 3.1–15–3	329 IAC 3–47–3
40 CFR 264.143	329 IAC 3.1–15–4	329 IAC 3–47–4
40 CFR 264.144	329 IAC 3.1–15–5	329 IAC 3–47–5
40 CFR 264.145	329 IAC 3.1–15–6	329 IAC 3–47–6
40 CFR 264.146	329 IAC 3.1–15–7	329 IAC 3–47–7
40 CFR 264.147	329 IAC 3.1–15–8	329 IAC 3–47–8
40 CFR 264.148	329 IAC 3.1–15–9	329 IAC 3–47–9
40 CFR 264.151	329 IAC 3.1–15–10	329 IAC 3–47–10
40 CFR 264.151(a)	329 IAC 3.1–14–26	329 IAC 3–22–26
40 CFR 264.151(b)	329 IAC 3.1–14–27	329 IAC 3–22–27
40 CFR 264.151(c)	329 IAC 3.1–14–28	329 IAC 3–22–28
40 CFR 264.151(d)	329 IAC 3.1–14–29	329 IAC 3–22–29
40 CFR 264.151(e)	329 IAC 3.1–14–30	329 IAC 3–22–30
40 CFR 264.151(f)	329 IAC 3.1–14–31	329 IAC 3–22–31
40 CFR 264.151(g)	329 IAC 3.1–14–32	329 IAC 3–22–32
40 CFR 264.151(h)(1)	329 IAC 3.1–14–33	329 IAC 3–22–33
40 CFR 264.151(h)(2)	329 IAC 3.1–14–34	329 IAC 3–22–34
40 CFR 264.151(i)	329 IAC 3.1–14–35	329 IAC 3–22–35
40 CFR 264.151(j)	329 IAC 3.1–14–36	329 IAC 3–22–36
40 CFR 264.170	329 IAC 3.1–9–1	329 IAC 3–48–1
40 CFR 264.171	329 IAC 3.1–9–1	329 IAC 3–48–2
40 CFR 264.172	329 IAC 3.1–9–1	329 IAC 3–48–3
40 CFR 264.173	329 IAC 3.1–9–1	329 IAC 3–48–4
40 CFR 264.174	329 IAC 3.1–9–1	329 IAC 3–48–5
40 CFR 264.175	329 IAC 3.1–9–1	329 IAC 3–48–6
40 CFR 264.176	329 IAC 3.1–9–1	329 IAC 3–48–7
40 CFR 264.177	329 IAC 3.1–9–1	329 IAC 3–48–8
40 CFR 264.178	329 IAC 3.1–9–1	329 IAC 3–48–9
40 CFR 264.190	329 IAC 3.1–9–1	329 IAC 3–49–1
40 CFR 264.191	329 IAC 3.1–9–3	329 IAC 3–49–2
40 CFR 264.192	329 IAC 3.1–9–1	329 IAC 3–49–3
40 CFR 264.193	329 IAC 3.1–9–3	329 IAC 3–49–4
40 CFR 264.194	329 IAC 3.1–9–1	329 IAC 3–49–5
40 CFR 264.195	329 IAC 3.1–9–1	329 IAC 3–49–6
40 CFR 264.196	329 IAC 3.1–9–1	329 IAC 3–49–7
40 CFR 264.197	329 IAC 3.1–9–1	329 IAC 3–49–8
40 CFR 264.198	329 IAC 3.1–9–1	329 IAC 3–49–9
40 CFR 264.199	329 IAC 3.1–9–1	329 IAC 3–49–10
40 CFR 264.220	329 IAC 3.1–9–1	329 IAC 3–50–1
40 CFR 264.221	329 IAC 3.1–9–1	329 IAC 3–50–2
40 CFR 264.226	329 IAC 3.1–9–1	329 IAC 3–50–3
40 CFR 264.227	329 IAC 3.1–9–1	329 IAC 3–50–4
40 CFR 264.228	329 IAC 3.1–9–1	329 IAC 3–50–5
40 CFR 264.229	329 IAC 3.1–9–1	329 IAC 3–50–6
40 CFR 264.230	329 IAC 3.1–9–1	329 IAC 3–50–7
40 CFR 264.231	329 IAC 3.1–9–1	329 IAC 3–50–8
40 CFR 264.250	329 IAC 3.1–9–1	329 IAC 3–51–1
40 CFR 264.251	329 IAC 3.1–9–1	329 IAC 3–51–2
40 CFR 264.254	329 IAC 3.1–9–1	329 IAC 3–51–3
40 CFR 264.256	329 IAC 3.1–9–1	329 IAC 3–51–4
40 CFR 264.257	329 IAC 3.1–9–1	329 IAC 3–51–5
40 CFR 264.258	329 IAC 3.1–9–1	329 IAC 3–51–6
40 CFR 264.259	329 IAC 3.1–9–1	329 IAC 3–51–7
40 CFR 264.270	329 IAC 3.1–9–1	329 IAC 3–52–1
40 CFR 264.271	329 IAC 3.1–9–1	329 IAC 3–52–2
40 CFR 264.272	329 IAC 3.1–9–1	329 IAC 3–52–3
40 CFR 264.273	329 IAC 3.1–9–1	329 IAC 3–52–4
40 CFR 264.276	329 IAC 3.1–9–1	329 IAC 3–52–5
40 CFR 264.278	329 IAC 3.1–9–1	329 IAC 3–52–6
40 CFR 264.279	329 IAC 3.1–9–1	329 IAC 3–52–7
40 CFR 264.280	329 IAC 3.1–9–1	329 IAC 3–52–8
40 CFR 264.281	329 IAC 3.1–9–1	329 IAC 3–52–9
40 CFR 264.282	329 IAC 3.1–9–1	329 IAC 3–52–10
40 CFR 264.283	329 IAC 3.1–9–1	329 IAC 3–52–11
40 CFR 264.300	329 IAC 3.1–9–1	329 IAC 3–53–1
40 CFR 264.301	329 IAC 3.1–9–1	329 IAC 3–53–2
40 CFR 264.303	329 IAC 3.1–9–1	329 IAC 3–53–3
40 CFR 264.309	329 IAC 3.1–9–1	329 IAC 3–53–4
40 CFR 264.310	329 IAC 3.1–9–1	329 IAC 3–53–5
40 CFR 264.312	329 IAC 3.1–9–1	329 IAC 3–53–6
40 CFR 264.313	329 IAC 3.1–9–1	329 IAC 3–53–7

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 264.314	329 IAC 3.1–9–1	329 IAC 3–53–8
40 CFR 264.315	329 IAC 3.1–9–1	329 IAC 3–53–9
40 CFR 264.316	329 IAC 3.1–9–1	329 IAC 3–53–10
40 CFR 264.317	329 IAC 3.1–9–1	329 IAC 3–53–11
40 CFR 264.340	329 IAC 3.1–9–1	329 IAC 3–54–1
40 CFR 264.341	329 IAC 3.1–9–1	329 IAC 3–54–2
40 CFR 264.342	329 IAC 3.1–9–1	329 IAC 3–54–3
40 CFR 264.343	329 IAC 3.1–9–1	329 IAC 3–54–4
40 CFR 264.344	329 IAC 3.1–9–1	329 IAC 3–54–5
40 CFR 264.345	329 IAC 3.1–9–1	329 IAC 3–54–6
40 CFR 264.347	329 IAC 3.1–9–1	329 IAC 3–54–7
40 CFR 264.351	329 IAC 3.1–9–1	329 IAC 3–54–8
40 CFR 264.600	329 IAC 3.1–9–1	329 IAC 3–54–9.1
40 CFR 264.601	329 IAC 3.1–9–1	329 IAC 3–54–9.2
40 CFR 264.602	329 IAC 3.1–9–1	329 IAC 3–54–9.3
40 CFR 264.603	329 IAC 3.1–9–1	329 IAC 3–54–9.4
40 CFR 264.1030	329 IAC 3.1–9–1	NONE
40 CFR 264.1031	329 IAC 3.1–9–1	NONE
40 CFR 264.1032	329 IAC 3.1–9–1	NONE
40 CFR 264.1033	329 IAC 3.1–9–1	NONE
40 CFR 264.1034	329 IAC 3.1–9–1	NONE
40 CFR 264.1035	329 IAC 3.1–9–1	NONE
40 CFR 264.1036	329 IAC 3.1–9–1	NONE
40 CFR 264.1050	329 IAC 3.1–9–1	NONE
40 CFR 264.1051	329 IAC 3.1–9–1	NONE
40 CFR 264.1052	329 IAC 3.1–9–1	NONE
40 CFR 264.1053	329 IAC 3.1–9–1	NONE
40 CFR 264.1054	329 IAC 3.1–9–1	NONE
40 CFR 264.1055	329 IAC 3.1–9–1	NONE
40 CFR 264.1056	329 IAC 3.1–9–1	NONE
40 CFR 264.1057	329 IAC 3.1–9–1	NONE
40 CFR 264.1058	329 IAC 3.1–9–1	NONE
40 CFR 264.1059	329 IAC 3.1–9–1	NONE
40 CFR 264.1060	329 IAC 3.1–9–1	NONE
40 CFR 264.1061	329 IAC 3.1–9–1	NONE
40 CFR 264.1062	329 IAC 3.1–9–1	NONE
40 CFR 264.1063	329 IAC 3.1–9–1	NONE
40 CFR 264.1064	329 IAC 3.1–9–1	NONE
40 CFR 264.1065	329 IAC 3.1–9–1	NONE
40 CFR 264.—Appendix I	329 IAC 3.1–9–1	329 IAC 3–32–2
40 CFR 264.—Appendix IV	329 IAC 3.1–9–1	329 IAC 3–32–4
40 CFR 264.—Appendix V	329 IAC 3.1–9–1	329 IAC 3–32–5
40 CFR 264.—Appendix VI	329 IAC 3.1–9–1	329 IAC 3–32–6
40 CFR 264.—Appendix IX	329 IAC 3.1–9–1	329 IAC 3–32–8
40 CFR 265.1	329 IAC 3.1–10–2	329 IAC 3–15–1
40 CFR 265.4	329 IAC 3.1–10–1	329 IAC 3–15–2
40 CFR 265.10	329 IAC 3.1–10–1	329 IAC 3–16–1
40 CFR 265.11	329 IAC 3.1–10–1	329 IAC 3–16–2
40 CFR 265.12	329 IAC 3.1–10–1	329 IAC 3–16–3
40 CFR 265.13	329 IAC 3.1–10–1	329 IAC 3–16–4
40 CFR 265.14	329 IAC 3.1–10–1	329 IAC 3–16–5
40 CFR 265.15	329 IAC 3.1–10–1	329 IAC 3–16–6
40 CFR 265.16	329 IAC 3.1–10–1	329 IAC 3–16–7
40 CFR 265.17	329 IAC 3.1–10–1	329 IAC 3–16–8
40 CFR 265.18	329 IAC 3.1–10–1	329 IAC 3–16–9
40 CFR 265.30	329 IAC 3.1–10–1	329 IAC 3–17–1
40 CFR 265.31	329 IAC 3.1–10–1	329 IAC 3–17–2
40 CFR 265.32	329 IAC 3.1–10–1	329 IAC 3–17–3
40 CFR 265.33	329 IAC 3.1–10–1	329 IAC 3–17–4
40 CFR 265.34	329 IAC 3.1–10–1	329 IAC 3–17–5
40 CFR 265.35	329 IAC 3.1–10–1	329 IAC 3–17–6
40 CFR 265.37	329 IAC 3.1–10–1	329 IAC 3–17–7
40 CFR 265.50	329 IAC 3.1–10–1	329 IAC 3–18–1
40 CFR 265.51	329 IAC 3.1–10–1	329 IAC 3–18–2
40 CFR 265.52	329 IAC 3.1–10–1	329 IAC 3–18–3
40 CFR 265.53	329 IAC 3.1–10–1	329 IAC 3–18–4
40 CFR 265.54	329 IAC 3.1–10–1	329 IAC 3–18–5
40 CFR 265.55	329 IAC 3.1–10–1	329 IAC 3–18–6
40 CFR 265.56	329 IAC 3.1–10–1	329 IAC 3–18–7
40 CFR 265.70	329 IAC 3.1–10–1	329 IAC 3–19–1
40 CFR 265.71	329 IAC 3.1–10–1	329 IAC 3–19–2
40 CFR 265.72	329 IAC 3.1–10–1	329 IAC 3–19–3
40 CFR 265.73	329 IAC 3.1–10–1	329 IAC 3–19–4
40 CFR 265.74	329 IAC 3.1–10–1	329 IAC 3–19–5

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 265.75	329 IAC 3.1–10–1	329 IAC 3–19–6
40 CFR 265.76	329 IAC 3.1–10–1	329 IAC 3–19–7
40 CFR 265.77	329 IAC 3.1–10–1	329 IAC 3–19–8
40 CFR 265.90	329 IAC 3.1–10–1	329 IAC 3–20–1
40 CFR 265.91	329 IAC 3.1–10–1	329 IAC 3–20–2
40 CFR 265.92	329 IAC 3.1–10–1	329 IAC 3–20–3
40 CFR 265.93	329 IAC 3.1–10–1	329 IAC 3–20–4
40 CFR 265.94	329 IAC 3.1–10–1	329 IAC 3–20–5
40 CFR 265.110	329 IAC 3.1–10–1	329 IAC 3–21–1
40 CFR 265.111	329 IAC 3.1–10–1	329 IAC 3–21–2
40 CFR 265.112	329 IAC 3.1–10–1	329 IAC 3–21–3
40 CFR 265.113	329 IAC 3.1–10–1	329 IAC 3–21–4
40 CFR 265.114	329 IAC 3.1–10–1	329 IAC 3–21–5
40 CFR 265.115	329 IAC 3.1–10–1	329 IAC 3–21–6
40 CFR 265.116	329 IAC 3.1–10–1	329 IAC 3–21–7
40 CFR 265.117	329 IAC 3.1–10–1	329 IAC 3–21–8
40 CFR 265.118	329 IAC 3.1–10–1	329 IAC 3–21–9
40 CFR 265.119	329 IAC 3.1–10–1	329 IAC 3–21–10
40 CFR 265.120	329 IAC 3.1–10–1	329 IAC 3–21–11
40 CFR 265.140	329 IAC 3.1–14–1	329 IAC 3–22–1
40 CFR 265.141	329 IAC 3.1–14–2	329 IAC 3–22–2
40 CFR 265.142	329 IAC 3.1–14–3	329 IAC 3–22–3
40 CFR 265.143	329 IAC 3.1–14–4	329 IAC 3–22–4
40 CFR 265.143(a)	329 IAC 3.1–14–5	329 IAC 3–22–5
40 CFR 265.143(b)	329 IAC 3.1–14–6	329 IAC 3–22–6
40 CFR 265.143(c)	329 IAC 3.1–14–7	329 IAC 3–22–7
40 CFR 265.143(d)	329 IAC 3.1–14–8	329 IAC 3–22–8
40 CFR 265.143(e)	329 IAC 3.1–14–9	329 IAC 3–22–9
40 CFR 265.143(f)	329 IAC 3.1–14–10	329 IAC 3–22–10
40 CFR 265.143(g)	329 IAC 3.1–14–11	329 IAC 3–22–11
40 CFR 265.143(h)	329 IAC 3.1–14–12	329 IAC 3–22–12
40 CFR 265.144	329 IAC 3.1–14–13	329 IAC 3–22–13
40 CFR 265.145	329 IAC 3.1–14–14	329 IAC 3–22–14
40 CFR 265.145(a)	329 IAC 3.1–14–15	329 IAC 3–22–15
40 CFR 265.145(b)	329 IAC 3.1–14–16	329 IAC 3–22–16
40 CFR 265.145(c)	329 IAC 3.1–14–17	329 IAC 3–22–17
40 CFR 265.145(d)	329 IAC 3.1–14–18	329 IAC 3–22–18
40 CFR 265.145(e)	329 IAC 3.1–14–19	329 IAC 3–22–19
40 CFR 265.145(f)	329 IAC 3.1–14–20	329 IAC 3–22–20
40 CFR 265.145(g)	329 IAC 3.1–14–21	329 IAC 3–22–21
40 CFR 265.145(h)	329 IAC 3.1–14–22	329 IAC 3–22–22
40 CFR 265.146	329 IAC 3.1–14–23	329 IAC 3–22–23
40 CFR 265.147	329 IAC 3.1–14–24	329 IAC 3–22–24
40 CFR 265.148	329 IAC 3.1–14–25	329 IAC 3–22–25
40 CFR 265.151(a)	329 IAC 3.1–14–26	329 IAC 3–22–26
40 CFR 265.151(b)	329 IAC 3.1–14–27	329 IAC 3–22–27
40 CFR 265.151(c)	329 IAC 3.1–14–28	329 IAC 3–22–28
40 CFR 265.151(d)	329 IAC 3.1–14–29	329 IAC 3–22–29
40 CFR 265.151(e)	329 IAC 3.1–14–30	329 IAC 3–22–30
40 CFR 265.151(f)	329 IAC 3.1–14–31	329 IAC 3–22–31
40 CFR 265.151(g)	329 IAC 3.1–14–32	329 IAC 3–22–32
40 CFR 265.151(h)(1)	329 IAC 3.1–14–33	329 IAC 3–22–33
40 CFR 265.151(h)(2)	329 IAC 3.1–14–34	329 IAC 3–22–34
40 CFR 265.151(i)	329 IAC 3.1–14–35	329 IAC 3–22–35
40 CFR 265.151(j)	329 IAC 3.1–14–36	329 IAC 3–22–36
40 CFR 265.170	329 IAC 3.1–10–1	329 IAC 3–23–1
40 CFR 265.171	329 IAC 3.1–10–1	329 IAC 3–23–2
40 CFR 265.172	329 IAC 3.1–10–1	329 IAC 3–23–3
40 CFR 265.173	329 IAC 3.1–10–1	329 IAC 3–23–4
40 CFR 265.174	329 IAC 3.1–10–1	329 IAC 3–23–5
40 CFR 265.176	329 IAC 3.1–10–1	329 IAC 3–23–6
40 CFR 265.177	329 IAC 3.1–10–1	329 IAC 3–23–7
40 CFR 265.190	329 IAC 3.1–10–1	329 IAC 3–24–1
40 CFR 265.191	329 IAC 3.1–10–1	329 IAC 3–24–2
40 CFR 265.192	329 IAC 3.1–10–1	329 IAC 3–24–3
40 CFR 265.193	329 IAC 3.1–10–1	329 IAC 3–24–4
40 CFR 265.194	329 IAC 3.1–10–1	329 IAC 3–24–5
40 CFR 265.195	329 IAC 3.1–10–1	329 IAC 3–24–6
40 CFR 265.196	329 IAC 3.1–10–1	329 IAC 3–24–7
40 CFR 265.197	329 IAC 3.1–10–1	329 IAC 3–24–8
40 CFR 265.198	329 IAC 3.1–10–1	329 IAC 3–24–9
40 CFR 265.199	329 IAC 3.1–10–1	329 IAC 3–24–10
40 CFR 265.200	329 IAC 3.1–10–1	329 IAC 3–24–11
40 CFR 265.201	329 IAC 3.1–10–1	329 IAC 3–24–12

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 265.220	329 IAC 3.1–10–1	329 IAC 3–25–1
40 CFR 265.221	329 IAC 3.1–10–1	329 IAC 3–25–2
40 CFR 265.222	329 IAC 3.1–10–1	329 IAC 3–25–3
40 CFR 265.223	329 IAC 3.1–10–1	329 IAC 3–25–4
40 CFR 265.225	329 IAC 3.1–10–1	329 IAC 3–25–5
40 CFR 265.226	329 IAC 3.1–10–1	329 IAC 3–25–6
40 CFR 265.228	329 IAC 3.1–10–1	329 IAC 3–25–7
40 CFR 265.229	329 IAC 3.1–10–1	329 IAC 3–25–8
40 CFR 265.230	329 IAC 3.1–10–1	329 IAC 3–25–9
40 CFR 265.250	329 IAC 3.1–10–1	329 IAC 3–26–1
40 CFR 265.251	329 IAC 3.1–10–1	329 IAC 3–26–2
40 CFR 265.252	329 IAC 3.1–10–1	329 IAC 3–26–3
40 CFR 265.253	329 IAC 3.1–10–1	329 IAC 3–26–4
40 CFR 265.254	329 IAC 3.1–10–1	329 IAC 3–26–5
40 CFR 265.256	329 IAC 3.1–10–1	329 IAC 3–26–6
40 CFR 265.257	329 IAC 3.1–10–1	329 IAC 3–26–7
40 CFR 265.258	329 IAC 3.1–10–1	329 IAC 3–26–8
40 CFR 265.270	329 IAC 3.1–10–1	329 IAC 3–27–1
40 CFR 265.272	329 IAC 3.1–10–1	329 IAC 3–27–2
40 CFR 265.273	329 IAC 3.1–10–1	329 IAC 3–27–3
40 CFR 265.276	329 IAC 3.1–10–1	329 IAC 3–27–4
40 CFR 265.278	329 IAC 3.1–10–1	329 IAC 3–27–5
40 CFR 265.279	329 IAC 3.1–10–1	329 IAC 3–27–6
40 CFR 265.280	329 IAC 3.1–10–1	329 IAC 3–27–7
40 CFR 265.281	329 IAC 3.1–10–1	329 IAC 3–27–8
40 CFR 265.282	329 IAC 3.1–10–1	329 IAC 3–27–9
40 CFR 265.300	329 IAC 3.1–10–1	329 IAC 3–28–1
40 CFR 265.301	329 IAC 3.1–10–1	329 IAC 3–28–2
40 CFR 265.302	329 IAC 3.1–10–1	329 IAC 3–28–3
40 CFR 265.309	329 IAC 3.1–10–1	329 IAC 3–28–4
40 CFR 265.310	329 IAC 3.1–10–1	329 IAC 3–28–5
40 CFR 265.312	329 IAC 3.1–10–1	329 IAC 3–28–6
40 CFR 265.313	329 IAC 3.1–10–1	329 IAC 3–28–7
40 CFR 265.314	329 IAC 3.1–10–1	329 IAC 3–28–8
40 CFR 265.315	329 IAC 3.1–10–1	329 IAC 3–28–9
40 CFR 265.316	329 IAC 3.1–10–1	329 IAC 3–28–10
40 CFR 265.340	329 IAC 3.1–10–1	329 IAC 3–29–1
40 CFR 265.341	329 IAC 3.1–10–1	329 IAC 3–29–2
40 CFR 265.345	329 IAC 3.1–10–1	329 IAC 3–29–3
40 CFR 265.347	329 IAC 3.1–10–1	329 IAC 3–29–4
40 CFR 265.351	329 IAC 3.1–10–1	329 IAC 3–29–5
40 CFR 265.352	329 IAC 3.1–10–1	329 IAC 3–29–6
40 CFR 265.370	329 IAC 3.1–10–1	329 IAC 3–30–1
40 CFR 265.373	329 IAC 3.1–10–1	329 IAC 3–30–2
40 CFR 265.375	329 IAC 3.1–10–1	329 IAC 3–30–3
40 CFR 265.377	329 IAC 3.1–10–1	329 IAC 3–30–4
40 CFR 265.381	329 IAC 3.1–10–1	329 IAC 3–30–5
40 CFR 265.382	329 IAC 3.1–10–1	329 IAC 3–30–6
40 CFR 265.383	329 IAC 3.1–10–1	329 IAC 3–30–7
40 CFR 265.400	329 IAC 3.1–10–1	329 IAC 3–31–1
40 CFR 265.401	329 IAC 3.1–10–1	329 IAC 3–31–2
40 CFR 265.402	329 IAC 3.1–10–1	329 IAC 3–31–3
40 CFR 265.403	329 IAC 3.1–10–1	329 IAC 3–31–4
40 CFR 265.404	329 IAC 3.1–10–1	329 IAC 3–31–5
40 CFR 265.405	329 IAC 3.1–10–1	329 IAC 3–31–6
40 CFR 265.406	329 IAC 3.1–10–1	329 IAC 3–31–7
40 CFR 265.430	329 IAC 3.1–10–3	329 IAC 3–32–1
40 CFR 265.1030	329 IAC 3.1–10–1	NONE
40 CFR 265.1031	329 IAC 3.1–10–1	NONE
40 CFR 265.1032	329 IAC 3.1–10–1	NONE
40 CFR 265.1033	329 IAC 3.1–10–1	NONE
40 CFR 265.1034	329 IAC 3.1–10–1	NONE
40 CFR 265.1035	329 IAC 3.1–10–1	NONE
40 CFR 265.1050	329 IAC 3.1–10–1	NONE
40 CFR 265.1051	329 IAC 3.1–10–1	NONE
40 CFR 265.1052	329 IAC 3.1–10–1	NONE
40 CFR 265.1053	329 IAC 3.1–10–1	NONE
40 CFR 265.1054	329 IAC 3.1–10–1	NONE
40 CFR 265.1055	329 IAC 3.1–10–1	NONE
40 CFR 265.1056	329 IAC 3.1–10–1	NONE
40 CFR 265.1057	329 IAC 3.1–10–1	NONE
40 CFR 265.1058	329 IAC 3.1–10–1	NONE
40 CFR 265.1059	329 IAC 3.1–10–1	NONE
40 CFR 265.1060	329 IAC 3.1–10–1	NONE

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 265.1061	329 IAC 3.1–10–1	NONE
40 CFR 265.1062	329 IAC 3.1–10–1	NONE
40 CFR 265.1063	329 IAC 3.1–10–1	NONE
40 CFR 265.1064	329 IAC 3.1–10–1	NONE
40 CFR 265.—Appendix I	329 IAC 3.1–10–1	329 IAC 3–32–2
40 CFR 265.—Appendix III	329 IAC 3.1–10–1	329 IAC 3–32–3
40 CFR 265.—Appendix V	329 IAC 3.1–10–1	329 IAC 3–32–4
40 CFR 265.—Appendix VI	329 IAC 3.1–10–1	329 IAC 3–32–5
40 CFR 266.20	329 IAC 3.1–11–1	329 IAC 3–57–1
40 CFR 266.21	329 IAC 3.1–11–1	329 IAC 3–57–2
40 CFR 266.22	329 IAC 3.1–11–1	329 IAC 3–57–3
40 CFR 266.23	329 IAC 3.1–11–2	329 IAC 3–57–4
40 CFR 266.30	329 IAC 3.1–11–1	329 IAC 3–57–5
40 CFR 266.31	329 IAC 3.1–11–1	329 IAC 3–57–6
40 CFR 266.32	329 IAC 3.1–11–1	329 IAC 3–57–7
40 CFR 266.33	329 IAC 3.1–11–1	329 IAC 3–57–8
40 CFR 266.34	329 IAC 3.1–11–1	329 IAC 3–57–9
40 CFR 266.35	329 IAC 3.1–11–1	329 IAC 3–57–10
40 CFR 266.40	329 IAC 3.1–11–1	329 IAC 3–57–11
40 CFR 266.41	329 IAC 3.1–11–1	329 IAC 3–57–12
40 CFR 266.42	329 IAC 3.1–11–1	329 IAC 3–57–13
40 CFR 266.43	329 IAC 3.1–11–1	329 IAC 3–57–14
40 CFR 266.44	329 IAC 3.1–11–1	329 IAC 3–57–15
40 CFR 266.70	329 IAC 3.1–11–1	329 IAC 3–57–16
40 CFR 266.80	329 IAC 3.1–11–1	329 IAC 3–57–17
40 CFR 268.1	329 IAC 3.1–12–2	NONE
40 CFR 268.2	329 IAC 3.1–12–1	NONE
40 CFR 268.3	329 IAC 3.1–12–1	NONE
40 CFR 268.4	329 IAC 3.1–12–1	NONE
40 CFR 268.5	329 IAC 3.1–12–1	NONE
40 CFR 268.6	329 IAC 3.1–12–1	NONE
40 CFR 268.7	329 IAC 3.1–12–1	NONE
40 CFR 268.8	329 IAC 3.1–12–1	NONE
40 CFR 268.9	329 IAC 3.1–12–1	NONE
40 CFR 268.10	329 IAC 3.1–12–1	NONE
40 CFR 268.11	329 IAC 3.1–12–1	NONE
40 CFR 268.12	329 IAC 3.1–12–1	NONE
40 CFR 268.13	329 IAC 3.1–12–1	NONE
40 CFR 268.30	329 IAC 3.1–12–1	NONE
40 CFR 268.31	329 IAC 3.1–12–1	NONE
40 CFR 268.32	329 IAC 3.1–12–1	NONE
40 CFR 268.33	329 IAC 3.1–12–2	NONE
40 CFR 268.34	329 IAC 3.1–12–2	NONE
40 CFR 268.35	329 IAC 3.1–12–2	NONE
40 CFR 268.40	329 IAC 3.1–12–2	NONE
40 CFR 268.41	329 IAC 3.1–12–2	NONE
40 CFR 268.42	329 IAC 3.1–12–2	NONE
40 CFR 268.43	329 IAC 3.1–12–2	NONE
40 CFR 268.44	329 IAC 3.1–12–2	NONE
40 CFR 268.50	329 IAC 3.1–12–2	NONE
40 CFR 270.1	329 IAC 3.1–13–2	329 IAC 3–33–1
40 CFR 270.2	329 IAC 3.1–13–1	329 IAC 3–33–2
40 CFR 270.4	329 IAC 3.1–13–1	329 IAC 3–33–3
40 CFR 270.5	329 IAC 3.1–13–1	329 IAC 3–33–4
40 CFR 270.6	329 IAC 3.1–13–1	329 IAC 3–33–5
40 CFR 270.10	329 IAC 3.1–13–3	329 IAC 3–34–1
40 CFR 270.11	329 IAC 3.1–13–1	329 IAC 3–34–2
40 CFR 270.12	329 IAC 3.1–13–4	329 IAC 3–34–3
40 CFR 270.13	329 IAC 3.1–13–1	329 IAC 3–34–4
40 CFR 270.14	329 IAC 3.1–13–1	329 IAC 3–34–5
40 CFR 270.15	329 IAC 3.1–13–1	329 IAC 3–34–6
40 CFR 270.16	329 IAC 3.1–13–1	329 IAC 3–34–7
40 CFR 270.17	329 IAC 3.1–13–1	329 IAC 3–34–8
40 CFR 270.18	329 IAC 3.1–13–1	329 IAC 3–34–9
40 CFR 270.19	329 IAC 3.1–13–1	329 IAC 3–34–10
40 CFR 270.20	329 IAC 3.1–13–1	329 IAC 3–34–11
40 CFR 270.21	329 IAC 3.1–13–1	329 IAC 3–34–12
40 CFR 270.23	329 IAC 3.1–13–1	329 IAC 3–34–13
40 CFR 270.30	329 IAC 3.1–13–1	329 IAC 3–35–1
40 CFR 270.31	329 IAC 3.1–13–1	329 IAC 3–35–2
40 CFR 270.32	329 IAC 3.1–13–1	329 IAC 3–35–3
40 CFR 270.33	329 IAC 3.1–13–2	329 IAC 3–35–4
40 CFR 270.40	329 IAC 3.1–13–1	329 IAC 3–36–1
40 CFR 270.41	329 IAC 3.1–13–1	329 IAC 3–36–2

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 270.42	329 IAC 3.1–13–1	329 IAC 3–36–3
40 CFR 270.43	329 IAC 3.1–13–1	329 IAC 3–36–4
40 CFR 270.60	329 IAC 3.1–13–1	329 IAC 3–37–1
40 CFR 270.61	329 IAC 3.1–13–1	329 IAC 3–37–2
40 CFR 270.62	329 IAC 3.1–13–1	329 IAC 3–37–3
40 CFR 270.63	329 IAC 3.1–13–1	329 IAC 3–37–4
NONE	329 IAC 3.1–13–5	329 IAC 3–37–5
40 CFR 270.65	329 IAC 3.1–13–1	329 IAC 3–37–6
40 CFR 270.70	329 IAC 3.1–13–1	329 IAC 3–38–1
40 CFR 270.71	329 IAC 3.1–13–1	329 IAC 3–38–2
40 CFR 270.72	329 IAC 3.1–13–1	329 IAC 3–38–3
40 CFR 270.73	329 IAC 3.1–13–1	329 IAC 3–38–4

C. Decision

I conclude that Indiana's application for program revisions meets all of the statutory and regulatory requirements established by RCRA, and its amendments. Accordingly, Indiana is granted final authorization to operate its hazardous waste program as revised. Indiana now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Indiana also has primary enforcement responsibilities, although 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.

D. Incorporation by Reference

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 Indiana 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, 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. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Certification Under the Regulatory Flexibility Act

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. EPA recognizes that small entities may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, since such small entities which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265 and 270, this authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would result in an administrative change (i.e., whether EPA or the state administers the RCRA Subtitle C program in that state), rather than result in a change in the substantive requirements imposed on small entities. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small entities will be able to own and operate their TSDFs under the approved state program, in lieu of the federal program. Moreover, this authorization, in approving a state program to operate in lieu of the federal program, eliminates duplicative requirements for owners and operators of TSDFs in that particular state.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 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 approves the Indiana program to operate in lieu of the federal 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.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting

Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S. C. section 804(2).

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 notice 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: July 29, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–21174 Filed 8–19–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 271

[FRL–5552–4]

Indiana: Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Indiana 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). Indiana's revisions consist of provisions contained in rules promulgated between January 14, 1985, and June 26, 1992, otherwise known as HSWA Clusters I and II, Non-HSWA Clusters III, IV, V, and VI, and RCRA Clusters 1 and 2. These requirements are listed in Section B of this notice. The Environmental Protection Agency (EPA) has reviewed Indiana's application and has made a decision, subject to public review and comment, that Indiana's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Indiana's hazardous waste program revisions, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (hereinafter HSWA). Indiana's application for program revision is available for public review and comment.

EFFECTIVE DATE: Final authorization for Indiana shall be effective October 21, 1996 unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Indiana's program revision application must be received by the close of business September 19, 1996.

ADDRESSES: Copies of Indiana's program revision application are available for inspection and copying, from 9 a.m. to 4 p.m., at the following addresses: Indiana Department of Environmental Management, 100 North Senate, P.O. Box 6015, Indianapolis, Indiana 46206–6015, contact: Lynn West (317) 232–3593; U.S. EPA, Region 5, DR–7J, 77 W. Jackson Blvd., Chicago, Illinois 60604, contact: Gary Westefer (312) 886–7450. Written comments should be sent to Mr. Gary Westefer, Indiana Regulatory Specialist, U.S. EPA, Office of RCRA, DR–7J, 77 W. Jackson Blvd., Chicago, Illinois 60604, phone 312/886–7450.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Westefer, U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Phone: 312/886–7450.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act (RCRA or the Act), 42 U.S.C. 6929(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. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter HSWA) allows States to revise their programs to become 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 EPA's regulations in 40 CFR Parts 124, 260–266, 268, 270, 273 and 279.

B. Indiana

Indiana initially received final authorization for its program effective January 31, 1986. (51 FR 3955, January 30, 1986). Indiana received authorization for revisions to its program effective on December 31, 1986 (51 FR 39752, October 31, 1986), January 19, 1988 (53 FR 128, January 5, 1988), September 11, 1989 (54 FR 29557, July 13, 1989), September 23, 1991 (56 FR 33717, July 23, 1991), September 23, 1991 (56 FR 33866, July 24, 1991), September 27, 1991 (56 FR 35831, July 29, 1991), and September 30, 1991 (56 FR 36010, July 30, 1991). On June 10, 1996, Indiana submitted a program revision application for additional program approvals. Today, Indiana is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Indiana's application, and has made an immediate final decision that Indiana's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Indiana. The public may submit written comments on EPA's immediate final decision up until September 19, 1996. Copies of Indiana's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of Indiana's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

On October 21, 1996, Indiana 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
Dioxin Listing and Management Standards; January 14, 1985 (CL 14), 50 FR 01978–2006.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–9–1; 3.1–9–2; 3.1–9–3; 3.1–10–1; 3.1–10–2; 3.1–13–1; 3.1–13–2. Effective December 17, 1989.
Paint Filter Test; April 30, 1985 (CL 16), 50 FR 18370–18375.[1]	Rules 329 IAC 3.1–9–1; 3.1–9–2; 3.1–10–1; 3.1–10–2. Effective December 17, 1989.
HSWA Codification Rule—Small Quantity Generators; July 15, 1985 (CL 17A), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective December 17, 1989.
HSWA Codification Rule—Household Waste; July 15, 1985 (CL 17C), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective December 17, 1989.
HSWA Codification Rule—Waste Minimization; July 15, 1985 (CL 17D), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–7–1; 3.1–7–2; 3.1–7–14; 3.1–9–1; 3.1–13–1. Effective December 17, 1989.
HSWA Codification Rule—Location Standards for Salt Domes, Salt Beds, Mines and Caves; July 15, 1985 (CL 17E), 50 FR 28702–28755.[1]	Rule 329 IAC 3.1–10–1. Effective December 17, 1989.
HSWA Codification Rule—Liquids in Landfills; July 15, 1985 (CL 17F), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–9–1; 3.1–10–1; 3.1–10–2; 3.1–13–1. Effective December 17, 1989.
HSWA Codification Rule—Dust Suppression; July 15, 1985 (CL 17G), 50 FR 28702–28755.[1]	Rule 329 IAC 3.1–11–1. Effective December 17, 1989.
HSWA Codification Rule—Double Liners; July 15, 1985 (CL 17H), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–9–1; 3.1–9–2; 3.1–10–1; 3.1–10–2. Effective December 17, 1989.
HSWA Codification Rule—Ground Water Monitoring; July 15, 1985 (CL 17I), 50 FR 28702–28755.[1]	Rule 329 IAC 3.1–9–1. Effective December 17, 1989.
HSWA Codification Rule—Cement Kilns; July 15, 1985 (CL 17J), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–11–1. Effective December 17, 1989.
HSWA Codification Rule—Fuel Labeling; July 15, 1985 (CL 17K), 50 FR 28702–28755.[1]	Rule 329 IAC 329 IAC 3.1–11–1. Effective December 17, 1989.
HSWA Codification Rule—Corrective Action; July 15, 1985 (CL 17L), 50 FR 28702–28755.[1]	Rule 329 IAC 3.1–9–1. Effective December 17,1989.
HSWA Codification Rule—Pre-Construction Ban; July 15, 1985 (CL 17M), 50 FR 28702–28755.[1]	Rule 329 IAC 3.1–13–3. Effective December 17, 1989.
HSWA Codification Rule—Permit Life; July 15, 1985 (CL 17N), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–13–1; 3.1–13–2; 3.1–13–15. Effective December 17, 1989.
HSWA Codification Rule—Omnibus Provision; July 15, 1985 (CL 17O), 50 FR 28702–28755.[1]	Rule 329 IAC 3.1–13–1. Effective December 17, 1989.
HSWA Codification Rule—Interim Status; July 15, 1985 (CL 17P), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–13–1; 3.1–13–2. Effective December 17, 1989.
HSWA Codification Rule—Research and Development Permits; July 15, 1985 (CL 17Q), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–13–1; 3.1–13–2. Effective December 17, 1989.
HSWA Codification Rule—Hazardous Waste Exports; July 15, 1985 (CL 17R), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–13–2; 3.1–13–15. Effective December 17, 1989.
HSWA Codification Rule—Exposure Information;July 15, 1985 (CL 17S), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–13–2; 3.1–13–3. Effective December 17, 1989.
Listing of TDI, TDA, and DNT Wastes; July 15, 1985 (CL 18), 50 FR 28702–28755.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces; November 29, 1985 (CL 19), 50 FR 49164–49211;[1] as amended April 13, 1987 (CL 19.1), 52 FR 11819–11822.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–9–1; 3.1–10–1; 3.1–11–1. Effective February 24, 1992.
Listing of Spent Solvents; December 31, 1985 (CL 20), 50 FR 53315–53320; [1] as amended January 21, 1986, 51 FR 02702 [1] (CL 20.1)	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Listing of EDB Wastes; February 13, 1986 (CL 21), 51 FR 5327–5331.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Listing of Four Spent Solvents; February 25, 1986 (CL 22), 51 FR 6537–6542.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Generators of 100 to 1000 Kilograms of Hazardous Waste; March 24, 1986 (CL 23), 51 FR 10146–10176.[1]	Rules 329 IAC 3.1–4–1; 3.1–6–1; 3.1–6–2; 3.1–7–1; 3.1–7–2; 3.1–7–3; 3.1–7–7; 3.1–7–8; 3.1–7–9; 3.1–7–10; 3.1–7–11; 3.1–7–12; 3.1–7–13; 3.1–8–1; 3.1–8–2; 3.1–13–2. Effective February 24, 1992.
Codification Rule, Technical Correction; May 28, 1986 (CL 25), 51 FR 19176–19177.[1]	Rule 329 IAC 3.1–10–1. Effective February 24, 1992.
Correction to Listing of Commercial Chemical Products and Appendix VIII, Constituents; August 6, 1986 (CL 29), 51 FR 28296–28310.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Biennial Report Correction; August 8, 1986 (CL 30), 51 FR 28556.[1]	Rules 329 IAC 3.1–9–1; 3.1–9–2; 3.1–10–1; 3.1–10–2. Effective February 24, 1992.
Exports of Hazardous Waste; August 8, 1986 (CL 31), 51 FR 28664–28686.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–7–1; 3.1–7–14; 3.1–7–16; 3.1–8–1. Effective February 24, 1992.
Standards for Generators—Waste Minimization Certifications; October 1, 1986 (CL 32), 51 FR 35190–35194.[1]	Rules 329 IAC 3.1–7–7; 3.1–7–8; 3.1–7–9; 3.1–7–10; 3.1–7–11; 3.1–7–12; 3.1–7–13. Effective December 17, 1989.
Listing of EDBC; October 24, 1986 (CL 33), 51 FR 37725–37729.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Land Disposal Restrictions; November 7, 1986 (CL 34), 51 FR 40572–40654; [1] as amended June 4, 1987 (CL 34.1), 52 FR 21010–21018.[1]	Rules 329 IAC 3.1–1–1; 3.1–1–2; 3.1–2–1; 3.1–3–1; 3.1–4–1; 3.1–5–1; 3.1–5–2; 3.1–6–1; 3.1–6–2; 3.1–7–1; 3.1–8–1; 3.1–9–1; 3.1–10–1; 3.1–10–2; 3.1–12–1; 3.1–12–2; 3.1–13–1. Effective February 24, 1992.
Definition of Solid Waste; Technical Corrections; June 5, 1987 (CL 37), 52 FR 21306–21307.	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–11–1. Effective February 24, 1992.
Amendments to Part B Information Requirements for Land Disposal Facilities; June 22, 1987 (CL 38), 52 FR 23447–23450; as amended September 9, 1987, 52 FR 33936 (CL 38.1).	Rule 329 IAC 3.1–13–1. Effective February 24, 1992.

Federal requirement	Analogous State authority
California List Waste Restrictions; July 8, 1987 (CL 39), 52 FR 25760–25792;[1] as amended October 27, 1987, 52 FR 41295–41296[1] (CL 39.1).	Rule 329 IAC 3.1–4–1; 3.1–7–1; 3.1–9–1; 3.1–10–1; 3.1–12–1; 3.1–12–2; 3.1–13–1. Effective February 24, 1992.
List (Phase 1) of Hazardous Constituents for Ground-Water Monitoring; July 9, 1987 (CL 40), 52 FR 25942–25953.	Rules 329 IAC 3.1–9–1; 3.1–13–1. Effective December 17, 1989.
Identification and Listing of Hazardous Waste; July 10, 1987 (CL 41), 52 FR 26012.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Listing of Spent Pickle Liquor Correction 2; August 3, 1987 (CL 26.2), 52 FR 28697.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective December 17, 1989.
Exception Reporting for Small Quantity Generators of Hazardous Waste; September 23, 1987 (CL 42), 52 FR 35894–35899.[1]	Rules 329 IAC 3.1–7–1; 3.1–7–2. Effective February 24, 1992.
Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee; November 18, 1987 (CL 43), 52 FR 44314–44321.	Rules 329 IAC 3.1–14–9; 3.1–14–24; 3.1–14–34; 3.1–15–8; 3.1–15–10. Effective February 24, 1992.
HSWA Codification Rule 2—Permit Application Requirements Regarding Corrective Action; December 1, 1987 (CL 44A), 52 FR 45788–45799.[1]	Rule 329 IAC 3.1–13–1. Effective February 24, 1992.
HSWA Codification Rule 2—Corrective Action Beyond the Facility Boundary; December 1, 1987 (CL 44B), 52 FR 45788–45799.[1]	Rule 329 IAC 3.1–9–1. Effective February 24, 1992.
HSWA Codification Rule 2—Permit Modification; December 1, 1987 (CL 44D), 52 FR 45788–45799.[1]	Rule 329 IAC 3.1–13–1. Effective February 24, 1992.
HSWA Codification Rule 2—Permit as a Shield Provision; December 1, 1987 (CL 44E), 52 FR 45788–45799.[1]	Rule 329 IAC 3.1–13–1. Effective February 24, 1992.
HSWA Codification Rule 2—Permit Conditions to Protect Human Health and the Environment; December 1, 1987 (CL 44F), 52 FR 45788–45799.[1]	Rules 329 IAC 3.1–13–2; 3.1–13–3. Effective February 24, 1992.
HSWA Codification Rule 2—Post-Closure Permits; December 1, 1987 (CL 44G) 52 FR 45788–45799.[1]	Rules 329 IAC 3.1–13–1; 3.1–13–2. Effective February 24, 1992.
Closure, Post-Closure Financial Responsibility Requirements—Correction 1; March 10, 1988 (CL 24.1), 53 FR 07740; as amended June 26, 1990, 55 FR 25976 (CL 24.0A).	Rules 329 IAC 3.1–4–1; 3.1–9–1; 3.1–10–1; 3.1–10–2; 3.1–13–1; 3.1–14–1; 3.1–14–2; 3.1–14–3; 3.1–14–5; 3.1–14–6; 3.1–14–7; 3.1–14–8; 3.1–14–9; 3.1–14–12; 3.1–14–13; 3.1–14–15; 3.1–14–16; 3.1–14–17; 3.1–14–18; 3.1–14–19; 3.1–15–6; 3.1–14–24; 3.1–15–8; 3.1–15–10. Effective February 24, 1992.
Technical Corrections; Identification and Listing of Hazardous Waste; April 22, 1988 (CL 46), 53 FR 13382–13393.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Identification and Listing of Hazardous, Waste; Technical Correction; July 19, 1988 (CL 47), 53 FR 27162–27163.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Farmer Exemptions; Technical Corrections (CL 48); July 19, 1988, 53 FR 27164–27165.[1]	Rules 329 IAC 3.1–7–1; 3.1–9–1; 3.1–10–1; 3.1–10–2; 3.1–12–1; 3.1–12–2; 3.1–13–1; 3.1–13–2. Effective February 24, 1992.
Identification and Listing of Hazardous Waste; Treatibility Studies Sample Exemption; July 19, 1988 (CL 49), 53 FR 27290–27302.	Rules 329 IAC 3.1–4–1; 3.1–6–1; 3.1–6–2 Effective February 24, 1992
Land Disposal Restrictions for First Third Scheduled Wastes; August 17, 1988 (CL 50), 53 FR 31138–31222[1]; as amended February 27, 1989, 54 FR 8264–8266[1] (CL 50.1).	Rules 329 IAC 3.1–9–1; 3.1–10–1; 3.1–11–1; 3.1–12–1; 3.1–12–2. Effective February 24, 1992.
Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems; September 2, 1988 (CL 52), 53 FR 34079–34087.[1]	Rules 329 IAC 3.1–4–1; 3.1–9–1; 3.1–10–1; 3.1–13–1. Effective February 24, 1992.
Identification and Listing of Hazardous Waste; and Designation, Reportable Quantities, and Notification; September 13, 1988 (CL 53), 53 FR 35412–35421.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Permit Modifications for Hazardous Waste Management Facilities; September 28, 1988 (CL 54), 53 FR 37912–37942; as amended October 24, 1988, 53 FR 41649 (CL 54.1).	Rules 329 IAC 3.1–9–1;3.1–10–1; 3.1–10–2; 3.1–13–1; 3.1–13–7. Effective February 24, 1992.
Statistical Methods for Evaluating Ground Water Monitoring Data from Hazardous Waste Facilities; October 11, 1988 (CL 55), 53 FR 39720–39731.	Rule 329 IAC 3.1–9–1.Effective February 24, 1992.
Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes; October 31, 1988 (CL 56), 53 FR 43878–43881.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Wastes; October 31, 1988 (CL 57), 53 FR 43881–43884.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Standards for Generators of Hazardous Waste; November 8, 1988 (CL 58), 53 FR 45089–45093.	Rules 329 IAC 3.1–7–3; 3.1–7–7; 3.1–7–8; 3.1–7–9; 3.1–7–10; 3.1–7–11; 3.1–7–12; 3.1–7–13. Effective February 24, 1992.
Amendment to Requirements for Hazardous Waste Incinerator Permits; January 30, 1989 (CL 60), 54 FR 4286–4288.	Rule 329 IAC 3.1–13–1. Effective February 24, 1992.
Changes to Interim Status Facilities for Hazardous Waste Management Permits; Procedures for Post-Closure Permitting; March 7, 1989 (CL 61), 54 FR 9596–9609.	Rules 329 IAC 3.1–13–1; 3.1–3–2; 3.1–13–3. Effective February 24, 1992.
Land Disposal Restrictions—Amendments to First Third Scheduled Wastes; May 2, 1989 (CL 62), 54 FR 18836–18838.[1]	Rule 329 IAC 3.1–12–1. Effective February 24, 1992.
Land Disposal Restrictions for Second Third Scheduled Wastes; June 23, 1989 (CL 63), 54 FR 26594–26652[1]	Rules 329 IAC 3.1–12–1; 3.1–12–2. Effective February 24, 1992.
Delay of Closure Period for Hazardous Waste Management Facilities; August 14, 1989 (CL 64), 54 FR 33376–33398.	Rules 329 IAC 3.1–9–1; 3.1–10–1; 3.1–10–2; 3.1–13–1. Effective February 24, 1992.

Federal requirement	Analogous State authority
Mining Waste Exclusion I; September 1, 1989 (CL 65), 54 FR 36592–36642.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Land Disposal Restrictions; Correction to the First Third Scheduled Wastes; September 6, 1989 (CL 66), 54 FR 36967 [1]; as amended June 13, 1990 (CL 66.1), 55 FR 23935.[1]	Rules 329 IAC 3.1–11–1; 3.1–12–1; 3.1–12–2. Effective February 24, 1992.
Testing and Monitoring Activities; September 29, 1989 (CL 67), 54 FR 40260–40269.	Rules 329 IAC 3.1–4–1; 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Reportable Quantity Adjustment—Methyl Bromide Production Wastes; October 6, 1989 (CL 68), 54 FR 41402–41408.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Reportable Quantity Adjustment; December 11, 1989 (CL 69), 54 FR 50968–50979.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Changes to Part 124 Not Accounted for by Present Checklists; April 1, 1983 (CL 70), 48 FR 14146–14295; June 30, 1983, 48 FR 30113–30115; July 26, 1988, 53 FR 28118–28157; September 26, 1988, 53 FR 37396–37414; January 4, 1989, 54 FR 246–258.	Rules 329 IAC 3.1–13–6; 3.1–13–7; 3.1–13–8; 3.1–13–10; 3.1–13–12. Effective February 24, 1992.
Mining Waste Exclusion II; January 23, 1990 (CL 71), 55 FR 2322–2354.	Rules 329 IAC 3.1–4–1; 3.1–6–1; 3.1–6–2; 3.1–7–6. Effective February 24, 1992.
Modifications of F019 Listing; February 14, 1990 (CL 72), 55 FR 05340	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Testing and Monitoring Activities; Technical Corrections; March 9, 1990 (CL 73), 55 FR 8948–8950.	Rules 329 IAC 3.1–4–1; 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Toxicity Characteristic Revisions; March 29, 1990 (CL 74), 55 FR 11798–11877 [1] as amended June 29, 1990, 55 FR 26986–26998 [1] (CL 74.1).	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–9–1; 3.1–10–1; 3.1–12–1. Effective February 24, 1992.
Listing of 1,1-Dimethylhydrazine Production Wastes; May 2, 1990 (CL 75), 55 FR 18496–18506.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Criteria for Listing Toxic Wastes; Technical Amendment; May 4, 1990 (CL 76), 55 FR 18726.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
HSWA Codification Rule, Double Liners; Correction; May 9, 1990 (CL 77), 55 FR 19262–19264.[1]	Rule 329 IAC 3.1–9–1. Effective February 24, 1992.
Land Disposal Restrictions for Third Third Scheduled Wastes; June 1, 1990 (CL 78), 55 FR 22520–22720.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–7–1; 3.1–9–1; 3.1–10–1; 3.1–10–2; 3.1–12–1; 3.1–12–2; 3.1–13–1. Effective February 24, 1992.
Organic Air Emmissions Standards for Process Vents and Equipment Leaks; June 21, 1990 (CL 79), 55 FR 25454–25519.[1]	Rules 329 IAC 3.1–4–1; 3.1–6–1; 3.1–6–2; 3.1–9–1; 3.1–10–1; 3.1–13–1. Effective February 24, 1992.
Toxicity Characteristic; Hydrocarbon Recovery Operations; October 5, 1990 (CL 80), 55 FR 40834–40837 [1]; as amended February 1, 1991, 56 FR 3978 [1] (CL 80.1); as amended April 2, 1991, 56 FR 13406–13411 [1] (CL 80.2).	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038); November 2, 1990 (CL 81), 55 FR 46354–46397 [1]; as amended December 17, 1990, 55 FR 51707 [1] (CL 81.1).	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective November 22, 1992.
Wood Preserving Listings; December 6, 1990 (CL 82), 55 FR 50450–50490.[1]	Rules 329 IAC 3.1–4–1; 3.1–6–1; 3.1–6–2; 3.1–7–1; 3.1–9–1; 3.1–9–3; 3.1–10–1; 3.1–13–1. Effective November 22, 1992.
Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendments (CL 83); January 31, 1991, 56 FR 3864–3928.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–7–1; 3.1–12–1; 3.1–12–2; 3.1–13–1. Effective February 24, 1992.
Toxicity Characteristic; Chlorofluorocarbon Refrigerants; February 13, 1991 (CL 84), 56 FR 5910–5915.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment; February 25, 1991 (CL 86), 56 FR 7567–7568.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment; April 26, 1991 (CL 87), 56 FR 19290.[1]	Rules 329 IAC 3.1–9–1; 3.1–10–1; 3.1–13–1. Effective February 24, 1992.
Administrative Stay for K069 Listing; May 1, 1991 (CL 88), 56 FR 19951.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Revision to F037 and F038 Listings; May 13, 1991 (CL 89), 56 FR 21955–21960.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Mining Waste Exclusion III; June 13, 1991 (CL 90), 56 FR 27300–27330.	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective February 24, 1992.
Administrative Stay for F032, F034, and F035 Listings; June 13, 1991 (CL 91), 56 FR 27332–27336.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–9–1; 3.1–10–1. Effective February 24, 1992.
Wood Preserving Listings; Technical Corrections; July 1, 1991 (CL 92), 56 FR 30192–30198.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–7–1; 3.1–9–1; 3.1–10–1; 3.1–13–1. Effective November 22, 1992.
Land Disposal Restrictions for Electric Arc Furnace Dust (K061); August 19, 1991 (CL 95), 56 FR 41164–41178.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–12–1; 3.1–12–2. Effective February 24, 1992.
Exports of Hazardous Waste; Technical Correction; September 4, 1991 (CL 97), 56 FR 47304.[1]	Rule 329 IAC 3.1–7–16. Effective February 24, 1992.
Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations; December 23, 1991 (CL 99), 56 FR 66365–66369.	Rules 329 IAC 3.1–4–1; 3.1–10–1; 3.1–10–2. Effective February 24, 1992.
Liners and Leak Detection Systems for Hazardous Waste Disposal Systems; January 29, 1992 (CL 100), 57 FR 03462–03497.[1]	Rules 329 IAC 3.1–4–1; 3.1–9–1; 3.1–9–2; 3.1–10–1; 3.1–13–1. Effective November 22, 1992.
Second Correction to the Third Third Land Disposal Restrictions; March 6, 1992 (CL 102), 57 FR 8086–8089.[1]	Rules 329 IAC 3.1–9–1; 3.1–10–1; 3.1–12–1; 3.1–12–2. Effective November 22, 1992.

Federal requirement	Analogous State authority
Hazardous Debris Case by Case Capacity Variance; May 15, 1992 (CL 103), 57 FR 20766–20770.[1]	Rule 329 IAC 3.1–12–1. Effective November 22, 1992.
Used Oil Filter Exclusion; May 20, 1992 (CL 104), 57 FR 21524–21534.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2. Effective November 30, 1992.
Recycled Coke By Product Exclusion; June 22, 1992 (CL 105), 57 FR 27880–27888.[1]	Rules 329 IAC 3.1–6–1; 3.1–6–2; 3.1–11–1. Effective November 30, 1992.
Lead Bearing Hazardous Materials Case by Case Capacity Variance; June 26, 1992 (CL 106), 57 FR 28628–28632.[1]	Rules 329 IAC 3.1–12–1. Effective November 30, 1992.

[1] Indicates HSWA Provision.
CL=Checklist.

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the Federal program provisions for which the State is applying for authorization, and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA has previously suspended issuance of permits for the other provisions on January 31, 1986, January 5, 1988, July 13, 1989, July 29, 1991, and July 30, 1991, the effective dates of Indiana's final authorizations for the RCRA base program and for the subsequent program revisions, respectively.

This authorization includes authorization for Indiana to impose certain land disposal prohibitions. Under 40 CFR 268.6, EPA may grant petitions of specific duration to allow land disposal of certain hazardous wastes provided certain criteria are met. States that have authority to impose land disposal prohibitions may ultimately be authorized under RCRA Section 3006 to grant petitions for such exemptions. However, EPA is currently requiring that these petitions be handled at EPA Headquarters. It should be noted that Indiana has its own procedures for petition submission and approval to allow land disposal of a prohibited waste. Therefore, the petitioner must satisfy both Federal and Indiana requirements, and be granted approval by both EPA and the State.

Indiana is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Indiana's application for program revisions meets all of the statutory and regulatory requirements established by RCRA, and its amendments. Accordingly, Indiana is granted final authorization to operate its hazardous waste program as revised. Indiana now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Indiana also has primary enforcement responsibilities, although 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.

D. Incorporation by Reference

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 Indiana 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, 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 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, 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. 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. EPA does not anticipate that the approval of Indiana's hazardous waste program referenced in today's notice will result in annual costs of $100 million or more. EPA's approval of State programs generally have 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 UMRA. 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 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

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. EPA recognizes that small entities may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, since such small entities which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265 and 270, this authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would result in an administrative change (i.e., whether EPA or the state administers the RCRA Subtitle C program in that state), rather than result in a change in the substantive requirements imposed on small entities. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small entities will be able to own and operate their TSDFs under the approved state program, in lieu of the federal program. Moreover, this authorization, in approving a state program to operate in lieu of the federal program, eliminates duplicative requirements for owners and operators of TSDFs in that particular state.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 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 approves the Indiana program to operate in lieu of the federal 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.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

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 notice 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: July 29, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–21173 Filed 8–19–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CS Docket No. 96–166; FCC 96–327]

Implementation of Section 703 of the Communications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By adopting this Order, the Commission implements the self-effectuating additions and revisions made by Section 703 of the Telecommunications Act of 1996 to Section 224 of the Communications Act of 1934, as amended. The pole attachment provisions of Section 224 of the Communications Act of 1934, as amended, initially only applied to cable television system operators. However, Section 703 of the Telecommunications Act of 1996 expanded the scope of the pole attachment provisions under Section 224 to include telecommunications carriers as well as cable television system operators.

DATES: Effective August 20, 1996. Written comments by the public on the information collections contained herein are due October 21, 1996.

ADDRESSES: Comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Michael T. McMenamin, Cable Services Bureau, (202) 418–7200. For additional information concerning the information collections contained in this Order contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order, CS Docket No. 96–166, adopted August 2, 1996 and released August 6, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1919 M Street, NW, Washington, D.C. 20554.

Synopsis of the Order

Section 703 of the 1996 Act added and amended several provisions of Section 224 of the Communications Act of 1934, as amended (''Section 224''). Specifically, Section 703 amended Sections 224 (a)(1), (a)(4), (c)(1) and (c)(2)(B), and added new Sections 224 (a)(5), (d)(3), (e), (f), (g), (h) and (i). Many of these additions and revisions to existing federal statutory provisions are self-effectuating. This Order conforms our rules to meet these new statutory requirements. We are revising these rules without providing prior public notice and an opportunity for comment because the rule modifications do not involve discretionary action on the part of the Commission but rather, simply conform our rules to the applicable provisions of the 1996 Act. We find that notice and comment procedures are unnecessary, and that this action falls

within the ''good cause'' exception of the Administrative Procedure Act. Sections 224(e) is not self-effectuating. We will seek notice and comment regarding implementation of Section 224(e) in a separate proceeding consistent with the two-year period specified by Section 224(e). In addition, the Commission has sought notice and comment regarding the implementation of Sections 224 (f) and (h) in a separate proceeding.[1]

Paperwork Reduction Act

This Order contains either proposed or modified information collections. The Commission has requested Office of Management and Budget (''OMB'') approval, under the emergency processing provisions of the Paperwork Reduction Act of 1995, of the information contained in this rulemaking. Approval is requested to be effective no later than the date that the summary of the Order appears in the Federal Register. The OMB control number for information collections contained in this rulemaking is 3060–0392. The Commission, as part of its continuing effort to reduce paperwork burdens and to obtain regular OMB approval of the information collections, invites the general public to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995. Public and agency comments are due October 21, 1996. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0392.

Title: 47 CFR 1.1401 through 1.1416 Pole Attachment Procedures.

Type of Review: Revision of existing collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 83.

Estimated Time Per Response: 1–25 hours.

Total Annual Burden: 449 hours. Notices: 36 sets of notices × 2 hours each = 72 hours. Petitions for Stay: 10 Petitions × 8 hours each = 80 hours. Complaints, responses and replies: 10 complaint cases (20 parties). 50% of parties will use in-house legal assistance with an average burden of 25 hours per case. 10 parties × 25 hours = 250 hours. 50% of parties will use outside legal counsel with an average burden of 4 hours to coordinate information with outside legal counsel. 10 parties × 4 hours = 40 hours. State certifications: 7 certifications × 1 hour = 7 hours.

Total Annual Cost to Respondents: $41,100. Notices: 36 sets of notices × $100 each for postage and stationery = $3,600. Complaints, responses and replies: 50% of parties will use outside legal counsel paid at $150 per hour. 10 parties × 25 hours per case × $150 per hour = $37,500.

Needs and Uses: Initial pole attachment provisions were mandated by Congress pursuant to Section 224 of the Communications Act of 1934. Among other things, Section 224 initially mandated the following: The Commission was required to establish rules to ensure that the rates, terms and conditions under which cable television system operators attach their hardware to utility poles are just and reasonable. Utilities shall provide a cable television system operator no less than 60 days written notice prior to (1) removal of facilities or termination of any service to those facilities, such removal or termination arising out of a rate, term or condition of a cable television pole attachment agreement, or (2) any increase in pole attachment rates. The Commission was required to establish a Petition for Stay process for the action contained in the notice. The Commission was required to establish a complaint resolution process regarding pole attachments. The Commission was required to establish a certification process for states to use to make notice of their authority to regulate the rates, terms and conditions for pole attachments. The provisions in Section 224 were initially only applicable to cable television system operators. However, Section 703 of the Telecommunications Act of 1996 amends Section 224 to expand the scope of the pole attachment provisions to include telecommunications carriers as well as cable television system operators. The Commission's rules for pole attachment provisions are contained in 47 CFR 1.1401 through 1.1416.

Accordingly, It is ordered that pursuant to Section 703 of the Telecommunications Act of 1996 (Section 224 of the Communications Act of 1934, as amended, 47 U.S.C. 224), and to Sections 4(i) and 303(r) of the Communications Act of 1934 as amended, 47 U.S.C. 154(i), 303(r), Subpart J of Part 1 of the Commission's Rules is amended as set forth below. The rule changes will become effective August 20, 1996.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Investigations, Lawyers, Penalties, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rules Changes

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154, 303 and 309(j) unless otherwise noted.

Subpart J—Pole Attachment Complaint Procedures

2. Section 1.1401 is revised to read as follows:

§ 1.1401 Purpose.

The rules and regulations contained in this subpart J provide complaint and enforcement procedures to ensure that the rates, terms and conditions for pole attachments of cable television systems and telecommunications carriers are just and reasonable.

3. Section 1.1402 is amended by revising paragraphs (a), (b), (d), (e), and (f) and adding a new paragraph (h) to read as follows:

§ 1.1402 Definitions.

(a) The term *utility* means any person that is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications. Such term does not include any railroad, any person that is cooperatively organized, or any person owned by the Federal Government or any State.

(b) The term *pole attachment* means any attachment by a cable television system or provider of telecommunications service to a pole,

[1] The Commission has issued a Notice of Proposed Rulemaking, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, FCC 96–182, 61 FR 18311, par. 220–225 (April 25, 1996), to implement the Interconnection provisions of Section 251.

duct, conduit, or right-of-way owned or controlled by a utility.

* * * * *

(d) The term *complaint* means a filing by a cable television system operator, a cable television system association, a utility, an association of utilities, a telecommunications carrier, or an association of telecommunications carriers alleging that a rate, term, or condition for a pole attachment is not just and reasonable.

(e) The term *complainant* means a cable television system operator, a cable television system association, a utility, an association of utilities, a telecommunications carrier, or an association of telecommunications carriers who files a complaint.

(f) The term *respondent* means a cable television system operator, a utility, or a telecommunications carrier against whom a complaint is filed.

* * * * *

(h) For purposes of this subpart, the term *telecommunications carrier* means any provider of telecommunications services, except that the term does not include aggregators of telecommunications services (as defined in 47 U.S.C. 226) or incumbent local exchange carriers (as defined in 47 U.S.C. 251(h)).

4. Section 1.1403 is revised to read as follows:

§ 1.1403 Notice of removal and petition for temporary stay.

(a) A utility shall provide a cable television system operator or telecommunications carrier no less than 60 days written notice prior to:

(1) Removal of facilities or termination of any service to those facilities, such removal or termination arising out of a rate, term, or condition of the cable television system operator's or telecommunications carrier's pole attachment agreement; or

(2) Any increase in pole attachment rates.

(b) A cable television system operator or telecommunications carrier may file a ''Petition for Temporary Stay'' of the action contained in a notice received pursuant to paragraph (a) of this section within 15 days of receipt of such notice. Such submission shall not be considered unless it includes, in concise terms, the relief sought, the reasons for such relief, including a showing of irreparable harm and likely cessation of cable television service or telecommunication service, a copy of the notice, and certification of service as required by § 1.1404(b). The named respondent may file an answer within 7 days of the date the Petition for Temporary Stay was filed. No further filings under this section will be considered unless requested or authorized by the Commission and no extensions of time will be granted unless justified pursuant to § 1.46.

5. Section 1.1404 is amended by revising paragraphs (a), (d) introductory text and (d) (2) to read as follows:

§ 1.1404 Complaint.

(a) The complaint shall contain the name and address of the complainant, name and address of the respondent, and shall contain a verification (in the form in § 1.721(b)), signed by the complainant or officer thereof if complainant is a corporation, showing complainant's direct interest in the matter complained of. Counsel for the complainant may sign the complaint. Complainants may join together to file a joint complaint. Complaints filed by associations shall specifically identify each utility, cable television system operator, or telecommunications carrier who is a party to the complaint and shall be accompanied by a document from each identified member certifying that the complaint is being filed on its behalf.

* * * * *

(d) The complaint shall be accompanied by a copy of the pole attachment agreement, if any, between the cable system operator or telecommunications carrier and the utility. If there is no present pole attachment agreement, the complaint shall contain:

* * * * *

(2) A statement that the cable television system operator or telecommunications carrier currently has attachments on the poles, ducts, conduits, or rights-of-way.

* * * * *

6. Section 1.1409 is amended by adding a new paragraph (e) to read as follows:

§ 1.1409 Commission consideration of the complaint.

* * * * *

(e) Section 1.1404 shall apply to the rate for any pole attachment used by a cable system operator solely to provide cable service. Until 47 U.S.C. 224(e) is implemented, § 1.1404 shall also apply to the rate for any pole attachment used by a cable system or any telecommunications carrier (to the extent such carrier is not a party to a pole attachment agreement) to provide any telecommunications service.

7. A new Section 1.1416 is added to subpart J to read as follows:

§ 1.1416 Access provisions for telecommunication carriers and cable systems.

(a) A utility that engages in the provision of telecommunications services or cable services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an equal amount to the pole attachment rate for which such company would be liable under this section.

(b) An entity that obtains an attachment to a pole, conduit, or right-of-way shall not be required to bear any of the costs of rearranging or replacing its attachment, if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity (including the owner of such pole, duct, conduit, or right-of-way).

[FR Doc. 96–20901 Filed 8–19–96; 8:45 am]

BILLING CODE 6712–01–U

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47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications*, 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: August 20, 1996.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, adopted July 19, 1996, and released July 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision

may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

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 Alabama, is amended by removing Channel 255C and adding Channel 255C2 at Montgomery, and by removing Channel 254C3 and adding Channel 254C2 at Warrior.

3. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 296A and adding Channel 297C2 at Rio Del and by removing Channel 299A and adding Channel 299B1 at Twentynine Palms.

4. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by removing Channel 224A and adding Channel 224B1 at Herrin.

5. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 269C3 and adding Channel 269C2 at Duluth.

6. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 252A and adding Channel 252C3 at Carthage.

7. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 225C3 and adding Channel 225C2 at Espanola, by removing Channel 298C3 and adding Channel 298C1 at Los Almos and by removing Channel 234C and adding Channel 234C1 at Santa Fe.

8. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 237A and adding Channel 237C3 at Lawton.

9. Section 73.202(b), the Table of FM Allotments under Texas is amended by removing Channel 228C3 and adding Channel 228C2 at Breckenridge and by removing Channel 269A and adding Channel 268C2 at Snyder.

10. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by removing Channel 266C2 and adding Channel 2266A at Pinedale.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96–20706 Filed 8–19–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–121; Amdt. 195–51B]

RIN 2137–AC 83

Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; extension of time for compliance.

SUMMARY: This final rule extends the time for compliance with the requirements for pressure testing of older hazardous liquid and carbon dioxide pipelines. Plans for testing, which were to be completed by December 7, 1995, would now be required by December 7, 1997. The dates for actual completion of the testing, previously December 7, 1998, and December 7, 2001, are extended by one year. RSPA is extending these compliance dates to allow time to complete rulemaking based on the American Petroleum Institute's (API) petition for a risk-based alternative to the required pressure testing rule. RSPA will issue a proposed rule for a risk-based alternative to the existing pressure testing rule.

DATES: Effective Date: This rule is effective August 20, 1996.

Compliance Dates: The deadline for complying with § 195.302(c)(1) is extended to December 7, 1997. The deadline for complying with § 195.302(c)(2)(i) is extended to December 7, 1999. The deadline for complying with § 195.302(c)(2)(ii) is extended to December 7, 2002.

FOR FURTHER INFORMATION CONTACT: Mike Israni, (202) 366–4571, regarding the subject matter of this document, or the Dockets Unit (202) 366–4453, for copies of this document or other information in the docket.

SUPPLEMENTARY INFORMATION:

API Proposal

In a petition dated June 23, 1995, API submitted a risk-based alternative to the pressure testing rule and requested that RSPA delay implementation of the rule until the API proposal has been given full consideration. A copy of the API proposal is available in the docket (Dockets Unit, Room 8421 at DOT Headquarters will be temporary closed from August 15 to September 15, 1996. During this period pipeline safety dockets will be available in Room 2335 of the DOT Headquarters). API urged that the rule on pressure testing older hazardous liquid and carbon dioxide pipelines presents an opportunity to apply a risk-based approach to pressure testing, and proposed a risk-based alternative to the final rule issued on June 7, 1994 (59 FR 29379).

RSPA has been working with the pipeline industry to develop a risk management framework for pipeline regulation and decided to evaluate the API proposal carefully. Because substantial planning is required before pressure testing older pipelines, an extension of time for compliance was needed to avoid unnecessary costs in planning.

RSPA has now decided to initiate rulemaking on the API proposal. A notice of proposed rulemaking will be published separately to accomplish this.

Notice of Proposed Rulemaking

RSPA published a Notice of Proposed Rulemaking (NPRM) (Docket PS–121; 60 FR 54328; October 23, 1995) proposing one year extension of the compliance deadline to plan and schedule pressure testing. In addition, RSPA recognized that a final rule on extended compliance dates could not be issued in time to forestall the burden on operators of preparing the plans because of late issuance of the final rule. Thus, RSPA announced that it would not enforce December 7, 1995, compliance date.

RSPA held a meeting with API members on January 31, 1996, to clarify their proposal and held a public meeting on the API proposal on March 25, 1996. On May 8, 1996, RSPA briefed the Technical Hazardous Liquid Pipeline Safety Committee (THLPSSC) on the API proposal.

RSPA received two written comments on the NPRM on the extension of the compliance deadline. Both favored an extension. RSPA also received several comments from the industry during the public meetings that all the compliance deadlines for the current pressure test rule should be extended. Industry argued that they were not sure of what changes RSPA might suggest in the present rulemaking, so they could not plan in advance.

RSPA agrees with the comments about the need for extension of the comment period while rulemaking on

the API proposal is conducted. These new compliance dates are as follows:

Before December 7, 1997, plan and schedule testing;

Before December 7, 1999, pressure test each pipeline containing more than 50 percent by mileage of electric resistance welded pipe manufactured before 1970; and at least 50 percent of the mileage of all other pipelines; and

Before December 7, 2002, pressure test the remainder of the pipeline mileage.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Policies and Procedures

The Office of Management and Budget (OMB) does not consider this final rule to be a significant regulatory action under section 3(f) of Executive Order 12866. Therefore, OMB did not review the final rule under that order. Also, DOT does not consider the final rule to be significant under its regulatory policies and procedures (44 FR 11034, February 26, 1979). This extension of compliance dates does not warrant preparation of a Regulatory Evaluation.

Executive Order 12612

We analyzed the final rule under the principles and criteria in Executive Order 12612 (''Federalism''). The final rule does not have sufficient federalism impacts to warrant preparation of a federalism assessment.

Regulatory Flexibility Act

I certify, under Section 605 of the Regulatory Flexibility Act, that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 195

Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, RSPA amends part 195 of title 49 of the Code of Federal Regulations as follows:

PART 195—[AMENDED]

1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 60102, 60104, 60108, 60109; and 49 CFR 1.53.

2. Section 195.302(c) (1) and (2) are revised to read as follows:

§ 195.302 General requirements.

* * * * *

(c) Except for onshore pipelines that transport HVL, the following compliance deadlines apply to pipelines under paragraphs (b)(1) and (b)(2)(i) of this section that have not been pressure tested under this subpart:

(1) Before December 7, 1997, for each pipeline each operator shall—

(i) Plan and schedule testing according to this paragraph; or

(ii) Establish the pipeline's maximum operating pressure under § 195.406(a)(5).

(2) For pipelines scheduled for testing, each operator shall—

(i) Before December 7, 1999, pressure test—

(A) Each pipeline identified by name, symbol, or otherwise that existing records show contains more than 50 percent by mileage of electric resistance welded pipe manufactured before 1970; and

(B) At least 50 percent of the mileage of all other pipelines; and

(ii) Before December 7, 2002, pressure test the remainder of the pipeline mileage.

Issued in Washington, D.C. on August 14, 1996.

Kelley S. Coyner,

Deputy Administrator.

[FR Doc. 96–21143 Filed 8–19–96; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 081496A]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna

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

ACTION: Closure.

SUMMARY: NMFS closes the fishery for school Atlantic bluefin tuna (ABT) in the waters off New Jersey and states north. Closure of this fishery is necessary because the annual quota is projected to be attained by August 17, 1996. The intent of this action is to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATE: The closure is effective from 2330 hours local time August 17 through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Bill Hogarth, 301–713–2347.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) regulating the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

The Assistant Administrator for Fisheries, NOAA (AA), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of those statistics, to project a date when the catch of ABT will equal any quota under § 285.22. The AA is further authorized under § 285.20(b)(1) to prohibit fishing for, or retention of, ABT by those fishing in the category subject to the quota when the catch of tuna equals the quota established under § 285.22. The AA has determined, based on the reported catch and estimated fishing effort, that the annual quota of school ABT will be attained by August 17, 1996. Fishing for, catching, possessing, or landing any school ABT in any area must cease at 2330 hours local time on August 17, 1996. The Angling category fishery for bluefin tuna in the large school and small medium classes (47 inches to less than 59 inches (119 cm to less than 150 cm), and 59 inches to less than 73 inches (150 cm to less than 185 cm) curved fork length, respectively) was previously closed on July 31, 1996 (61 FR 40352, August 2, 1996). However, anglers may continue to tag and release fish greater than 27 inches (69 cm) curved fork length under the NMFS tag-and-release program (50 CFR 285.27).

Classification

This action is taken under 50 CFR 285.20(b)(1) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: August 14, 1996.

Richard W. Surdi,

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

[FR Doc. 96–21123 Filed 8–15–96; 9:10 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 162
Tuesday, August 20, 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 JUSTICE

Immigration and Naturalization Service

8 CFR Part 245

[INS No. 1353–91; AG Order No. 2047–96]

RIN 1115–AC70

Adjustment of Status to That of Person Admitted for Permanent Residence: Conditional Residents and Fiancé(e)s

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would clarify that an alien remains ineligible for adjustment of status after termination of conditional resident status. It would also modify provisions regulating the adjustment of status of a nonimmigrant fiancé(e) to reflect the current statute and to allow adjustment of status based on a marriage occurring more than 90 days after admission. The clarification concerning adjustment of status after termination of conditional residency is necessary in view of the determination by the Board of Immigration Appeals' (the Board) finding that the current regulations do not prohibit the adjustment of status of an alien whose conditional resident status has been terminated. *Matter of Stockwell*, 20 I&N Dec. 309 (BIA 1991). This proposed rule would also ensure compliance with the existing statute and eliminate hardships to certain persons who were unable to marry until after the expiration of the alien spouse's period of admission as a nonimmigrant fiancé(e).

DATES: Written comments must be submitted on or before October 21, 1996.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536, Attn: Public Comment Clerk. To ensure proper handling, please reference the INS number 1353–91 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange an appointment.

FOR FURTHER INFORMATION CONTACT: Rita A. Arthur, Senior Immigration Examiner, Adjudications Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION: The Immigration Marriage Fraud Amendments of 1986 (IMFA), Pub. L. 99–639, November 10, 1986, were enacted to combat fraud perpetrated by aliens who marry only to obtain immigration benefits. The IMFA amended the Immigration and Nationality Act (the Act) by adding a new section 216, which imposes an initial 2-year period of conditional residency on a person who acquired permanent resident status based on a recent marriage. It also provides a comprehensive procedure by which a conditional resident may have these conditions removed following approval of a petition filed jointly with the citizen or lawful permanent resident spouse, or after approval of a waiver of the joint petitioning requirement. Section 216 of the Act further mandates termination of the conditional resident's status if he or she fails to comply with the requirements for removal of the conditions at the end of the 2-year period, or if it is found that the marriage was entered into for the purpose of obtaining immigration benefits or is otherwise determined to be ''improper,'' as defined in section 216(b) of the Act. Section 216 of the Act also allows an alien whose status has been terminated to ask the immigration judge to review this decision during deportation proceedings.

The IMFA also revised the Act by adding a new section 245(d). This section bars an alien who was granted permanent residence on a conditional basis under section 216 of the Act from adjusting status under section 245 of the Act. This bar prevents a conditional resident from circumventing the requirements and restrictions of section 216 of the Act by filing a new application for adjustment of status.

In *Matter of Stockwell*, 20 I&N Dec. 309 (BIA 1991), the Board of Immigration Appeals (the Board) determined that the bar to adjustment of status provided in section 245(d) of the Act no longer applies after an alien's conditional residency has been terminated. The Board based this decision, which is binding on the Immigration and Naturalization Service (the Service), on its interpretation of the Service's implementing regulations.

In its majority decision, the Board state: ''While the statutory language seems to leave open the question of whether the bar [of section 245(d) of the Act] extends to an alien whose status as a conditional permanent resident has been terminated, we agree * * * that the Service's own implementing regulation clearly applies the bar in section 245(d) only to aliens currently holding conditional permanent resident status.'' *Stockwell, supra,* slip opinion at 4–5.

The Board also issued a dissenting opinion, which concluded that the section 245(d) bar to adjustment continues after termination of conditional residency. This opinion, while acknowledging that the regulation could be read to apply only to those aliens currently in conditional status, points out that: ''* * * the [language of section 245(d) of the Act] does not restrict its application to aliens who are admitted on a conditional basis and remain in that status. The language clearly prohibits the Attorney General from adjusting the status of any alien who has been admitted on a conditional basis under section 216.''

''The majority does not challenge the clarity of the statute. Rather, it relies on the regulation promulgated at 8 CFR § 245.1(b)(12) (1991) [subsequently redesignated as 8 CFR 245.1(c)(5) 1995]. * * *''

''[T]he regulation issued by the Immigration and Naturalization Service can be read to apply only to those aliens who are currently in conditional status. However, that is not the only reasonable construction of the regulation. The regulation does not address the eligibility for adjustment of status of those aliens whose conditional status has been terminated. Where the statute prohibits such adjustment, and the regulation does not address it, the statute should be applied. In any case the regulation should be construed in a manner that is consistent with the statute, The regulation can reasonably be construed as not having addressed

the situation of a conditional permanent resident whose status has been terminated. Moreover, it would frustrate the deterrent purpose of the statute to permit the adjustment of the status of an alien whose status as a conditional permanent resident has been terminated because of failure to comply with the requirements of section 216.''

''It may be argued that, in promulgating the regulation, the Service interpreted the statute to apply only to aliens currently in a conditional status. Since the specific question of the applicability of the statute to aliens whose status has been terminated was not addressed, such an argument is purely speculative.'' *Stockwell, supra*, slip opinion at 8–9 (Morris, dissenting).

In promulgating this regulatory provision, the Service did not intend to limit applicability of the bar in section 245(d) of the Act to aliens currently holding conditional permanent resident status. Such a stance, by allowing a conditional resident to circumvent the requirements and restrictions of section 216 of the Act by filing a new request for adjustment of status after the Service terminated conditional residency, would have been contrary to the purpose of IMFA. It would also have discounted the clear language of section 245(d) of the Act, and would have ignored the fact that Congress has provided a comprehensive procedure that permits a conditional resident to seek removal of the conditions imposed by section 216 of the Act.

However, 8 CFR 245.1(c)(5) does not explicitly state that the bar continues after termination of conditional residency. The proposed revision of 8 CFR 245.1(c)(5) would resolve the misunderstanding concerning this matter. It would supersede the Board's interpretation in *Matter of Stockwell* by amending 8 CFR 245.1(c)(5) to clarify that an alien admitted for permanent residence on a conditional basis under section 216 of the Act remains ineligible for adjustment of status under section 245 of the Act even after termination of status under section 216 of the Act. Since the regulation would be promulgated by the Attorney General under authority granted by section 103 of the Act, it would provide binding rules of decision for the Executive Office for Immigration Review, including the Board and the Immigration Courts, as well as the Service.

The proposed rule would also address the effect of termination of conditional status under section 216A of the Act on the bar to adjustment provided in section 245(f) of the Act. Sections 216A and 245(f) of the Act, added by the Immigration Act of 1990 (IMMACT), Pub. L. 101–649, November 29, 1990, relate to conditional status for certain alien entrepreneurs and contains language similar to that of sections 216 and 245(d) of the Act. To avert possible future misunderstandings, the Service proposes to amend 8 CFR 245.1(c)(5) to also clarify that section 245(f) of the Act continues to prohibit the adjustment of status under section 245 of the Act of an alien entrepreneur who has been granted permanent residence on a conditional basis after his or her status has been terminated under section 216A of the Act.

In addition to prohibiting the adjustment of status of a conditional resident under section 245(a), IMFA also amended provisions of the Act relating to the acquisition of permanent residence by persons who entered the United States as nonimmigrant fiancé(e)s of United States citizens. A review of the IMFA legislative history shows that Congress intended for these aliens, after they marry, to seek permanent resident status under the adjustment of status provision of section 245 of the Act. H. Rep. No. 906, 99th Cong. 2d Sess. at 11 (1986). Despite this intent, the actual text of section 3(c) of IMFA made these aliens ineligible for adjustment. Congress corrected this anomaly by enacting the Immigration Technical Corrections Act of 1988 (the Technical Corrections Act), Pub. L. 100–525, October 24, 1988. The amendments made by section 7(b) of the Technical Corrections Act allow an alien fiancé(e) and his or her minor children to obtain permanent residence, but only as a result of the marriage of the fiancé(e) to the citizen petitioner, and only as a conditional permanent resident under section 216 of the Act.

The Service published a final rule implementing IMFA on August 10, 1988, in the Federal Register at 53 FR 30011–30023. A few months later, Congress enacted the Technical Corrections Act. The Service proposes in this rule to amend 8 CFR 245.1(c)(6) to align its wording more closely with the language of the statute as amended by the Technical Corrections Act. The proposed revision would explicitly state that these aliens are subject to the conditions imposed by section 216 of the Act and clarify the applicability of paragraph (c)(6) to the alien's minor children as well as to the principal alien.

The proposal would also bar adjustment of an alien who was admitted under section 101(a)(15)(K) of the Act unless the alien would become a conditional permanent resident within 24 months of the date of the marriage. This restriction is necessary because section 245(d) of the Act prohibits the adjustment of status of an alien fiancé(e) or child of a fiancé(e) admitted under section 101(a)(15)(K) of the Act *except* to that of an alien lawfully admitted to the United States for permanent residence on a conditional basis under section 216 of the Act. Section 216 of the Act provides permanent residence on a conditional basis only for an alien who becomes a permanent resident within 24 months of the date of the qualifying marriage.

The proposed rule would also modify the provisions of 8 CFR 245.1(c)(6) relating to a marriage taking place more than 90 days after the alien fiancé(e)'s admission to the United States. As currently written, paragraph (c)(6) appears to bar adjustment if the alien fiancé(e) and the citizen petitioner do not marry within 90 days of the alien's entry. The provisions of paragraph (c)(6) were based on those of section 101(a)(15)(K) of the Act, which require the alien and the citizen petitioner to intend to marry within 90 days of entry in order to qualify the alien for entry as a nonimmigrant fiancé(e). Also, section 214(d) of the Act renders the alien deportable if the couple does not marry within 3 months of entry. Section 245(d) of the Act does not, however, impose a time frame during which the marriage must take place.

The proposed rule would continue to bar adjustment if the couple fails to marry. However, prospective spouses are sometimes forced by circumstances outside their control to delay marriage until after expiration of the 90-day period of admission as a fiancé(e). To prevent hardship to these individuals, the proposal would allow an alien who was admitted under section 101(a)(15)(K) of the Act as a fiancé(e) or a child of a fiancé(e) to seek adjustment of status based on the delayed marriage between the citizen petitioner and the fiancé(e).

The nonimmigrant fiancé(e) or child of a fiancé(e) would be allowed to apply for adjustment of status as an immediate relative of a citizen on the basis of an approved Form I–130, Petition for Alien Relative, filed by the citizen petitioner who had originally filed the fiancé(e) visa petition. A nonimmigrant fiancé(e) seeking adjustment based on a delayed marriage, like a nonimmigrant fiancé(e) seeking adjustment based on a timely marriage, would become ineligible for adjustment of status if more than 24 months elapsed between the date of the marriage and the approval of the application for adjustment of status.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule would not have a significant economic impact on a substantial number of small entities because of the following factors: The rule would address the grant of immigration benefits to certain individuals based on a marriage. It would also clarify restrictions placed on future acquisition of certain immigration benefits by individuals whose conditional permanent resident status has been terminated. It would not have a significant economic effect, nor would it affect small entities.

Executive Order 12866

This rule is not considered by the Department of Justice to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

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

Paperwork Reduction Act

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance number for this collection is contained in 8 CFR 299.5, Display of control numbers.

List of Subjects in 8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, part 145 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

1. The authority citation for part 145 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255, and 8 CFR part 2.

§ 245.1 [Amended]

2. In § 245.1 paragraph (c)(3) is amended by removing the word ''and'' at the end of the paragraph.

3. In § 245.1, paragraph (c)(4) is amended by removing the ''.'' at the end of the paragraph and replacing it with a '';''.

4. In § 245.1, paragraph (c)(7) is amended by removing the ''.'' at the end of the paragraph, and replacing it with a ''; and''.

5. In § 245.1, paragraphs (c)(5) and (c)(6) are revised to read as follows:

§ 245.1 Eligibility.

* * * * *

(c) * * *

(5) Any alien who has been lawfully admitted for permanent residence on a conditional basis under section 216 or 216A of the Act, regardless of any other quota or nonquota immigrant visa classification for which the alien may otherwise be eligible, and regardless of whether the alien's conditional status has been terminated pursuant to sections 216 or 216A of the Act;

(6) Any alien admitted to the United States as a nonimmigrant alien fiancé(e) under section 101(a)(15)(K) of the act, unless:

(i) The alien is seeking to adjust status under section 245(a) of the Act to that of an alien lawfully admitted to the United states for permanent residence on a conditional basis under section 216 of the Act;

(ii) The alien is seeking adjustment based on the marriage (or, in the case of a minor child, the marriage of the alien parent) to the United States citizen whose approved petition pursuant to § 214.2(k) of this chapter was the basis for issuance of the alien's nonimmigrant visa under section 101(a)(15)(K) of the Act;

(iii) The alien is seeking to adjust status within 24 months of the date of the marriage; and

(iv) The marriage was solemnized:

(A) Within 90 days of the entry of the alien fiance1(e) into the United States; or

(B) More than 90 days after the entry of the alien fiancé(e) into the United States if the alien spouse or child applies for and is otherwise eligible for adjustment of status as an immediate relative on the basis of an approved Form I–130, Petition for Alien Relative, filed by the citizen whose approved petition pursuant to § 214.2(k) of this chapter was the basis for issuance of the alien's nonimmigrant visa under section 101(a)(15)(K) of the Act;

* * * * *

Dated: August 13, 1996.

Janet Reno,

Attorney General.

[FR Doc. 96–21196 Filed 8–19–96; 8:45 am]

BILLING CODE 4410–10–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[AD–FRL–5557–6]

RIN 2060–AE11

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given of a change in the date of the public hearing regarding EPA's proposed rulemaking, known as the NSR Reform Rulemaking, published on July 23, 1996 at 61 FR 38249. That rulemaking proposes to revise regulations for the approval and promulgation of implementation plans and the requirements for preparation, adoption, and submittal of implementation plans governing the NSR programs mandated by parts C and D of title I of the Clean Air Act. The date of the hearing is being changed from September 23 to September 16, 1996. This notice also announces a meeting on the day following the public hearing of the NSR Reform Subcommittee (Subcommittee) (58 FR 36407) of the Clean Air Act Federal Advisory Committee (55 FR, No. 217, 46993), which will also be open to the public. The Subcommittee's purpose is to provide independent advice and counsel to the EPA on policy and technical issues associated with reforming the NSR rules. Today's announcement does not change the October 21, 1996 deadline for receiving written public comments on the proposed rulemaking.

DATES: *Public Hearing.* The public hearing has been rescheduled for September 16, 1996 from 10:00 a.m. to 4:30 p.m. The hearing may be canceled if no requests to speak have been received 15 days prior to this rescheduled hearing date.

Subcommittee Meeting. A meeting of the Subcommittee is scheduled for September 17, 1996 from 8:30 a.m. to 4:00 p.m.

ADDRESSES: *Public Hearing.* The public hearing will be held at the Sheraton Imperial Hotel & Convention Center,

Imperial Center, Research Triangle Park, North Carolina, telephone (919) 941–5050.

Subcommittee Meeting. The Subcommittee meeting will be held at the Sheraton Imperial Hotel & Convention Center, Imperial Center, Research Triangle Park, North Carolina [(919) 941–5050.

GENERAL INFORMATION: *Public Hearing.* Seating will be available for approximately 60 persons on a first-come, first-served basis. Persons wishing to make oral presentations at the public hearing should contact EPA as indicated below in the **FOR FURTHER INFORMATION CONTACT** section. The order of presentation will be based on the order in which EPA receives requests to speak. Written statements in lieu of, or in addition to, oral testimony are encouraged and may be any length. Individuals will be given an opportunity to register for an opportunity to speak, as time allows, beginning at 9:00 a.m. on the day of the public hearing. If necessary, oral presentations will be time limited.

Subcommittee Meeting. Although open to the public; general seating will be available for approximately 60 persons (in addition to that allocated for the Subcommittee) on a first-come, first-served basis. There will be a limited opportunity for public remarks at the Subcommittee meeting and any member of the public may submit a written statement for consideration by the Subcommittee. To ensure that written public statements are provided to the Subcommittee prior to the scheduled meeting they should be mailed to David Solomon, the Designated Federal Official for this FACA subcommittee, at the Information Transfer and Program Integration Division (MD–12), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT: Dennis Crumpler, Information Transfer and Program Integration Division (MD–12), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone (919) 541–0871, telefax (919) 541–5509. Persons wishing to make oral presentations at the public hearing, or seeking further information, should contact Cynthia Baines at (919) 541–5319, telefax (919) 541–5509.

SUPPLEMENTARY INFORMATION: On July 23, 1996 at 61 FR 38249, the EPA proposed substantial changes to the major NSR program, a preconstruction permitting program required by the Clean Air Act, that regulates the construction and modification of major stationary sources of air pollution. In that document the EPA announced that the public hearing for the proposed rulemaking would be held in the Research Triangle Park, North Carolina, on September 23, 1996—the date 60 days from the date of publication of the Federal Register notice of proposed rulemaking.

In the same document, EPA indicated that it planned to convene a meeting of the NSR Subcommittee in conjunction with the public comment period to review the proposed rulemaking, but no date or location for that meeting was announced at the time of publication. Subsequent to the publication date of the proposed rulemaking, EPA concluded that (1) it would be desirable to hold the public hearing and the Subcommittee meeting in sequence because many participants would be interested in attending both sessions; and (2) due to other scheduling conflicts, the Subcommittee meeting could not be held on September 24, 1996—the day following the original date of the public hearing.

It was determined that most feasible dates for scheduling both meetings jointly would be September 16 and 17, 1996. Consequently, EPA has decided to reschedule the date of the public hearing so that the two sessions could be scheduled in sequence in order to reduce the burden of duplicative travel-related activities for interested participants. By holding the comment period open the EPA intends to provide an opportunity for the submission of rebuttal and supplementary information relative to comments and questions raised in either the public hearing or Subcommittee meeting.

The tentative Subcommittee meeting agenda is to review the proposed NSR Reform revisions by topic area as follows:

8:30–10:30 a.m.—NSR applicability criteria
10:30–12:00—noon—NSR technology requirements
12:00–1:00 p.m.—Lunch
1:00–2:00 p.m.—Class I protection requirements
2:00–3:00 p.m.—Miscellaneous reforms
3:00–4:00 p.m.—1990 Clean Air Act Implementing Revisions
4:00 p.m.—Adjourn

Time for breaks and public response will be incorporated. An agenda will be provided at the meeting.

INSPECTION OF DOCUMENTS: Documents related to the NSR Reform Rulemaking, are available for public inspection in EPA Air Docket No. A–90–37. Transcripts of the public hearing and Subcommittee meeting will also be available for public inspection in the same docket. The docket is available for public inspection and copying between 8:30 a.m. to 12 noon and 1:30 to 3:30 p.m., weekdays, at EPA's Air Docket (6102), Room M–1500, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

Approximately 3–4 weeks after the public hearing and Subcommittee meeting, a transcript of each meeting will also be available to the public through the Office of Air Quality Planning And Standards Technology Transfer Network (the TTN). Access to the TTN, via a computer and communications software, may be obtained by dialing (919) 541–5742. For assistance in accessing the TTN, contact the TTN Help Desk at (919) 541–5384 in Research Triangle Park, North Carolina, 1:00 p.m. to 5:00 p.m. eastern standard time.

Dated: August 15, 1996.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 96–21281 Filed 8–19–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 96–115; FCC 96–329]

Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Use of Data Regarding Alarm Monitoring Service Providers

AGENCY: Federal Communications Commission.

ACTION: Termination of rulemaking.

SUMMARY: On May 17, 1996, the Commission released a Notice of Proposed Rulemaking (NPRM) regarding certain customer information provisions in the Telecommunications Act of 1996 (1996 Act). In addition to addressing the customer proprietary network information (CPNI) and subscriber list information provisions set out in the 1996 Act, the NPRM also sought comment regarding how to implement the restrictions on use of alarm monitoring data established by new Section 275(d) of the Communications Act of 1934, as amended. Section 275(d) directed the Commission to issue any regulations necessary to enforce its provisions within six months after

enactment of the 1996 Act. Based on the record, we conclude that no regulations are necessary at this time to implement or enforce Section 275(d). The intended effect of this Report and Order is to document and explain that conclusion.

FOR FURTHER INFORMATION CONTACT: Blaise Scinto, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1380, or Radhika Karmarkar, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1628.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted August 6, 1996, and released August 7, 1996. The full 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 St., N.W., Washington, DC. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc96329.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M St., N.W., Suite 140, Washington, DC 20037.

Synopsis of Report and Order

We conclude that Section 275(d) of the Communications Act of 1934, as amended, restricts LEC personnel from using information regarding ''the occurrence or content of calls received by providers of alarm monitoring services'' for the purpose of marketing their own alarm monitoring service, or an alarm monitoring service offered by another affiliated or unaffiliated entity. Information on the occurrence of such calls may constitute CPNI, if it is made available to the LEC solely by virtue of the customer-carrier relationship. We affirm our tentative conclusion that, even if a carrier has received customer authorization to obtain access to CPNI pursuant to Section 222(c)(1) of the Communications Act of 1934, as amended, such authorization does not extend to any CPNI subject to the Section 275(d) ban, namely information concerning the occurrence of calls received by alarm monitoring service providers used for marketing purposes. We conclude that no regulations are necessary at this time to implement or enforce Section 275(d).

Regulatory Flexibility Analysis

As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), an Initial Regulatory Flexibility Analysis was incorporated in the NPRM in this proceeding (61 FR 26483 (May 28, 1996)). The Commission sought written public comments on the proposals in the NPRM, including the Initial Regulatory Flexibility Analysis. Because the Commission is not adopting any regulations at this time to enforce Section 275(d) of the 1996 Act, no further Regulatory Flexibility Analysis is required at this time.

Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995, Public Law 104–13, the NPRM in this proceeding sought comment from the general public and the Office of Management and Budget regarding the information collections contained in the NPRM. Because the Commission is not adopting any regulations to enforce Section 275(d) of the 1996 Act, no further Paperwork Reduction analysis is required at this time.

Accordingly, it is ordered that, pursuant to Sections 1, 4, and 275 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, and 275, the report and order is hereby adopted.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–21095 Filed 8–19–96; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR Part 73

[MM Docket No. 96–168, RM–8836]

Radio Broadcasting Services; Weaverville, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Terry L. Dunning, requesting the allotment of FM Channel 299A to Weaverville, California, as that community's second local FM transmission service. Coordinates used for this proposal are 40–44–00 and 122–56–24.

DATES: Comments must be filed on or before September 30, 1996, and reply comments on or before October 15, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard A. Helmick, Esq., Cohn and Marks, 1333 New Hampshire Ave., NW., Suite 600, Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–168, adopted August 2, 1996, and released August 9, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96–21220 Filed 8–19–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 96–81; RM–8776]

Radio Broadcasting Services; Rosalia, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This action dismisses a petition for rule making filed by Randall L. Hughes requesting the allotment of Channel 234A to Rosalia, Kansas. *See* 61 FR 18712, April 29, 1996. No comments were received at the Commission stating an intention to file an application for Channel 234A at Rosalia, Kansas. It is Commission policy to refrain from allotting a channel absent an expression of interest. With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 96–81, adopted August 2, 1996, and released August 9, 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, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96–21221 Filed 8–19–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–151; RM–8808]

Radio Broadcasting Services; Bear Creek, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Victor A. Michael, Jr. requesting the allotment of Channel 290A to Bear Creek, PA, as its first local aural service. Petitioner is requested to provide information demonstrating that Bear Creek is a community for allotment purposes. Channel 290A can be allotted to Bear Creek in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.2 kilometers (3.9 miles) southeast, at coordinates 41–08–51 NL; 75–41–43 WL, to avoid short-spacings to Stations WMRV, Channel 289B, Endicott, NY, and WHLM, Channel 293B, Bloomsburg, PA. Canadian concurrence in the allotment is required since Bear Lake is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before September 9, 1996, and reply comments on or before September 24, 1996.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Victor A. Michael, Jr., 7901 Stoneridge Drive, Cheyenne, Wyoming 82001 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–151, 1996, adopted May 24, 1996, and released July 19, 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 Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96–21223 Filed 8–19–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–28; Notice 9]

RIN 2127–AF73

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment; Correction

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

ACTION: Proposed rule; correction.

SUMMARY: This document contains corrections to the proposed rule published on July 10, 1996 (61 FR 36334). The proposed rule would afford an option to existing headlamp aiming specifications. As published, the reference numbers of the Figures discussed in the preamble text do not correspond to the numbers assigned the Figures in the proposed amendatory text. These errors are now corrected by Notice 9.

FOR FURTHER INFORMATION CONTACT: Rich VanIderstine, Office of Safety Performance Standards, NHTSA (phone 202–366–5203; FAX 202–366–4329).

SUPPLEMENTARY INFORMATION:

Background

In the proposed rule, Federal Register document 96–17299, which begins on page 36334 in the issue of Wednesday, July 10, 1996, the reference numbers of the Figures discussed in the preamble text do not correspond to the number assigned the Figures in the proposed amendatory text. The error arose because the agency's designations did not comply with Federal Register policy. The Figure numbers were changed in the proposed amendatory text after the document was submitted for publication without corresponding changes in the preamble text. This correction provides a clarification of the agency's intent.

Correction of Publication

1. For any reference to ''Figure 15va'' and ''Figure 17va'' in the preamble text, substitute ''Figure 15B'' and ''Figure 17B'' respectively.

2. For any reference to ''Figure 27va'' and ''Figure 28va'' in the preamble text, substitute ''Figure 27A'' and ''Figure 28A'' respectively.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50, and 501.8.

Issued on: August 7, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–20518 Filed 8–19–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 081396A]

Atlantic Tuna Fisheries; Massachusetts Audubon Society Petition

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

ACTION: Decision on petition for rulemaking.

SUMMARY: NMFS hereby announces denial of the petition for rulemaking submitted by the Massachusetts Audubon Society (MAS). MAS petitioned NMFS to: Ban the retention of all juvenile Atlantic bluefin tuna (ABT) less than 73 inches (185 cm), develop a tag-and-release program for juvenile ABT, require better reporting of fish caught in the Angling category to facilitate the collection of more accurate population data and to ensure compliance with International Commission for the Conservation of Atlantic Tuna (ICCAT) recommendations, and carry out better enforcement of catch allocation quotas.

ADDRESSES: Copies of the MAS petition for rulemaking are available upon request from Christopher Rogers, Highly Migratory Species Management Division, Office of Fisheries Conservation and Management (F/CM), NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282.

FOR FURTHER INFORMATION CONTACT: Christopher Rogers, 301-713-2347.

SUPPLEMENTARY INFORMATION:

Background

Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Under § 285.22, the U.S. quota is divided among the various domestic fishing categories.

In March 1996, NMFS received a petition from MAS to eliminate the fishery for small ABT. In the preamble to the 1996 proposed rule for Atlantic tunas (61 FR 18366, April 25, 1996), NMFS requested comments on the petition as part of the rulemaking process.

NMFS Response to the MAS Petition

Recommendation: Ban the retention of all juvenile ABT less than 73 inches (185 cm).

Response: Harvest of these fish provides important scientific information. The small fish index is one of the main indices used by the Standing Committee on Research and Statistics (SCRS) for stock assessment of western ABT. Retaining juveniles allows for the collection of biological data that can not be obtained through tagging data alone. Catch-at-age data are also provided by this fishery. The fishery for small ABT is of tremendous socio-economic importance to coastal communities and the recreational fishery. While commercial revenues would increase due to the resulting quota reallocation, employment associated with the recreational fishery and expenditures in coastal communities would decrease. Also, as the 1995 Final Environmental Impact Statement (FEIS) demonstrates, the western ABT stock is expected to rebuild for all scenarios analyzed, including scenarios that increase the allocation of small ABT. Thus, while eliminating the fishery for small ABT would hasten stock recovery, the loss of scientific data for quota monitoring and the socio-economic costs associated with closure of the small fish fishery would be significant.

Recommendation: Develop a tag-and-release program for juvenile ABT.

Response: NMFS already has a tag-and-release program in place for all ABT. Also, when fisheries are closed, NMFS still allows fishers with tagging kits to practice catch-and-release.

Recommendation: Require better reporting of fish caught in the Angling category to facilitate the collection of more accurate population data and to ensure compliance with ICCAT recommendations.

Response: NMFS agrees with the merits of this recommendation and has reviewed the large pelagic survey (LPS) methodology, conducted meetings, and participated in workshops, including the American Sportfishing Association (ASA) workshop in New Orleans, LA, to consider alternatives to the LPS for quota monitoring. NMFS continues to work toward this goal.

Recommendation: Carry out better enforcement of catch allocation quotas.

Response: NMFS always strives to enforce fishery regulations and quotas to the greatest extent possible. NMFS monitors the tuna quota as closely as possible and closes the fishery when needed.

Public Comments

Numerous comments were received via letter, telephone and at the public hearings held on the proposed rule. Those commenters who supported MAS' petition felt that anglers should be restricted to a tag-and-release fishery only and that those interested in ABT have everything to gain from a tag-and-release fishery. Commenters who opposed MAS' petition felt that the juvenile fishery provides important scientific monitoring data and that the petition ignored the economic importance of this fishery to the mid-Atlantic area.

Other comments included: agree that ABT populations need to be restored but in a different manner; the latest SCRS report shows recovery of ABT under 73 inches (185 cm); banning the retention of fish under 73 inches (185 cm) is not required for stock recovery, ICCAT recommendations for recovery reflect the catch of ABT at various sizes; continued harvest of juveniles undermines the efforts of the U.S. delegation to ICCAT in seeking compliance by eastern Atlantic and Mediterranean Sea fishing nations; and, because Angling category landings are estimated from surveys, the method of data collection is highly subjective, thus, thousands of fish may go unrecorded.

Decisions

NMFS has decided not to proceed with rulemaking to eliminate the fishery of small ABT as requested by MAS. Retaining a small fish quota is needed, because the Angling category fishery is not only essential for collection of stock assessment data but is of tremendous socio-economic importance to the coastal communities and anglers involved in the recreational fishery.

As demonstrated in the FEIS (July 1995), the stock is expected to rebuild for all scenarios analyzed. From a socio-economic perspective, the MAS proposal is not optimal or desirable. The result would be a shift in quota allocation and, therefore, an increase in commercial revenues. However, employment associated with the recreational fishery and its economic impact on coastal communities would decline. It is not clear that the losses in the recreational sector would be commensurate with the gains to the commercial sector from such a quota transfer.

Nevertheless, NMFS continues to address certain elements of the MAS request such as the tag-and-release program for all ABT, improving reporting of fish caught in Angling

category, and enforcing catch allocation quotas.

Authority: 16 U.S.C. 971 *et seq.*

Dated: August 15, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96–21202 Filed 8–19–96; 8:45 am]

BILLING CODE 3510–22–F

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50 CFR Part 679

[I.D. 081296A]

RIN 0648–AI70

Fisheries of the Exclusive Economic Zone Off Alaska; Allocations of Pacific Cod in the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 46 to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area for Secretarial review. Amendment 46 would allocate the Bering Sea and Aleutian Islands Management Area (BSAI) Pacific cod total allowable catch (TAC) among vessels using trawl gear, fixed gear (hook-and-line and pot), and jig gear and would provide authority for the fixed gear allocation to be divided into seasonal allowances.

DATES: Comments must be submitted on or before October 15, 1996.

ADDRESSES: Comments should be submitted to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendment 46 and the Environmental Assessment/Regulatory Impact Review prepared for the amendment are available from the Council, 605 West Fourth Avenue, Anchorage, AK 99501-2252; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that each Regional Fishery Management Council submit any fishery management plan (FMP) or plan amendment it prepares to NMFS for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notice that the FMP or amendment is available for public review and comment. NMFS will consider the public comments received during the comment period in determining whether to approve the FMP or amendment.

Amendment 46 would allocate the BSAI TAC among vessels using trawl gear, fixed gear, and jig gear. This amendment also would provide authority for the fixed gear allocation of Pacific cod to be divided into seasonal allowances, and would allow any unused portion of one gear's allocation to be reallocated to other gear types. This amendment is necessary to respond to socioeconomic needs of the fishing industry that have been identified by the Council and is intended to further the goals and objectives of the FMP.

NMFS will consider the public comments received during the comment period in determining whether to approve the proposed amendment. A proposed rule to implement Amendment 46 has been submitted for Secretarial review and approval. The proposed rule to implement this amendment is scheduled to be published within 15 days of this document.

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

Dated: August 14, 1996.

Richard H. Schaefer,

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

[FR Doc. 96–21124 Filed 8–15–96; 9:10 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 162
Tuesday, August 20, 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

Food and Consumer Service

Food Stamp Program; Agency Information Collection Activities: Proposed Collection; Comment Request—Model Food Stamp Forms, etc. (Monthly Reporting on Reservations)

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Food and Consumer Service to request that the Office of Management and Budget extend extension of the current information collection burden associated with the application, eligibility certification, and ongoing household eligibility determination for the Food Stamp households residing on reservations.

DATES: Comments and recommendations on the proposed information collection must be received by October 21, 1996.

ADDRESSES: Send comments and requests for copies of this information collection to Margaret Werts Batko, Assistant Branch Chief, Certification Policy Branch, Program Development Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

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 will have practical utility; (b) 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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to 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.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval of the extension request. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Margaret Werts Batko, (703) 305–2520.

SUPPLEMENTARY INFORMATION:

Title: Model Food Stamp Forms, Periodic Reporting, Notice of Late/Incomplete Reports, etc.

OMB Number: 0584–0064.

Expiration Date: April 30, 1997.

Form Number: FCS–385.

Type of Request: Extension of a currently approved information collection without change.

Abstract: On March 25, 1994, the Food Stamp Program Improvements Act of 1994, Pub. L. 103–225, was enacted. Section 101(a) of that law modified the prohibition against monthly reporting for households residing on reservations that had been added to section 6(c)(1)(A) of the Food Stamp Act of 1977 (Act), by section 1723 of the Mickey Leland Memorial Domestic Hunger Relief Act of 1990, Pub. L. 101–624. Section 6(c)(1)(C)(iii) of the Act, as amended by Pub. L. 103–225, prohibits State agencies which, as of March 25, 1994, were not requiring households residing on reservations to submit monthly reports, from establishing monthly reporting requirements for such households. State agencies that were using monthly reporting on March 25, 1994, for households residing on reservations, may continue to do so if the following conditions are met. The State agency must: (1) reinstate benefits without requiring a new application for any household that submits a report not later than one month after the end of the issuance month; (2) not delay, reduce, suspend, or terminate the allotment of a household that submits a report not later than one month after the end of the month in which the report is due; and (3) certify monthly reporting households on reservations for two years, unless the State agency has been granted a waiver for shorter certification periods.

The information collection and recordkeeping burden associated with initial applicants and households subject to recertification and change reporting procedures are currently approved by OMB under OMB Number 0584–0064. The currently approved estimates are described below. The new monthly reporting requirements for households residing on reservations will not have a significant effect on the currently approved burden estimates for the reasons noted.

1. Notice of Late or Incomplete Reports:

Estimate of Burden: Currently, local agencies are required to provide a monthly reporting household with adequate notice that its monthly report was late or incomplete and what action the household must take. In order to implement Pub. L. 103–225 the State agency must modify this notice for households residing on reservations. The burden associated with developing the special language for a notice for those residing on reservations is expected to be a one-time minimal burden. We expect that State agencies will automate the notice and eligibility workers will only have to send the notice with the special language to households residing on reservations which failed to submit a timely or complete report. The current reporting burden estimate includes the local agency requirement to provide monthly reporting households with a notice that its monthly report was late or incomplete and what action the household must take.

Respondents: Local agency food stamp eligibility workers.

Estimated Number of Respondents: 1,776,000 which is equal to the total monthly reporting caseload (16% of the total caseload), assuming there is one eligibility worker per monthly reporting household.

Estimated Number of Responses per Respondent: One notice for each late or incomplete monthly report each month.

Estimated Total Annual Burden on Respondents: 118,814 hours, based on 1,065,600 responses (5% of the 21,312,000 reports expected annually) at a rate of .1115 hours per response.

2. Adequate Notice: Local agencies are required to provide monthly reporting households with an Adequate Notice that its benefits will be increased, reduced or terminated due to

information contained in the households monthly report and the notice includes an explanation of the reason for such action and how the household can request a fair hearing to contest the action.

In order to implement Public Law 103–225, the State agency must modify the notice for households residing on reservations. Eligibility workers will only have to send the notice with the special language to households residing on reservations which fail to submit a timely or complete report. The current reporting burden estimate includes a local agency requirement to provide monthly reporting households with a notice. The burden associated with developing the special language for the notice for those residing on reservations is expected to be a one-time minimal burden. We expect that State agencies will automate generation and distribution of the notice when required.

Respondents: Local agency food stamp eligibility workers.

Estimated Number of Respondents: 1,776,000, based on an estimated 16% of the total caseload of 11,100,000 and assuming one eligibility worker per monthly reporting household.

Estimated Number of Responses per Respondent: One notice for each monthly reporting household that has a change in benefits.

Estimated Total Annual Burden on Respondents: 712,886 hours, based on 21,312,000 monthly reports expected annually. The estimate assumes that 30% of the households (6,393,600) will have a change in benefits. We assume that local agencies will generate this notice for these households at a rate of .1115 hours per response.

3. Model food stamp application (FCS–385):

Estimate of Burden: Public reporting burden includes household burden time to complete the application at initial application and recertification; to provide verification (usually from existing household documents); and to be interviewed by a caseworker, who may require the household to provide additional information. Pub. L. 103–225 requires that households residing on reservations be certified for two years. Therefore, these households will have to apply less often. However, we do not expect this to effect the current burden estimates for FCS–385 because the methodology used in developing the estimates takes into consideration increased or reduced application activity.

Respondents: Applicants for the Food Stamp Program.

Estimated Number of Respondents: 18,700,000 applicants for initial certification or recertification annually, as reported by State agencies on form FNS–366B, Program Activity Statement.

Estimated Number of Responses per Respondent: One annually, assuming one initial or one recertification application annually.

Estimated Total Annual Burden on Respondents: 4,282,300 hours, based on 18,700,000 responses at a rate of .2290 hours per response.

Combined Total Annual Burden: 5,114,000 hours for the notice of late and incomplete reports, adequate notice and application form.

Dated: August 8, 1996.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 96–21212 Filed 8–19–96; 8:45 am]

BILLING CODE 3410–30–U

Natural Resources Conservation Service

PCS–25 Highway 384 Hydrologic Restoration Project; Cameron Parish, Louisiana

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Highway 384 Hydrologic Restoration Project, Cameron Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Donald W. Gohmert, State Conservationist, Natural Resources Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302; telephone number (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of the 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, Donald W. Gohmert, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement is not needed for this project.

This project proposes to restore a hydrologic regime similar to historic conditions and in turn reduce wetland deterioration on approximately 1,125 acres of intermediate to brackish marsh in Cameron Parish, Louisiana. Project measures include the construction of flapgated culverts with variable-crested weirs, channel liner, armored plugs, flow-thru culverts, perimeter levee maintenance and shoreline vegetative plantings.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Donald W. Gohmert.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

Donald W. Gohmert,

State Conservationist.

[FR Doc. 96–21101 Filed 8–19–96; 8:45 am]

BILLING CODE 3410–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition

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

ACTION: Addition to the procurement list.

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

EFFECTIVE DATE: September 19, 1996.

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

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

SUPPLEMENTARY INFORMATION: On May 24, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (61 FR 26167) of proposed addition to the Procurement List.

Comments were received from the current contractor for these flags and from two Members of Congress. The contractor claimed that addition to the Procurement List of another 20 percent

of the Department of Veterans Affairs (VA) requirement for interment flags would have a severe adverse impact on the company, and submitted the report of a financial expert to support that conclusion. The contractor also claimed that the Committee's method of assessing impact is insupportable because it ignores many factors which the contractor claims should be considered.

The contractor stated that it has suffered significant losses since the Committee added a portion of the VA requirement for interment flags to the Procurement List in 1993. The contractor claimed that it had been adversely impacted by previous Committee actions involving code signal flags, and that the new addition of interment flags would severely impact the company's employees because a significant number would immediately lose their jobs as a result of the Committee's actions and all would eventually be unemployed if the company failed. Using documents obtained through the Freedom of Information Act (FOIA), the contractor claimed that the Committee had abrogated its responsibility to make the contractor impact determination by allowing the central nonprofit agency (NISH) to participate substantially in the determination.

The contractor claimed that the nonprofit agencies do not meet the Committee's regulatory requirements as they are not performing the required percentage of the labor necessary to make the flags. The contractor also claimed that even if the Committee's ''ludicrous'' interpretation of the direct labor requirement is correct, the nonprofit agencies are not meeting the requirement. The contractor also claimed that the nonprofit agencies' requests for specification waivers prove that the nonprofit agencies are incapable of making the flags.

The contractor further claimed that the relationship of one of the nonprofit agencies with a for-profit flag manufacturer shows that the previous addition of a part of the VA requirement was little more than a diversion of that part from the contractor to one of its competitors. The contractor submitted documents obtained under FOIA which it claimed substantiated its case.

In conclusion, the contractor claimed that the Committee's 1993 decision to add 20 percent of the VA requirement for the interment flag to the Procurement List was based upon improper input from a central nonprofit agency with a financial interest in the proceeding. The contractor also claimed that Committee members have been unfairly maligning the company by stating that VA is unsatisfied with the quality of the interment flags the contractor has provided.

The contractor was permitted to address the Committee at a meeting held soon after the close of the comment period for the addition proposal to elaborate on issues raised in the comments the contractor had submitted. In a followup letter after this presentation, the contractor raised two additional issues. The contractor claimed that if the additional interment flag requirement is added to the Procurement List, the total impact of the Committee's Javits-Wagner-O'Day (JWOD) Program on the contractor would represent five percent of the total portion of JWOD Program sales of commodities by nonprofit agencies represented by NISH. The contractor also indicated that the impact of the previous interment flag addition on the contractor had not yet occurred, but soon would as VA purchases declined, and the impact would be magnified by the 1996 addition.

The two Members of Congress, writing jointly, expressed concern over possible loss of jobs by the contractor's employees and the effects of this loss on the region where the contractor's plant is located. They also asked the Committee to consider alternatives to adding the additional interment flag requirement to the Procurement List.

The Committee retained its own financial expert to review the contractor's expert's report and assist the Committee in analyzing the impact claims made by the contractor. Our expert's report refutes the contentions of the contractor and its expert that the addition of an additional 20 percent of the VA requirement for interment flags to the Procurement List will have a severe adverse impact on the contractor. Our expert concluded that the contractor appears to have sufficient cash, capital and management expertise to withstand a decrease in annual sales in the range which the total impact of the Committee's actions would cause without a resulting severe adverse impact. The percentage decline in the contractor's sales which our expert predicted is well below the level which the Committee normally considers to be severe adverse impact, and below the level which a court decision found not to be severe adverse impact.

The contractor's gross profits, in fact, have increased substantially since 1989. The one year in which the contractor's financial statements show a loss, 1993, was a year in which the nonprofit agencies produced almost no flags, as they received their first contract late in the year and their production was delayed by startup difficulties. The loss occurred because of a reduction in the contractor's bid price for the flag contract, a failure by the contractor to decrease its allocation for fixed costs in proportion to its declining sales volume, and because the family who owned the business took a large amount out of it for executive salaries and other expenses. In this regard, it should be noted that even the contractor's financial expert recommended that the company reduce its executive salaries.

The contractor has attempted to explain the fact that its sales have not declined despite the Committee's 1993 action in adding 20 percent of the VA interment flag requirement by stating that the VA's flag requirements will soon decline precipitously, as VA uses up the high number of flags it has bought in recent years. Information provided to the Committee by VA, however, demonstrates that VA flag requirements will not decline, but will increase through at least 2005 to meet the expected veteran mortality during that period. Accordingly, any impact which the addition of a second 20 percent of the VA interment flag requirement to the Procurement List might have will be somewhat mitigated by the rising interment flag market.

The contractor's expert contended that the contractor's financial position after the 1993 addition had become marginal, and that the second addition would so threaten the viability of the company that its auditors would likely issue a ''going concern'' opinion to warn of the likely failure of the company. Our expert's review of the contractor's financial statements indicated, however, that such an opinion could not be issued because the contractor's cash and accounts receivable were in such good condition that the projected sales loss was not critical, and the likelihood of the contractor going out of business was very small. Consequently, the possibility of extensive layoffs by the contractor, affecting both the employees involved and the economy of the region, is unlikely.

Our expert also rejected the contractor's contention that the Committee's method of assessing contractor impact is simplistic. Because of its contention that a proper assessment of impact required the Committee to examine ten specific factors enumerated in the contractor's comments, the Committee permitted the contractor to submit additional information on these factors as they related to the contractor's financial position, and this information was reviewed. However, as our expert noted,

many of the problems the contractor has experienced were due to management decisions, which no method of impact analysis could anticipate. Consequently, the Committee, and its expert, believe that the Committee's current method of assessing impact, which focuses on percentage of contractor sales represented by a proposed Procurement List addition and recent previous additions, as well as review of other information submitted by the contractor, is an appropriate one which the Committee should continue to use.

The code signal flags which the contractor claimed were impacting its sales have been on the Procurement List, in some cases, since 1973. The contractor brought this supposed continuing impact to the Committee's attention late last year. The Committee investigated and determined that the nonprofit agency was experiencing difficulties in supplying the Government, which had caused the Government to procure its requirements for these flags from commercial sources, including the commenting contractor. Because of this situation, the code signal flags were removed from the Procurement List in June 1996. Accordingly, the Committee does not consider the code signal flags to have any impact on the contractor at this time or in the future.

The Committee also examined the contractor's contention that it has suffered or will suffer the impact of losing commodities equal to five percent of NISH's commodities sales under the JWOD Program. NISH's nonprofit agencies, however, produce a fairly small portion of the commodities in the JWOD Program, as these nonprofit agencies mainly furnish services to the Government. The percentage of overall JWOD Program commodity sales which items lost by the contractor represent is less than 2 percent. The Committee does not believe this is a disproportionate amount for a company to experience, particularly one that is as dominant in its industry as the contractor.

For all these reasons, including those set forth in more detail in our expert's report, the Committee has concluded that addition of a second 20 percent of the VA requirement for interment flags to the Procurement List is not likely to have a severe adverse impact on the contractor. In reaching this conclusion, the Committee has also taken into account the contractor's long history as a supplier of interment flags to the VA and its resulting dependency on contracts for the flag.

The contractor's contention that the Committee abrogated its responsibility for making the contractor impact determination on this addition to the Procurement List is based on documents in which NISH expressed its opinion on the impact. The determination, however, is made by the Committee as part of the decision to add the interment flag requirement to the Procurement List, and no special weight is given to opinions contained in information supplied by NISH or any other party who is required or permitted to submit information to the Committee in connection with a Procurement List addition. Because the structure of the JWOD Program requires the Committee to rely on NISH and NIB to submit much of the information used in making Procurement List addition decisions, the Committee has established procedures to specify and control what information they must submit before the Committee can begin the rulemaking process which leads to a Procurement List addition. The Committee is aware of the financial interest which NISH has in the outcome of the Committee's decision, but does not believe that interest prejudices the information NISH submits or influences the Committee's addition decisions.

The contractor's claim that the nonprofit agencies do not meet the statutory direct labor requirement is based on an argument that the JWOD Act requires nonprofit agencies to use people with severe disabilities to perform 75 percent of the direct labor involved in all aspects of producing the flag. The statutory requirement, however, is that 75 percent of all direct labor performed by employees of nonprofit agencies participating in the JWOD Program, including direct labor on commodities and services outside the JWOD Program, must be performed by people with severe disabilities. 41 U.S.C. § 48b(4)(C). There is no requirement that 75 percent of the total production process be performed by people with severe disabilities. The Committee's interpretation of the statutory requirement, far from being ''ludicrous,'' has been confirmed by a court decision known to the contractor. At the present time, all three nonprofit agencies are in compliance with this requirement.

The nonprofit agencies experienced some difficulties in gearing up for full production of the flags in 1993. During that period, and in response to VA requests for suggestions to improve manufacturing efficiency and reduce costs, the nonprofit agencies submitted three requests for waiver of specification requirements, two of which were granted. After production began on the JWOD share of the 1993 VA flag requirement, two more requests were made, both of which were granted by VA. No waiver requests have been made in connection with the current JWOD share of the VA flag requirement. During this initial period, the failure of a fabric supplier to provide conforming material in a timely manner caused the nonprofit agencies to miss some delivery deadlines. Since the startup period, the nonprofit agencies have experienced no significant quality or delivery problems in producing the flags. Accordingly, the Committee does not believe that the events just described affect the current capability of the nonprofit agencies to produce the portion of the VA interment flag requirement being added to the Procurement List.

One of the nonprofit agencies has long had a relationship with the commercial flag manufacturer identified by the contractor as a competitor, and the three nonprofit agencies did contract with that manufacturer for technical support, procurement of star fields, and production of stripe subassemblies during the startup phase of JWOD flag production. At that time, the contractor was given an opportunity to submit a bid for the star fields and stripe subassemblies, but declined to do so. The technical support contract ended in 1994, and since September 1994 only one nonprofit agency has continued buying stripe subassemblies from the commercial manufacturer. In the future, the nonprofit agency will produce the subassemblies in house. These stripe subassemblies represent only ten percent of the cost of a finished flag. Subcontracting at this level is within Committee guidelines. The Committee does not believe that this relationship has constituted an improper diversion of the JWOD share of the VA flag requirement to a commercial producer, nor does it agree that the relationship is a reason the additional flag requirement should not be added to the Procurement List.

To the Committee's knowledge, no Committee member during the current rulemaking procedure has maligned the contractor's ability to produce flags acceptable to VA. The rulemaking record for the 1993 addition and subsequent reconsideration does contain a July 1993 letter from VA to a Senator noting deficiencies in interment flags produced by the contractor. On the other hand, the contractor has furnished the Committee statements from VA employees indicating satisfaction with the contractor's product. VA has told the Committee only that it will continue to seek other sources for the flags. In any case, the quality of a competing commercial contractor's product is not a factor which the Committee considers in making a decision that a Government

supply requirement is suitable for production by nonprofit agencies employing people who are blind or have other severe disabilities.

The concern expressed by the two Members of Congress for the economic impact on a region of their State is based on taking at face value the contractor's claim that the Committee's action will cause the contractor to lay off a sizeable number of its employees. As discussed above, the Committee does not believe this will occur, or if it does, it will occur because of management decisions made by the contractor and not because of the Committee's actions. The alternatives the Congressmen suggested are the proposals the contractor made in 1993 and 1996 to provide work for people with severe disabilities if the Committee would decline to add the proposed VA flag requirements to the Procurement List. The Committee devoted considerable time and analysis to each of these proposals, and rejected them only because they had insurmountable flaws. In 1993, the contractor's proposal would have required a specification change which VA had stated it would not accept. In 1996, the proposal originally guaranteed to the nonprofit agencies a multiple of the number of jobs the 1993 addition was projected to create. The 1993 addition actually created nearly three times the number of jobs projected for people with severe disabilities. The Committee considered it improbable that the contractor could afford to guarantee subcontracting opportunities that would create three times this larger number of jobs for people with severe disabilities. This opinion reflected the Committee's knowledge that VA was seeking other contractors for the flags and that the contractor would have no guarantee of recapturing all of the interment flag business when it was procured on a competitive basis. In addition, accepting the 1996 proposal would have forced the nonprofit agencies to sacrifice work they had successfully geared up to do, and which had proven to create many jobs, in return for erratic and unspecified work as subcontractors to the commenting contractor.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

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

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

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

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

Accordingly, the following commodity is hereby added to the Procurement List:

Flag, National, Interment
8345–00–656–1432
(Additional 20% of the Government's requirement)

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

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–21218 Filed 8–19–96; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Current Population Survey—Annual Demographic Survey for March 1997; Proposed Agency Information Collection Activity; Comment Request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 21, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and survey procedures should be directed to Oscar Perez, Bureau of the Census, FOB 3, Room 3340, Washington, DC 20233–8400, (301) 457–3806.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau will conduct the Annual Demographic Survey (ADS) in conjunction with the March 1997 Current Population Survey (CPS). The Census Bureau has conducted this supplement annually for 50 years. The Census Bureau, the Bureau of Labor Statistics, and the Department of Health and Human Services sponsor this supplement.

The work experience items in the ADS provide a unique measure of the dynamic nature of the labor force as viewed over a one-year period. These items produce statistics that show movements in and out of the labor force by measuring the number of periods of unemployment experienced by persons, the number of different employers worked for during the year, the principal reasons for unemployment, and part-/full-time attachment to the labor force. We can make indirect measurements of discouraged workers and others with a casual attachment to the labor market.

The income data from the ADS are used by social planners, economists, Government officials, and market researchers to gauge the economic well-being of the Nation as a whole, and selected population groups of interest. Government planners and researchers use these data to monitor and evaluate the effectiveness of various assistance programs. Market researchers use these data to identify and isolate potential customers. Social planners use these data to forecast economic conditions and to identify special groups that seem to be especially sensitive to economic fluctuations. Economists use March data to determine the effects of various economic forces, such as inflation, recession, recovery, etc., and their differential effects on various population groups.

A prime statistic of interest is the classification of persons as being in poverty and how this measurement has changed over time for various groups. Researchers evaluate March income data for not only to determine poverty levels, but also to determine whether Government programs are reaching eligible households.

II. Method of Collection

The March 1997 supplement instrument will consist of the same items that were included in the March 1996 instrument, with the following changes:

A. We are making minor wording changes in some items. For example:

• We will no longer ask respondents to ''report'' income amounts; instead, we will ask them to ''tell us'' those amounts. According to interviewers, respondents felt offended by the word ''report.''

B. We added internal check items so that questions are asked only when appropriate. For example:

• In Items Q49a through Q49b3, we will no longer ask persons to tell us their business or farm income without determining first if they are a farm or business owner.

• Households that consist of adults who were never married will be screened out of the alimony questions.

C. In some periodicity items, we limited the categories to monthly, quarterly, and yearly. Also, we changed any coding within a series to reflect the new periodicity categories. We did this where no other period was selected in last year's survey.

III. Data

OMB Number: 0607–0354.

Form Number: None. We conduct all interviewing on computers.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 52,000 per month.

Estimated Time Per Response: 25 minutes.

Estimated Total Annual Burden Hours: 21,666.

Estimated Total Annual Cost: $2,000,000.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182; and Title 29, United States Code, Section 1–9 authorize the collection of the ADS.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection 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: August 13, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–21094 Filed 8–19–96; 8:45 am]

BILLING CODE 3510–07–M

[Docket No. 960529150–6217–02]

RIN 0607–XX15

Survey of Environmental Products and Services

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of Determination.

SUMMARY: Notice is hereby given that the Bureau of the Census is conducting the Survey of Environmental Products and Services for the year 1995 under the authority of Title 13, United States Code, Sections 131, 193, 224 and 225. On the basis of information and recommendations received by the Bureau of the Census and other agencies, the data have significant application to the needs of the public and industry. Data will include employment and wages of environmental business, shipments of goods and receipts for service for environmental purposes, and value of exports of environmental goods and services.

FOR FURTHER INFORMATION CONTACT: Elinor Champion, Chief, Environmental, Technical and Innovation Branch, Manufacturing and Construction Division (301) 457–4683.

SUPPLEMENTARY INFORMATION: The primary users of these data will be numerous Government agencies, including the Bureau of the Census, Environmental Protection Agency, and the International Trade Administration. Other users include business firms, academics, trade associations, and research and consulting organizations. The data will be used to measure and analyze the environmental industry and serve as a tool to promote international trade of environmental goods. The information to be developed from this survey is necessary for comprehensive and detailed measurement of environmental goods and services. The data collected in this survey will be within the general scope and nature of those inquiries covered by the economic census.

The Bureau of the Census will select a sample of manufacturers that produce products for environmental use and service and construction companies that provide environmental services. We will mail report forms to firms selected for the survey and require response in 30 days.

This survey has been approved by the Office of Management and Budget (OMB Control Number 0607–0824) in accordance with the Paperwork Reduction Act, Public Law 104–13. We will provide copies of the forms upon written request to the Director, Bureau of the Census, Washington, DC 20233.

Based on the foregoing determination, I have directed that this survey be conducted for the purpose of collecting these data.

Dated: August 8, 1996.

Martha Farnsworth Riche,

Director, Bureau of the Census.

[FR Doc. 96–21161 Filed 8–19–96; 8:45 am]

BILLING CODE 3510–07–P

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China, Extension of Time Limits of Antidumping Duty Administrative Review

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

ACTION: Notice of Extension of Time Limits of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for preliminary results in the administrative review of the antidumping order on fresh garlic from the People's Republic of China (PRC), covering the period July 11, 1994 through October 31, 1995, because it is not practicable to complete the review within the time limits mandated by the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) (the Act).

EFFECTIVE DATE: August 20, 1996.

FOR FURTHER INFORMATION CONTACT: Kris Campbell or Andrea Chu, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Department received requests to conduct an administrative review of the antidumping order on fresh garlic from the PRC. On August 16, 1995, the Department published a notice of initiation of this administrative review covering the period July 11, 1994, through October 31, 1995. The Department adjusted the time limits by 28 days due to the government shutdowns, which lasted from November 14, 1995, to November 20, 1995, and from December 15, 1995, to January 6, 1996. *See* Memorandum to the file from Susan G. Esserman, Assistant Secretary for Import Administration, January 11, 1996. As adjusted, the current time limits are August 23, 1996, for the preliminary results and December 23, 1996, for the final results.

It is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to December 23, 1996. See memorandum to Susan Kuhbach entitled *''Extension of time limit for 1994–95 antidumping duty administrative review of fresh garlic from the People's Republic of China.''* The final results will be due 120 days from the publication of the preliminary results.

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 353.34 (b).

These extensions are in accordance with section 751(a)(3)(A) of the Act.

Dated: August 12, 1996.

Susan Kuhbach,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 96–21205 Filed 8–19–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–533–810]

Stainless Steel Bar From India; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results in the administrative review of the antidumping duty order on stainless steel bar from India, covering the period August 4, 1994, through January 31, 1996, since it is not practicable to complete the review within the time limits mandated by the Tariff Act of 1930, as amended, section 751(a)(3)(A).

EFFECTIVE DATE: August 20, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Yeske or Vince Kane, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0189 or 482–2815, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On February 29, 1996, the Department received a request to conduct an administrative review of the antidumping duty order on stainless steel bar from India. On March 19, 1996, the Department published in the Federal Register a notice of initiation of an administrative review of Isibars, an exporter of stainless steel bar to the United States, covering the period August 4, 1994, through January 31, 1996 (61 FR 11184). In our notice of initiation, we stated that we intended to issue the final results of this review no later than February 28, 1997.

Postponement of Preliminary Results of Review

Section 751(a)(3)(A) of the Act requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to issue the preliminary results in 245 days, section 751(a)(3)(A) allows the Department to extend this time period to 365 days.

Because this review was recently transferred between offices, and it is the first review of this antidumping duty order under the new law, we determine that it is not practicable to issue the preliminary results within 245 days. Accordingly, the deadline for issuing the preliminary results of this review is now no later than February 28, 1997. The deadline for issuing the final results of this review will be 120 days from the publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: August 14, 1996.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 96–21206 Filed 8–19–96; 8:45 am]

BILLING CODE 3510–DS–P

U.S. Automotive Parts Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Closed meeting of U.S. Automotive Parts Advisory Committee.

SUMMARY: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) Reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultations with the Government of Japan on these issues; and (5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales to Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will discuss specific trade and sales expansion programs related to U.S.-Japan automotive parts policy.

DATE AND LOCATION: The meeting will be held on September 6, 1996 from 10:00 a.m. to 3:00 p.m. at the U.S. Department of Commerce in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, Office of Automotive Affairs, Trade Development, Room 4036, Washington, DC. 20230, telephone: (202) 482–1418.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on August 5, 1996, pursuant to Section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any

subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: August 13, 1996.

Albert Warner,

Acting Director, Office of Automotive Affairs.

[FR Doc. 96–21195 Filed 8–19–96; 8:45 am]

BILLING CODE 3510–DR–P

Minority Business Development Agency

Notice; Solicitation of Business Development Center Applications for Hampton Roads

AGENCY: Minority Business Development Agency, Commerce.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate the Hampton Roads Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development assistance to persons who are members of groups determined by MBDA to be socially or economically disadvantaged, and to business concerns owned and controlled by such individuals. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The award number of the MBDC will be 03–10–97003–01.

DATES: The closing date for applications is September 24, 1996. Applications must be received in the MBDA Headquarters' Executive Secretariat on or before September 24, 1996. A pre-application conference will be held. For the exact date, time, and location, contact the New York Regional Office, at (212) 264–3262. Proper identification is required for entrance into any Federal Building.

ADDRESSES: Completed application packages must be submitted to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th and Constitution Avenue, N.W., Room 5073, Washington, D.C. 20230, Telephone Number: (202) 482–3763.

FOR FURTHER INFORMATION AND AN APPLICATION PACKAGE, CONTACT: Heyward Davenport, Regional Director, at (212) 264–3262.

SUPPLEMENTARY INFORMATION: In accordance with the Interim Final Policy published in the Federal Register on May 31, 1996, the cost-share requirement for the MBDCs listed in this notice has been increased to 40%. The Department of Commerce will fund up to 60% of the total cost of operating an MBDC on an annual basis. The MBDC operator is required to contribute at least 40% of the total project cost (the ''cost-share requirement'').

Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof. In addition to the traditional sources of an MBDC's cost-share contribution, the 40% may be contributed by local, state and private sector organizations. It is anticipated that some organizations may apply jointly for an award to operate the center. For administrative purposes, one organization must be designated as the recipient organization.

Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from December 1, 1996 to December 31, 1997, is estimated at $314,778. The total Federal amount is $188,867 and is composed of $184,260 plus the Audit Fee amount of $4,607. The application must include a minimum cost share of 40%, $125,911 in non-federal (cost-sharing) contributions for a total project cost of $314,778.

The funding instrument for this project will be a cooperative agreement. If the recommended applicant is the current incumbent organization, the award will be for 12 months. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). In accordance with Interim Final Policy published in the Federal Register on May 31, 1996, the scoring system will be revised to add ten (10) bonus points to the application of community-based organizations. Each qualifying application will receive the full ten points. Community-based applicant organizations are those organizations whose headquarters and/or principal place of business within the last five years have been located within the geographic service area designated in the solicitation for the award. Where an applicant organization has been in existence for fewer than five years or has been present in the geographic service area for fewer than five years, the individual years of experience of the applicant organization's principals may be applied toward the requirement of five years of organization experience. The individual years of experience must have been acquired in the geographic service area which is the subject of the solicitation. An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 40% of the total project cost through non-federal contributions. To assist in this effort, the MBDC may charge client fees for

services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. 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 PRA, unless that collection of information displays a currently valid OMB Control Number. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.''

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, Section 26.105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR Part 26, Section 26.605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, Section 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program.

11.800 Minority Business Development Center

(Catalog of Federal Domestic Assistance)

Dated: August 15, 1996.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 96–21215 Filed 8–19–96; 8:45 am]

BILLING CODE 3510–21–P

Notice; Solicitation of Native American Business Development Center Applications for Arizona and California

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate the Native American Business Development Centers (NABDC) listed in this document.

The purpose of the NABDC is to provide integrated business development services to Native American entrepreneurs.

DATES: The closing date for applications is September 24, 1996. Applications MUST be received on or before September 24, 1996. Anticipated processing time of this award is 120 days.

PRE-APPLICATION CONFERENCE: A pre-application conference will be held. For the exact date, time, and location, contact the San Francisco Regional Office at (415) 744–3001.

Proper Identification is Required for Entrance Into any Federal Building.

ADDRESSES: Completed application packages MUST be submitted to the U.S. Department of Commerce, Minority Business Development Agency, MBDA Executive Secretariat, 14th & Constitution Avenue, NW., Room 5073,

Washington, DC 20230, Telephone Number: (202) 482–3763.

FOR FURTHER INFORMATION AND AN APPLICATION PACKAGE, CONTACT: Melda Cabrera, Regional Director, at (415) 744–3001.

SUPPLEMENTARY INFORMATION: The following are NABDCs for which applications are solicited:

1. *NABDC Application:* Arizona
   Metropolitan Area Serviced: State of Arizona
   Award Number: 09–10–97007–01
   Cost of Performance Information: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from December 1, 1996 to December 31, 1997, is estimated at $197,825. The total Federal amount is $197,825 and is composed of $193,000 plus the Audit Fee amount of $4,825.
2. *NABDC Application:* California
   Metropolitan Area Serviced: State of California
   Award Number: 09–10–97008–01
   Cost of Performance Information: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from December 1, 1996 to December 31, 1997, is estimated at $310,575. The total Federal amount is $310,575 and is composed of $303,000 plus the Audit Fee amount of $7,575.

Standard Paragraphs—The Following Information and Requirements Are Applicable to the Arizona and California NABDCs

The funding instrument for this project will be a cooperative agreement. If the recommended applicant is the current incumbent organization, the award will be for 12 months. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions. Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of Native American businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points).

An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for funding. The applicant with the highest point score will not necessarily receive the award.

If an application is selected for funding, MBDA has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of MBDA.

Executive order 12372, ''Intergovernmental Review of Federal Programs,'' is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address.

Pre-Award Activities—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at the risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award activities.

Recipients and subrecipients are subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Delinquent Federal Debts—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the NABDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.''

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug-Free Workplace—Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial

transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Indirect Costs—The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100% of the total proposed direct costs dollar amount in the application, whichever is less.

Buy American-Made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

11.801 Native American Program

(Catalog of Federal Domestic Assistance)

Dated: August 15, 1996.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 96–21214 Filed 8–19–96; 8:45 am]

BILLING CODE 3510–21M–U

National Oceanic and Atmospheric Administration

Application for Commission Into the NOAA Commissioned Corps

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 21, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, 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 Lieutenant (jg) Michele Riley at (301) 713–3470, extension 123.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection form is used to initiate applications to obtain a commission into NOAA's Commissioned Corps.

II. Method of Collection

Applicants submit a form.

III. Data

OMB Number: 0648–0047.
Form Number: NOAA Form 56–42.
Type of Review: Regular Submission.
Affected Public: Individuals.
Estimated Number of Respondents: 100 annually.
Estimated Time Per Response: 2 hours per application form, 10 minutes per reference.
Estimated Total Annual Burden Hours: 280 hours.
Estimated Total Annual Cost to Public: $0 (Respondents will not need to purchase equipment to respond to this request).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 14, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–21204 Filed 8–19–96; 8:45 a.m.]

BILLING CODE 3510–12–P

Monterey Bay National Marine Sanctuary Advisory Council Meeting

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.

ACTION: Monterey Bay National Marine Sanctuary Advisory Council Open Meeting.

SUMMARY: The Advisory Council was established in December 1993 to advise NOAA's Sanctuaries and Reserves Division regarding the management of the Monterey Bay National Marine Sanctuary. The Advisory Council was convened under the National Marine Sanctuaries Act.

TIME AND PLACE: Friday, August 23, 1996 from 9 until 4 at the Holiday Inn, Coast Room, 611 Ocean Avenue, Santa Cruz, California.

AGENDA: General issues related to the Monterey Bay National Marine Sanctuary are expected to be discussed, including an update from the Sanctuary Manager; reports from the working groups; a presentation on the future of desalination plants in the Sanctuary; reviews of the Monterey Bay Area Volunteer Directory and the 1995 Annual Report of the Advisory Council; and a discussion of the Santa Cruz Wharf Project.

Public Participation

The meeting will be open to the public. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Jane Delay at (408) 647–4246 or Elizabeth Moore at (301) 713–3141.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: August 15, 1996.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 96–21217 Filed 8–19–96; 8:45 am]

BILLING CODE 3510–08–M

[I.D. 081396B]

Endangered Species; Permits

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

ACTION: Notice of a public meeting on an application for an incidental take permit (P211K).

SUMMARY: Notice is hereby given that a public meeting on an application from the Oregon Department of Fish and Wildlife (ODFW) for an incidental take permit will take place.

DATES: The public meeting is scheduled for August 26, 1996 from 6:30 p.m. - 9:30 p.m., or until all comments have been heard. The comment period for the permit application ends on September 6, 1996 and will allow concerned parties to respond to the testimony presented at the public meeting.

ADDRESSES: The public meeting will be held at the Douglas County Courthouse (Room 216), 1036 SE Douglas Avenue, Roseburg, Oregon. The permit application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Send written comments to the Chief, Endangered Species Division, Office of Protected Resources at the address above.

Special Accommodations

The meeting will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Keren Holtz at (503) 230–5424 at least five days prior to the date of the meeting.

SUPPLEMENTARY INFORMATION: Notice was published on August 7, 1996 (61 FR 41130) that an application had been filed by ODFW (P211K) for an incidental take permit under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227). ODFW requests a permit for an annual incidental take of resident, fluvial, and anadromous, endangered, Umpqua River cutthroat trout (*Oncorhynchus clarki clarki*) associated with the state of Oregon's recreational and commercial fisheries in the Umpqua River Basin. ODFW is charged by statute with the management and protection of the fish and wildlife resources of the State. An individual incidental take permit is requested since ODFW is responsible for establishing the State's fishing regulations and controls fishing activities by issuing licenses to citizens.

ESA-listed cutthroat trout could be exposed to various fisheries in the Umpqua River Basin. The actual probability of incidental take varies among the fisheries. Those species that may be present and fished for in the Umpqua River Basin include spring chinook salmon, fall chinook salmon, coho salmon, summer and winter steelhead trout, hatchery rainbow trout, smallmouth bass, striped bass, shad, and white and green sturgeon.

ODFW included a conservation plan in their permit application that includes measures designed to minimize the incidental take of ESA-listed cutthroat trout. One such measure is the termination of hatchery rainbow trout releases in areas of the North and South Umpqua Rivers and, beginning in 1997, closing all remaining trout angling in the Umpqua River Basin, except the North Umpqua River above Soda Springs Dam. Other conservation measures include closing spawning habitat to fishing, maintaining beneficial time and area closures, periodic monitoring and evaluation programs, regulation enforcement, scientific research, recovery planning, and public education.

Anyone wishing to make a presentation at the public meeting should register upon arrival and be prepared to provide a written copy of their testimony at the time of presentation. Depending on the number of persons wishing to speak, a time limit may be imposed. All statements and opinions summarized in this notice are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: August 14, 1996.

Robert C. Ziobro,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–21134 Filed 8–19–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 080896A]

Marine Mammals; Permit No. 966 (P586)

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

ACTION: Issuance of amendment.

SUMMARY: Notice is hereby given that permit no. 966, issued to Continental Shelf Associates, Inc., 759 Parkway Street, Jupiter, FL 33477–9596 (Principal Investigator: Stephen T. Viada) was extended until October 31, 1997.

ADDRESSES: The amendment 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 (301/712–2289);

Southeast Region, NMFS, 9721 Executive Center Drive, North, St. Petersburg, FL 33702–2532 (813/570–5301); and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298 (508/281–9250).

SUPPLEMENTARY INFORMATION: The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), 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), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–222).

Issuance of this permit as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: August 8, 1996.

Jeannie Drevenak,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–21203 Filed 8–19–96; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF ENERGY

[Dockets EA–98–B and EA–98–C]

Applications to Amend Electricity Export Authorization; Western Systems Power Pool

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Western Systems Power Pool (''WSPP'') has filed an application to renew the electricity export authorization issued September 2, 1994, in Order EA–98. WSPP's authorization to export electric energy to Canada will expire on September 2, 1996. In a separate filing, WSPP has applied to amend its export authorization by adding 10 additional member companies.

DATES: Comments, protests or requests to intervene must be submitted on or before September 4, 1996.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE–52), Office of Fuels Programs, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202–586–4708 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On September 2, 1994, in Docket EA–98, the Office of Fossil Energy (FE) of the Department of Energy (DOE) authorized 22 members of the WSPP to export electric energy to a foreign member, British Columbia Hydro and Power Authority (BC Hydro), and other future Canadian members. The facilities to be utilized for these exports are the international transmission facilities owned and operated by the Bonneville Power Administration (BPA), also a WSPP member. The facilities consist of two 500-kV transmission lines at Blaine, Washington, and one 230-kV transmission line at Nelway, British Columbia, that interconnect with facilities of BC Hydro, and one 230-kV line, also at Nelway, connecting to West Kootenay Power, Limited. The construction and operation of these international transmission facilities was previously authorized by Presidential Permits PP–10, PP–46, and PP–36, respectively.

On March 4, 1996, in Order EA–98–A, DOE amended the export authorization by adding 10 new member companies to the list of authorized electricity exporters.

On July 8, 1996, WSPP, on behalf of its member companies, submitted an application to renew the export authorization issued September 2, 1996, for an additional period. In a related activity, on July 12, 1996, WSPP, again on behalf of its member companies, submitted an application to further amend the export authorization by adding 10 new member companies to the list of authorized electricity exporters.

The new members are:

Aquila Power Corporation
Citizens Lehman Power Sales
CNG Power Service Corporation
Destec Power Services, Inc.
Electric Clearinghouse, Inc.
K N Marketing Inc.
PECO Energy Company
Philbro Inc.
Southern Energy Marketing, Inc.
Tenneco Energy Marketing Company

Procedural Matters

Any persons desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Comments on WSPP's request to extend the effective date of the export authorization in Order EA–98 should be clearly marked with Docket No. EA–98–B. Comments on WSPP's request to add new members should be clearly marked with Docket No. EA–98–C. Additional copies of such petitions to intervene or protest also should be submitted to Michael E. Small, Wright & Talisman, P.C., 1200 G Street, Suite 600, Washington, D.C. 20005.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on August 14, 1996.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 96–21150 Filed 8–19–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP96–702–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

August 14, 1996.

Take notice that on August 9, 1996, Florida Gas Transmission Company (FGT), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP96–702–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct, own, and operate a new delivery point in Indian River County, Florida for City Gas Company of Florida (CGC) under FGT's blanket certificate issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT proposes to construct the delivery point adjacent to FGT's 20-inch and 26-inch mainlines and will include connection to the existing taps, a rotary meter, approximately 100 feet of 4-inch line, and any related appurtenant facilities necessary for FGT to deliver up to 144 MMBtu per hour to CGC.

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 shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn

within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–21113 Filed 8–19–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–74–005]

Power Source L.L.C.; Notice of Succession

August 13, 1996.

On July 30, 1996, Power Source L.L.C. filed a notice of succession changing its name from Mesquite Energy Services Inc. to Power Source L.L.C.

Any person who wishes 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. A motion or protest must be filed within 15 days after the date of publication of this notice and must be served on the applicant. 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. A person who wishes to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–21152 Filed 8–19–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–698–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

August 14, 1996.

Take notice that on August 7, 1996, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP96–698–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install a new delivery point on its system for natural gas service for Natural Gas of Kentucky, Inc. (NGK) at approximate Mile Post 868–1+17.62 in Barren County, Kentucky under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

The location of the proposed new delivery point is at Tennessee's existing inactive receipt meter No.1–1833 (installed under Tennessee's blanket certificate and placed in service in December 1986). Tennessee will remove and abandon, pursuant to Section 157.216(a) of the Commission's Regulations (18 CFR 157.216(a)) and its blanket certificate, the existing interconnecting piping and meter. Tennessee will install electronic gas measurement equipment and will inspect NGK's installation of approximately twenty-five feet of 2-inch interconnecting piping, 1-inch upstream pressure regulation and the measurement facilities. Tennessee states that NGK will reimburse Tennessee approximately $9,020 for this project.

Tennessee states that it has sufficient capacity to accomplish deliveries at the proposed new point without detriment or disadvantage to its other customers.

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 shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–21114 Filed 8–19–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EC96–27–000, et al.]

Citizens Lehman Power Sales, et al.; Electric Rate and Corporate Regulation Filings

August 13, 1996.

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

1. Citizens Lehman Power Sales

[Docket No. EC96–27–000]

Take notice that on July 12, 1996, as supplemented on August 8, 1996, Citizens Lehman Power Sales filed an application for an order authorizing the proposed acquisition of Citizens Lehman Power L.P.'s 75% equity interest in CL Power Sales Two, L.L.C. CL Sales will acquire the interest pursuant to an internal restructuring.

Comment date: August 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Enron Power Marketing, Inc.

[Docket No. ER94–24–013]

Take notice that on July 24, 1996, Enron Power Marketing, Inc. tendered for filing a Notice of Change in Status in the above-referenced docket.

3. Boston Edison Company

[Docket No. ER96–2497–000]

Take notice that on July 22, 1996, Boston Edison Company (Boston Edison) tendered for filing executed versions of the unexecuted revisions of contracts between Boston Edison and various Massachusetts municipal electric systems for entitlements from Boston Edison's Pilgrim nuclear power plant. The executed versions are identical to the unexecuted versions except for filing in Docket No. ER96–1749–000, except for the execution date and signatures. The filing has no effect on the rates, terms or conditions of service. Boston Edison requests that these contracts be treated as substitutes with the same effective date (July 2, 1996) as the previously-filed unexecuted versions.

Boston Edison states that it has served copies of this filing upon the affected customers and the Massachusetts Department of Public Utilities.

Comment date: August 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Company

[Docket No. ER96–2499–000]

Take notice that Northeast Utilities Service Company (NUSCO) on July 23, 1996, tendered for filing a Service Agreement with Central Hudson Gas & Electric (CHG&E) under the NU System Companies' Sale for Resale Market-Based Rates Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to CHG&E.

NUSCO requests that the Service Agreement become effective June 24, 1996.

Comment date: August 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Midwest Energy, Inc.

[Docket No. ER96–2501–000]

Take notice that on July 23, 1996, Midwest Energy, Inc. tendered for filing

a fully executed Service Agreement for Opportunity Sales Service entered into between Midwest and the City of Hill City.

Midwest states that it is serving copies of the instant filing to its customers, State Commissions and other interested parties.

Comment date: August 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. CINERGY Services, Inc.

[Docket No. ER96–2503–000]

Take notice that on July 23, 1996, CINERGY Services, Inc. on behalf of The Cincinnati Gas & Electric Company and PSI Energy, Inc., which are operating subsidiaries of Cinergy Corp., tendered for filing an Interchange Agreement with Cinergy and AIG Trading Corporation.

Comment date: August 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Cleveland Electric Illuminating Company

[Docket No. ER96–2575–000]

Take notice that on July 31, 1996, Cleveland Electric Illuminating Company tendered for filing an Electric Power Service Agreement with Wabash Valley Power Association, Inc.

Comment date: August 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Company

[Docket No. ER96–2577–000]

Take notice that on July 31, 1996, Arizona Public Service Company (APS) tendered for filing a Notice of Cancellation of the Service Schedule O of the Power Coordination Agreement between APS and Salt River Project Improvement and Power District, FPC Rate Schedule No. 3.

Comment date: August 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Progress Power Marketing, Inc.

[Docket No. ER96–2648–000]

Take notice that on August 6, 1996, Progress Power Marketing, Inc. (PPM) tendered for filing a Service Agreement for Sales of Power under PPM's market based rate power sales tariff.

Comment date: August 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Baltimore Gas & Electric Company

[Docket No. ER96–2649–000]

Take notice that on August 7, 1996, Baltimore Gas & Electric Company (BG&E) tendered for filing a Service Agreements for Non-firm Transmission Service between BG&E with Potomac Electric Power Company, Pan Energy Power Services, Inc., Western Power Services, Englehard Power Marketing, Inc., Southern Energy Marketing, Inc. and Vestar Power Marketing Inc. pursuant to the Point-to-Point Transmission Tariff filed in Docket No. ER96–894–000.

Comment date: August 27, 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. 96–21153 Filed 8–19–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11393–001, AK]

City of Saxman, Alaska; Notice of Application and Applicant Prepared EA Accepted for Filing; Notice Requesting Interventions and Protests; and Notice Requesting Comments, Final Terms and Conditions, Recommendations and Prescriptions

August 14, 1996.

The Applicant, City of Saxman, Alaska, (Saxman) proposes to construct, operate, and maintain a 9.6 megawatt (MW) hydroelectric project on Upper Mahoney Lake and Upper Mahoney Creek near Ketchikan in southeast Alaska. The project would be sited on private land claimed by the Cape Fox Corporation under the Alaska Native Claims Settlement Act and on approximately 114 acres of National Forest System land in the Tongass National Forest (TNF) managed by the U.S. Forest Service (FS).

The proposed project would involve constructing: (1) a lake tap near the natural outlet of Upper Mahoney Lake about 75 feet below the normal water surface elevation; (2) a 1,700-foot-long upper tunnel; (3) a buried, 12-inch-diameter bypass pipe; (4) a 1,370-foot-long partially-lined vertical shaft; (5) an 8-foot-diameter, 3,350-foot-long horseshoe-shaped lower tunnel; (6) a semi-underground powerhouse with a single twin-jet horizontal Pelton turbine having a generating capacity of 9.6 MW; (7) a 200-foot-long tailrace channel to convey water back to Upper Mahoney Creek; (8) 1 mile of buried 13.2-kV transmission line, 0.5 mile of buried 34.5-kV transmission line, and 3.1 miles of 34.5-kV overhead transmission line; (9) a switchyard; and (10) 2.6 miles of new access road (see Figures 2 and 3).

The purpose of this notice is to: (1) update interested parties on the Mahoney Lake project application process status; (2) inform all interested parties that the Mahoney Lake applicant-prepared environmental assessment (EA) and final license application filed with the Commission on May 31, 1996, are hereby accepted; (3) invite interventions and protests; and (4) solicit comments, final recommendations, terms and conditions, or prescriptions on Saxman's applicant-prepared (EA) and final license application.

Applicant Prepared EA Process and Mahoney Lake Project Schedule

The Energy Policy Act of 1992 (Act) gives the Commission the authority to allow the filing of an applicant prepared EA with a license application. The Act also directs the Commission to institute procedures, including pre-application consultations, to advise applicants of studies or other information foreseeably required by the Commission.

On February 13, 1995, the Director, Office of Hydropower Licensing, waived or amended certain of the Commission's regulations to allow for the processes of license application and applicant prepared EA preparation to be coordinated. Since then, the Commission and FS staffs have been working cooperatively in advising Saxman of studies or other information foreseeably required by the Commission and the FS.

National Environmental Policy Act (NEPA) scoping was conducted on the project through scoping documents issued March 8, 1995 and September 27, 1995, and in public scoping meetings on April 13, 1995. A draft license application and preliminary draft EA (PDEA) were issued by Saxman for comment on March 1, 1996. The final license application and applicant prepared EA were filed with the Commission on May 31, 1996, a copy of

which can be obtained from Saxman. Although the applicant prepared EA does not include responses to all comments received on the PDEA, Saxman did file the balance of their responses to the PDEA comments with the Commission on July 1, 1996.

Commission staff have determined that some additional information is needed from Saxman, which is due on October 22, 1996. Once that information is received, staff will complete and issue a draft EA for comment. Staff anticipate issuing their draft EA by the end of 1996 or early 1997, and intend on incorporating final comments into the staff draft EA. The deadline for filing final comments on the application is being coordinated with the timing of the staff additional information request. Therefore, commenters should have sufficient time to review the additional information prior to filing their final comments.

Interventions and Protests

All such filings must: (1) bear in all capital letters the title ''MOTION TO INTERVENE'', (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from Saxman. All motions to intervene must be received 90 days from the date of this notice. A copy of any motion to intervene or protest must be served on each representative of Saxman specified in the final application.

Comments, Final Terms and Conditions, Recommendations and Prescriptions

Interested parties have 90 days from the date of this notice to file with the Commission, any final comments, final recommendations, terms and conditions and prescriptions for the Mahoney Lake Project. Saxman will have 45 days to respond to those.

Saxman intends to seek benefits under § 210 of the Public Utility Regulatory Policy Act of 1978 (PURPA), and believes that the project meets the definition under § 292.202(p) of 18 CFR for a new dam or diversion. As such, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the state agency exercising authority over the fish and wildlife resources of the state have mandatory conditioning authority under the procedures provided for at § 30(c) of the Federal Power Act (Act).

Submission of Cost Statements

Within 60 days after the date for filing mandatory terms and conditions, fish and wildlife agencies must file with the Commission a cost statement of the reasonable costs the agency incurred in setting mandatory terms and conditions for the proposed project.

Filing Requirements

The above documents *must* be filed by providing an original and 8 copies as required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426.

In addition to the above copies, commenters *may* also submit a copy of their comments or interventions on a 3½-inch diskette formatted for MS–DOS based computers to: Vince Yearrick, Office of Hydropower Licensing, Federal Energy Regulatory Commission, 888 First St., NE, Room 52–73, Washington, D.C. 20426. For Macintosh users, it would be helpful to save the documents in Macintosh word processor format and then write them to files on a diskette formatted for MS–DOS machines. Commenters *may* also submit their comments via electronic mail to: vince.yearick@ferc.fed.us.

Lois D. Cashell,

Secretary.

[FR Doc. 96–21115 Filed 8–19–96; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

Western Area Power Administration's Policy for the Purchase of Non-Hydropower Renewable Resources

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of non-hydropower renewable resources policy.

SUMMARY: This notice announces the Western Area Power Administration (Western) adoption of a policy to purchase a portion of its expected purchase power requirements on a project-by-project basis and in a competitive manner, from non-hydropower renewable resource producers. This concept includes a proposal to purchase 50 percent of those purchases from solar resources. Western's policy focuses on technical assistance and facilitation of renewables, as opposed to a mandatory purchase power set-aside for renewables.

FOR FURTHER INFORMATION: For additional information, please contact Mr. Michael S. Cowan, Chief Program Office, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401–0098, (303) 275–1630.

SUPPLEMENTARY INFORMATION: On April 15, 1996, Western published a notice entitled Western Area Power Administration's Concept for Purchase of Non-hydropower Renewable Resources, and Solicitation of Interest (Concept) in the Federal Register (61 FR 16480). In response to requests, the original 30-day comment period was extended in 61 FR 24789 (May 16, 1996). The comment period closed May 31, 1996, 45 days after the publication of the Concept. Western received 150 comment letters concerning the Concept. A summary discussion of those comments and Western's responses are included in this notice along with Western's policy on non-hydropower renewable resource purchases.

The primary focus of the Concept was the purchase of non-hydropower renewable resources as part of Western's electric firming requirements. Western also requested comments on the criteria that Western would use to implement a new policy. These proposed criteria included: (1) The assumption that additional costs associated with non-hydropower renewable resource purchases would have little or no discernable rate impact to Western's firm power customers; (2) the cost of the non-hydropower renewable resources purchased by Western would be equal or less than an established cost cap; and (3) the contract term for the purchase of these renewable resources would vary project by project, but in no case would the term extend beyond the termination date of Western's long-term firm power sales contracts for a project.

Western specifically requested comments on the following points related to the proposed Concept: (1) Whether or not the respondents support the proposed Concept, (2) the magnitude of percentage of a potential purchase power requirement set-aside, (3) whether it is appropriate to have 50 percent reservation for solar resources within the set-aside, and if so, whether the reservation amount for solar should be increased or decreased, (4) the acceptable rate impact, (5) a recommended cost cap in mills per kWh for non-hydropower renewable resources, (6) a recommended contract term for purchases, (7) recommendations on alternative methods whereby Western would facilitate market opportunities for non-

hydropower renewable resources, and (8) any other related issues.

Western also was interested in receiving comments concerning other terms, requirements, and criteria of the proposed Concept such as: dispatchability, point of delivery, dependability, resource diversity, and environmental impact. The proposed Concept also indicated that resource acquisitions would be made through the application of the Concept on a project-by-project, cost competitive basis and in a manner consistent with Western's formally adopted principles of integrated resource planning published in the Federal Register (60 FR 54151).

Western also solicited comments from the public interested in having Western facilitate the delivery of non-hydropower renewable resources on their behalf and at their cost; for alternative Concepts; and for information from renewable resource developers.

Comments were received from a variety of entities including power customers, developers, environmentalists, government agencies, investor-owned utilities, and Native American tribes.

Western has taken into consideration each comment in the development of its non-hydropower renewable resource policy.

Discussion of Comments

Western received 150 comment letters representing both individual commenters and groups of interested entities. The majority indicated that they or the entities they represent do not support the proposed Concept. Western reviewed each comment and responded to them in the text which follows.

Comments: The primary reason given for not supporting the proposed Concept was the increased cost and subsequent adverse rate impact. Several entities stated that ''any'' rate impact is significant and the cost of these types of renewables is too high and should not be blended into their costs. Although many Western firm power customers support the development of renewables, they strongly oppose the proposed Concept because of the increase in costs and lack of local choice for customers to support renewables that make sense in their particular community. The firm power customers strongly suggest that the proposed Concept be abandoned.

Other commenters stated that the impact to rates is acceptable, and an even higher rate impact should be used as a ceiling. Several of those commenters stated that Western may have overestimated the rate impacts and suggested alternative methodologies to calculate the rate impacts and make the program more attractive to developers. The various suggestions included: taking into account capacity values; aggregating Western's purchase power needs into one contract; focusing on one large resource where economies of scale would make it more cost competitive; extending the length of the commitment; purchase year-round as opposed to seasonal; and increasing the amount of the resource purchased.

Response: Western acknowledges that there are minimal rate impacts associated with the Proposed Concept. Western also recognizes its obligation to both the taxpayers and the power customers to keep rates as low as possible to maintain a market for the Federal hydropower resource and thereby assure project repayment to the Treasury. Western reviewed the comments concerning the suggested rate impacts and acknowledges that there are several ways to recalculate those impacts and different methodologies that could be used to determine a larger or smaller rate impact. However, Western has not ascertained a method of purchasing nonhydropower renewable resources that does not increase costs.

In response to the large negative response to the proposed Concept, Western will not mandate the purchase of a certain portion of its replacement and firming requirements from non-hydropower renewable resources. The proposed concept is impracticable given Western's policy in the Energy Planning and Management Program that allows customers to provide their own firming energy and the customers strong opposition to the proposed Concept. Consequently, proceeding with a non-hydropower renewables firming energy purchase over the objection of customers would likely result in customers exercising their option not to purchase higher priced firming energy from Western. Western will strongly support the use of these non-hydropower renewable resources by means other than the conceptual purchase power set-aside and, when available at competitive prices, will purchase replacement and firming requirements from these renewable resources.

Comments: Many commenters stated that the proposed Concept is in conflict with Western's primary mission and contradicts legislation, regulations, and policies that Western is presently required to observe. Numerous customers indicated that the Concept is not consistent with Western's primary mission as stated in section 9(c), Reclamation Act of 1939, 43 U.S.C. 485h© and by section 5, Flood Control Act of 1944, 16 U.S.C. 825s which obligates Western to provide power ''* * * in such a manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles''. In addition, commenters explained that the proposed Concept is inconsistent with section 1809 of the Grand Canyon Protection Act of 1992, which states that the Secretary of Energy will replace lost generation with ''economically and technically'' feasible methods. Some commenters indicated that the proposed Concept is not consistent with Western's policies established in the Energy Planning and Management Program (EPAMP) and the Integrated Resource Planning (IRP) section of EPAMP, and Western's IRP principles. Additionally, commenters indicated that the proposed Concept is incompatible with existing agency purchase power policies that allow customers to choose to make their own replacement energy purchases. A few commenters indicated that the proposed Concept is contrary to the provision in the Public Utilities Regulatory Policies Act that only requires utilities to purchase resources such as being proposed for acquisition by Western at the ''avoided cost''. These commenters' contention is that the 5.5 cents/KWH far exceeds the ''avoided cost''. A few commenters suggested that Western is violating the National Environmental Policy Act by considering implementation of the proposed Concept without an environmental impact statement.

Response: Western is an agency of the DOE and has responsibilities to support DOE's mission and to provide benefits to the public, but Western must also observe applicable legislation and fulfill its contractual obligations. Western believes it has the authority to implement the proposed Concept. Since Western has modified the method Western will use to support the non-hydropower renewable resources program, it will not address the specific legal issues raised by the commenters.

Comments: Numerous commenters objected to the Concept, citing that it did not recognize the new competitive utility environment in light of the Federal Energy Regulatory Commission's (FERC) recent Orders, 888 and 889. They stated that open access to the electric transmission system will create a highly competitive industry and that high priced resources would be an unnecessary obstacle to such competition. A few commenters indicated that the proposed Concept would be directly at odds with a

competitive market place and that if the proposed Concept was implemented, the creation of an artificial market may ultimately hurt development of non-hydropower renewable resources.

Response: Western believes that competition by itself is not at odds with the development of non-hydropower renewable resources. Western recognizes the environmental and socioeconomic benefits that non-hydropower renewable resources provide and will promote the use of these types of resources. However, there are currently large amounts of surplus power available in the spot market, with pricing detrimental to the competitiveness of non-hydropower renewable resources. In response, Western has developed a policy to commit staff resources to continuously evaluate power pricing, identify market opportunities for renewables, and facilitate transactions between renewable resource developers and customers interested in purchasing renewable resources.

Comments: Many commenters believe the proposed Concept is not equitable because Western's firm power customers would be the only ones paying for the non-hydropower renewable resource program and the program would benefit many other stakeholders. Most of these commenters indicated that DOE should fund this ''subsidy'' program. Some commenters are very much against financing any type of subsidy and indicated that the proposed Concept, if implemented, should be funded by all taxpayers. Some commenters stated that they were already funding Federal policies detrimental to power, such as replacing the lost generating capacity at Glen Canyon Dam and questioned the fairness of the firm power customers being assigned the responsibility to pay above-market costs to accommodate a policy that would increase their costs to benefit the general public. However, one commenter stated that Western's firm power customers have received the most direct benefits from the Federal hydro projects, so they should fund the proposed Concept's non-hydropower renewable purchases.

Response: Western understands that all Americans will benefit from the research and development of the non-hydropower renewable resources. Western believes that non-hydropower renewable resources are very important and will benefit all Americans, including the commenters that do not support the proposed Concept. Western has decided not to adopt a policy that would include a mandatory set-aside of power purchases for non-hydropower renewables, but Western will provide technical support to customers willing to pursue non-hydropower renewable resource transactions.

Comments: Several commenters indicated that the choice of purchasing firming energy should be at the local level and they should have the right to choose any resource that meets their needs. Some of these commenters indicated that participation in the proposed Concept should be on a voluntary basis. One commenter suggested the purchase of the renewables should be incorporated into existing contracts and that Western should re-evaluate its IRP process to provide purchase alternatives for Western's customers.

Response: Western supports its existing policies of allowing the firm power customers to choose the resources that provide for their requirements. Western's policy incorporates the principles of voluntary participation and least-cost resource acquisition.

Comments: A few commenters believe that Western should have additional involvement with the public and hold meetings with stakeholders to discuss the proposed Concept. In addition, a few commenters stated that the purpose of the proposed Concept is unclear and questioned a perceived lack of a goal or reasoning behind the proposed Concept. One commenter stated it is illogical to use one renewable resource (hydropower) to subsidize another renewable resource (non-hydropower).

Response: Western published the proposed Concept in the Federal Register to solicit comments from the public and to determine the level of public interest in non-hydropower renewable resources. Western supports the idea of developing non-hydropower renewable resources if each local utility can make the appropriate decision, with customer involvement. Western also believes that there was an appropriate amount of public involvement, but as part of facilitating transactions under the policy, Western is willing to consider other actions the agency can perform to further the use of renewable resources.

Comments: Several commenters questioned the reasoning behind the 50% solar reservation of the purchases that would be provided under the proposed Concept. Commenters questioned the reasoning behind the promotion of any type of generation when there is already excess capacity available. In addition, a number of comments recommended that the set aside level be modified.

Response: The proposed Concept reflected Western's desire to ensure a diversified mix of non-hydropower renewable resources and Western's goal of supporting the DOE's commitment to commercializing a variety of renewable resource technologies. In the modified program, each customer will be free to choose the type and level of resource, since all costs are paid for by the individual utility.

Comments: Several commenters expressed their support for the proposed Concept, citing the environmental and societal benefits as a primary reason Western should implement the proposal. One commenter stated that Western should evaluate the impact of renewables using the NEPA process. One commenter cited three environmental benefits from implementing the proposed Concept; ''(1) mitigates the decision to add firming power to Western's output mix, (2) improves the conservation and economic efficiency of electrical use in the region, and (3) is a prudent step toward responsible domestic participation in addressing global environmental problems.'' This commenter also suggested Western should adopt an environmental impact policy featuring the purchase of non-hydropower renewable resources.

Response: Western recognizes the environmental and societal benefits from renewable resource use. However, Western also recognizes that firm power customers would be adversely impacted by implementing the proposed Concept. Therefore, Western has determined to evaluate opportunities on a case-by-case basis and to support voluntary efforts to develop non-hydropower renewable resources.

Comments: Several commenters suggested that Western work with the Nevada Corporation for Solar Technology and Renewable Resources (CSTRR) by implementing the proposed Concept or a modified version of the Concept. It was also suggested that Western could facilitate CSTRR power sales and distribution and provide a market for solar power generated from CSTRR. A few commenters encouraged Western to support CSTRR's effort irrespective of statistical data. One commenter pointed out that if Western supports CSTRR through this or a modified version of the Concept, then Nevada will have a better opportunity to develop a safe and reliable use for the Nevada Test Site as well as promoting the abundant solar resource in southern Nevada. Commenters suggested that Western should give priority to purchasing solar energy produced at the Nevada Solar Enterprise Zone. Another

commenter suggests that Western team up with the Utility Photovoltaic Group and other partners to develop solar projects in the West.

Response: Western believes it can facilitate additional markets for entities such as CSTRR through partnering and coordinating operations with these and similar entities. The policy adopted will promote these developments to assure that CSTRR and other renewable developments have the maximum probability of success.

Comments: Several commenters expressed concern over the problems with the dispatchability of the non-hydropower renewable resources.

A commenter pointed out that due to the intermittent, non-dispatchable nature of renewable power generation, Western should allow projects the flexibility to sell power in the off peak seasons. Another commenter stated that the solar resource is significantly better for the integrated operation of the Western system than the spot market, non-firm fossil thermal resource presently used. Comment was received that stated transmission requirements on the part of the supplier of the renewable power is an important element. One comment suggests that any switch to power from alternative uses should be directed to residential end users. Comments also supported Western providing discounted or free transmission and ancillary services. One commenter suggested a modified Concept could provide for transmission services or discounted ancillary services.

Response: Western agrees there are unique dispatching problems with solar and wind generation. Western also believes that the dispatching problems can be mitigated when the solar and wind resources are mixed with traditional generation resources. Western will continuously seek operational strategies to integrate non-hydropower renewable resources.

Comments: A significant number of commenters stated that they support Western being a facilitator and providing staffing resources to assist those entities that are willing to purchase non-hydropower renewable resources at their own expense. Several commenters also support a ''green pricing'' alternative strategy for non-hydropower renewable resources.

One comment suggested that Western participate in identifying locations that would be suitable for solar generation and that preference for solar development at Bureau of Reclamation projects should be extended. In addition, that commenter suggested Western assist its customers in surveying the environmental preferences of their retail users. Several commenters suggest developing a ''green power'' marketing program and for Western to facilitate market opportunities for non-hydropower renewable resources.

Response: Commenters that agreed and disagreed with the proposed Concept suggest or imply that Western should facilitate non-hydropower renewable resource transactions and consider developing ''green power'' programs. Western agrees with these comments and as part of the policy will facilitate such services to assure renewable resources are fully evaluated.

Comments: One commenter requested clarification as to whether an ethanol facility would qualify as a non-hydropower renewable resource and another commenter as to whether small wind generators would be considered solar power.

Response: For purposes of this proposed Concept the ethanol facility would not have been considered a non-hydropower renewable resource and the small wind generators would have been considered wind generation, not solar generation.

Policy: Western will not mandate that each project must purchase a portion of its firming power requirements from non-hydropower renewable resources. Western will continue to consider the purchase of non-hydropower renewable resources where they are competitive with other supplies, consistent with Western's IRP principles.

Western shall establish a program to facilitate the voluntary use of renewable resources by Western's wholesale customers. Western shall provide technical expertise, marketing information, and act as a facilitator with Western's customers and renewable energy developers. The goal of the program is to identify customers that desire renewable resources in their generation mix, and provide the technical and marketing assistance required for them to fully evaluate the option.

Determination Under Execution Order 12866

DOE has determined this policy does not meet the criteria of Executive Order 12866 and is not a significant regulatory action. Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*, requires federal agencies to perform a regulatory flexibility analysis if a proposed regulation is likely to have a significant economic impact on a substantial number of small entities. In the notice proposing the Concept, Western's Administrator certified that, if promulgated, it would not have significant adverse economic impact on a substantial number of small entities. Western did not receive any comments that addressed the certification.

Review Under the National Environmental Policy Act

As per Department of Energy 10 CFR 1021 National Environmental Policy Act (NEPA) Implementing Procedures and Guidelines; Final Rule and Notice section 1021.102, Applicability, this action is not a major federal action affecting the quality of the environment of the United States, and therefore no NEPA documentation is required.

Review Under Executive Order 12612

Executive Order 12612 requires review of regulations or rules for any substantial direct efforts on States, on the relationship between National Government and the States, or on the distribution of power and responsibilities among various levels of Government. Western has assessed this policy in light of the criteria in sections 2 through 5 of Executive Order 12612. Western has determined that its policy is consistent with those criteria, and that the policy will not impose significant costs or burdens on States or affect the States' ability to discharge traditional State functions.

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, 1966), 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 the Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies preemptive effect, if any; (2) clearly specifies any effect on existing

Federal Law or regulations, (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 Executive 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. The Administrator has completed the required review and determined that, to the extent permitted by law, today's action meets the relevant standards of Executive Order 12988.

Issued in Golden, Colorado, August 2, 1996.

J.M. Shafer,

Administrator.

[FR Doc. 96–21151 Filed 8–19–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5556–6]

Environmental Laboratory Advisory Board; Meeting Date and Agenda

AGENCY: Environmental Protection Agency.

ACTION: Notice of Open Meeting.

SUMMARY: The Environmental Laboratory Advisory Board (ELAB) will convene an open meeting via teleconference on September 5, 1996, from 2:30 to 4:30 p.m. Eastern Standard Time (EST). Anyone wishing to attend may join Chair Ramona Trovato at USEPA Judiciary Square, 501 3rd Street, Washington DC 20024. The meeting location is the first floor conference room.

The agenda will focus on the options for proficiency testing (PT) samples, otherwise known as performance evaluation (PE) samples, cited in the Federal Register, Vol. 61, No. 139, Thursday, July 18, 1996. The following four categories with specific questions have been posed to ELAB by the Office of Water.

Program Costs

(1) What will be the initial (start-up) and continuing costs of the program to vendors and what are the principal cost elements (by study, i.e. WS, WP, DMRQA)?

(2) What costs will be incurred by vendors to establish and maintain accreditation?

(3) What is a reasonable price range for each of the studies?

(4) What will the impact of externalization be on ''small'' laboratories? What will the impact be on government (i.e. state and municipal) laboratories?

Time Line Considerations

(1) How much time will be required to implement an accreditation program for vendors; what are the principal implementation milestones; and what is the time requirement for each?

(2) One accreditation is granted, how much time will be needed for an individual vendor to issue its first study (by study, i.e. WS, WP, DMRQA)?

(3) How many studies per year can the average vendor conduct?

Technical Considerations

(1) What factors will affect study comparability and what steps can reasonably be taken to maximize study comparability nationwide?

(2) Will the industry be able to fund research and development of new studies/products? What role can/should EPA play in the process of developing new studies/study designs?

(3) Are there vendors who can do microbiology, radiation, and aquatic toxicology tests?

(4) If the Agency goes to the private sector will there be any ''orphan'' compounds and, if so, how should the Agency handle that situation?

Policy Consideration

(1) Who should bear the costs of ''bad'' studies? Are special provisions needed to protect laboratories from the consequences of participating in a study that is later found to be faulty? Will there be sufficient market-induced financial incentives created to address the problem (if so, what are those incentives)?

(2) What are the potential conflict of interest/confidentiality considerations and what steps can reasonably be taken to protect against them?

The public is welcome to attend. Time will be allotted for public comment. Written comments are encouraged and should be directed to Ms. Jeanne Mourrain; Designated Federal Official; USEPA; NERL (MD–75); Research Triangle Park, NC 27711. For more information on the specific questions posed by the Office of Water, please contact Ms. Wendy Blake-Coleman at 202/260–5680, fax 202/260–7023. If questions arise, please contact Ms. Mourrain at 919/541–1120, fax 919/541–4101, or E-mail: ''MOURRAIN.JEANNE@EPAMAIL.EPA.GOV''.

Dated: August 12, 1996.

Mary Clark,

Acting Director, Office of Radiation and Indoor Air.

[FR Doc. 96–21179 Filed 8–19–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5553–9]

Council Environmental Statistics Subcommittee of the National Advisory Council for Policy and Technology—Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Environmental Statistics Subcommittee (of the Environmental Information, Economics and Technology Committee) of the National Advisory Council on Environmental Policy and Technology (NACEPT) will hold a one and one-half day meeting of the full Subcommittee.

The Environmental Statistics Subcommittee was formed to provide key recommendations and strategic advice on the statistical products and activities necessary to enhance the Agency's knowledge about environmental statistics and trends, and to explore information gaps from the perspective of the users/products of these data products. The meeting is being held to discuss and offer critical advice on initiatives of the Office of Strategic Planning and Environmental Data. Scheduling constraints preclude oral comments from the public during the meeting. Written comments can be submitted by the mail, and will be transmitted to Committee members for consideration.

DATES: The public meeting will be held on September 10, 1996 from 9:00 a.m. to 5:00 p.m. and September 11, 1996 from 9:00 a.m. to 1:00 p.m. This meeting is open to the public. Due to limited space, seating at the meeting will be on a first-come basis.

ADDRESSES: The meetings will be held at the Hall of States, 444 North Capitol Street, N.W., Room 283–285, Washington, D.C. 20011. The hall telephone number is (202) 624–5490. Written comments should be sent to: James Morant, Office of Strategic Planning and Environmental Data, U.S. Environmental Protection Agency, Mail Code 2161, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: James Morant, Designated Federal Official, Direct Line (202) 260–2266, General Line (202) 260–4028, FAX (202) 260–4968.

Dated: August 12, 1996.

N. Phillip Ross,

Acting Designated Federal Official.

[FR Doc. 96–21175 Filed 8–19–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5553–2]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act; In the Matter of Automatic Industrial Plating, Inc., Schaumburg, Illinois

AGENCY: Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: Notice of Settlement for Recovery of Past Costs: In accordance with Section 122(I)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given of a proposed administrative settlement concerning the removal action at the Automatic Industrial Plating Superfund Site, Schaumburg, Illinois. U.S. EPA Region 5 has submitted the proposed agreement to the U.S. Department of Justice for review, and has obtained written approval for this settlement by the Attorney General of the United States.

DATES: Comments must be provided on or before September 19, 1996.

ADDRESSES: Comments should be addressed to Assistant Regional Counsel Barbara L. Wester, Mail Code CS–29A, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and should refer to: In the Matter of Automatic Industrial Plating, Inc., Docket No. V–W–96–C–350.

FOR FURTHER INFORMATION CONTACT: Barbara L. Wester, Mail Code CS–29A, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: The following parties executed binding certifications of their consent to participate in the settlement: Wolfgang Damsch and Mary Damsch.

These parties together will make a lump-sum payment of $3,000 for response costs related to the Automatic Industrial Plating, Inc. Site, subject to the contingency that U.S. EPA may elect not to complete the settlement based on matters brought to its attention during the public comment period established by this Notice. One hundred percent of the settlement will reimburse U.S. EPA for its past costs at the Automatic Industrial Plating, Inc. Superfund Site.

U.S. EPA may enter into this settlement under the authority of Sections 107 and 122(h) of CERCLA. Section 122(h) authorizes settlements with potentially responsible parties for the recovery of past costs expended by the Agency where these claims have not been referred to the U.S. Department of Justice for further action. The proposed settlement reflects, and was agreed to based on, conditions as known to the parties as of June 24, 1996.

A copy of the proposed administrative order on consent and additional background information relating to the settlement are available for review and may be obtained in person or by mail from Barbara L. Wester, Mail Code CS–29A, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

The U.S. Environmental Protection Agency will receive written comments relating to this settlement for thirty days from the date of publication of this notice.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 *et seq.*

Thomas W. Mateer,

Acting Director, Waste Management Division.

[FR Doc. 96–21176 Filed 8–19–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5556–9]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act and the Solid Waste Disposal Act; in Re: Raymark Industries, Inc. Superfund Site, Stratford, CT

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed prospective purchaser agreement, request for public comment and notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to enter into a prospective purchaser agreement to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq*, and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 *et seq*. Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to resolve the liability under CERCLA and RCRA of Leach Family Holdings, Inc. and certain successors in interest who may become parties to this agreement for injunctive relief or for costs incurred or to be incurred by EPA in conducting response actions at the Raymark Industries, Inc. Superfund Site in Stratford, CT. This notice also announces a public meeting regarding this agreement to be held at the Stratford Public Library in Stratford, CT on September 10, 1996, pursuant to the requirement of Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

DATES: Comments must be provided on or before September 19, 1996.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RCH, Boston, Massachusetts 02203, and should refer to: In re: Leach Family Holdings, Inc., U.S. EPA Docket No. CERCLA–I–96–1035.

FOR FURTHER INFORMATION CONTACT: Michael Hill, U.S. Environmental Protection Agency, J.F.K. Federal Building, Mailcode HBT, Boston, Massachusetts 02203, (617) 573–9653.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a proposed prospective purchaser agreement concerning the Raymark Industries, Inc. Superfund Site in Stratford, CT. The settlement was approved by EPA Region I on July 29, 1996, subject to review by the public pursuant to this Notice. Leach Family Holdings, Inc. (Leach), the prospective purchaser of the Raymark property, has executed a signature page, through its president, James H. Leach, committing it to participate in the settlement. Under the proposed settlement, Leach is required to pay to the Raymark Industries, Inc. Superfund Site Special Account and the State of Connecticut a minimum of $500,000 after EPA completes construction of the protective cap over the site, to reimburse EPA for the costs it incurs to accommodate Leach's planned development activities at the site, to abide by institutional controls and to provide access to the property. In exchange, Leach is granted a covenant not to sue under CERCLA and RCRA and protection from contribution actions or claims under CERCLA with respect to the existing contamination at the site. EPA believes the settlement is fair and in the public interest.

The U.S. Department of Justice has approved this settlement. EPA will receive written comments relating to

this settlement for thirty (30) days from the date of publication of this Notice. EPA will hold a public meeting regarding this agreement at the Stratford Public Library in Stratford, CT on September 10, 1996, pursuant to the requirement of Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

A copy of the proposed administrative settlement may be obtained in person or by mail from Constance Dewire, U.S. Environmental Protection Agency, JFK Federal Building, Mailcode HBT, Boston, Massachusetts 02203, (617) 573–5719. A copy of the agreement is on file at the Stratford Public Library.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RCH, Boston, Massachusetts (U.S. EPA Docket No. CERCLA–I–96–1035).

Dated: August 7, 1996.

John DeVillars,

Regional Administrator.

[FR Doc. 96–21171 Filed 8–19–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5554–2]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation and Liability Act; Tonolli 2nd De Minimis Settlement; Correction

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction; Request for public comment.

SUMMARY: In notice document 93–25103, on pages 52961 and 52962 of the issue of Wednesday, October 13, 1993, the United States Environmental Protection Agency (''EPA'') proposed to enter into a second de minimis settlement with 33 de minimis parties pursuant to section 122(g)(4) of the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, (''CERCLA''), 42 U.S.C. 9622(g)(4), for response costs incurred, and to be incurred, at the Tonolli Corporation Superfund Site, Nesquehoning, Pennsylvania. In notice document 93–30973 on pages 66359–66360 of the issue of December 20, 1993, the EPA issued a correction notice indicating that the correct number of parties was 34 because one party (Nathan's Waste and Paper Stock Company) was inadvertently not included in the October 13, 1993 notice. Subsequently, in EPA's ''Consideration of Comments Received During Public Comment Period: Tonolli 2nd de minimis Consent Order'' signed on April 12, 1994 by EPA's Acting Regional Administrator, EPA noted that one party (Timpson Salvage Company, Inc.) withdrew its consent to participate in the settlement and that two parties had been incorrectly included in the notice (Bethlehem Motors and Schioppo) and that thus the correct number of parties to the settlement was 31.

EPA has been informed that an issue has been created regarding the identity of one of the settlors. Although EPA does not concede that the October 13, 1993 notice was insufficient in the identification of any settlor, EPA is issuing this correction notice and providing a thirty day opportunity to comment with respect to the participation in the settlement of the de minimis settlors identified below. In addition, and as noted above, EPA has withdrawn from the list of settlors Timpson Salvage Company, Inc., Bethlehem Motors and Schioppo.

In notice document 93–25103, beginning on page 52961 in the issue of Wednesday, October 13, 1993, make the following correction:

On page 52961, in the third column, proposed settlor No. 1 is listed as Al-Jan Company Inc. The complete name of this company is Al-Jan Corp.

On page 52961, in the third column, proposed settlor No. 4 is listed as Atlas Lederer. The complete name of this company is The Atlas Lederer Company.

On page 52961, in the third column, proposed settlor No. 6, Bethlehem Motors, has been removed.

On page 52962, in the first column, proposed settlor No. 10 is listed as David Markowitz Metal Co. The complete name of this company is David Markowitz Metal Company.

On page 52962, in the first column, proposed settlor No. 11 is listed as Edward Arnold Scrap Company. The complete name of this company is Edward Arnold Scrap Processors Inc.

On page 52962, in the first column, proposed settlor No. 12 is listed as Eisner Brothers Company, Inc. The complete name of this company is Eisner Brothers, Inc.

On page 52962, in the first column, proposed settlor No. 13 is listed as Federal Metals Company, Inc. The complete name of this company is Federal Metals and Alloys Company, Inc.

On page 52962, in the first column, proposed settlor No. 14 is listed as Fitzsimmons Metal Company, Inc. The complete name of this company is Fitzsimmons Metal Company.

On page 52962, in the first column, proposed settlor No. 15 is listed as G&G Salvage Corp. The complete name of this company is G. & G. Salvage, Corp.

On page 52962, in the first column, proposed settlor No. 16 is listed as Hahn & Sons. The complete name of this company is Hahn & Sons, Inc.

On page 52962, in the first column, proposed settlor No. 17 is listed as HD Metal Co. The complete name of this company is H.D. Metal Company, Inc.

On page 52962, in the first column, proposed settlor No. 18 is listed as Joseph Gottlieb Company. The complete name of this company is Gottlieb, Inc.

On page 52962, in the first column, proposed settlor No. 19 is listed as Lexington Scrap Metal Company. The complete name of this company is Lexington Scrap Metal Co., Inc.

On page 52962, in the first column, proposed settlor No. 20 is listed as Libby, McNeil, and Libby. The complete name of this company is Libby, McNeil & Libby, Inc. (Nestle Canada Inc.).

On page 52962, in the first column, proposed settlor No. 21 is listed as Leiby, David. The correct name of this individual is Leiby, Donald H.

On page 52962, in the first column, proposed settlor No. 22 is listed as Luria Brothers. The complete name of this company is Luria Brothers & Company, Inc.

On page 52962, in the first column, proposed settlor No. 25 is listed as Novey Iron & Steel. The complete name of this company is Novey's Iron & Steel.

On page 52962, in the first column, proposed settlor No. 26 is listed as Penn Builders Supply (Burrell Group). The complete name of the company is Penn Builders Supply Company (Burell Group, Inc.).

On page 52962, in the first column, proposed settlor No. 27 is listed as Penn Iron and Metal Company. The complete name of the company is Penn Iron and Metal Company, Inc.

On page 52962, in the first column, proposed settlor No. 29 is listed as Samincorp, Inc. The complete name of the company is Samincorp Inc.

On page 52962, in the first column, proposed settlor No. 30, Schioppo, has been removed.

On page 52962, in the first column, Timpson Salvage Company, Inc. has been removed.

On page 52962, in the first column, proposed settlor No. 33 is listed as Weinstein Company. The complete name of this company is Weinstein Co., Division of Web-Jamestown Corporation.

DATES: Written comments must be addressed to the Docket Clerk, United

States Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, and should refer to: In Re Tonolli Corporation Superfund Site, Nesquehoning, Pennsylvania, U.S. EPA Docket No. III–93–03–DC.

FOR ADDITIONAL INFORMATION CONTACT: Lydia Isales, (215) 566–2648. United States Environmental Protection Agency, Office of Regional Counsel (3RC20), 841 Chestnut Building, Philadelphia, PA 19107. A copy of the proposed Administrative Order on Consent may be obtained by contacting Ms. Isales.

Dated: August 7, 1996.

A.L.R. Morris,

Acting Regional Administrator.

[FR Doc. 96–21177 Filed 8–19–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

August 14, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarify of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments October 21, 1996.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: On July 17, 1996, the Commission adopted the First Report and Order amending its rules and policies regarding the use of the 28 GHz frequency band for satellite space station and Local Multipoint Distribution Services, known as the 28 GHz band segmentation plan. *Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.0 Ghz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services,* CC Docket No. 92–297, FCC 96–311 (released July 22, 1996). Due to an administrative oversight the information collections contained in this order were not submitted to OMB with the Commission's request for approval of the collection during the Notice of Proposed Rulemaking stage.

This information collection will be used by the Commission, and other applicants and/or licensees in the 28 GHz band, to ensure the technical coordination of systems that are designated to share the same band segment in the 28 GHz band. Without such information the Commission could not implement the band plan as set forth in the *First Report and Order and Fourth Notice of Proposed Rulemaking.*

OMB Approval Number: New.

Title: 28 GHz Band Segmentation Plan.

Form No.: N/A.

Type of Review: New collection.

Respondents: Not-for-profit institutions; Business or other for-profit; Small businesses and organizations.

Number of Respondents: 15 submitting paperwork approximately 4 times per year.

Estimated time per response: 1.5 hours.

Total Annual Burden: 90 hours.

Estimated cost per respondent: Based on the assumption that applicants will hire outside counsel at an approximate cost of $150 per hour, it is estimated that the cost per submission will be $300.00.

Needs and Uses: The collections of information contained in Parts 25 and 101 are used by Commission staff in carrying out its duties as set forth in Section 308 and 309 of the Communications Act of 1934, as amended, 47 U.S.C. Section 308 and 309, to determine the technical qualifications of an applicant to operate a station and will be used by the Commission to verify that licensees are fully coordinated with other users in the band. The information collected is used to determine whether the public interest, convenience and necessity will be served.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–21225 Filed 8–19–96; 8:45 am]

BILLING CODE 6712–01–P

Notice of Public Information Collections Being Reviewed by FCC for Extension Under Delegated Authority; Comments Requested

August 14, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

DATES: Written comments should be submitted on or before October 21, 1996. If you anticipate that you will be

submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0258.

Title: Section 90.176 Interservice sharing of frequencies in the 150–174 and 450–470 MHz bands.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Individuals, business or other for-profit.

Number of Respondents: 1,050.

Estimated Time Per Response: 2 hours.

Total Annual Burden: 2,100 hours.

Total Annual Cost: 0.

Needs and Uses: The reporting requirement contained in Section 90.176 is necessary to determine if interservice sharing is in the public interest in a particular case. The applicant is required to submit information that such sharing is necessary and that interference will not result to the primary users of the frequency that is being requested. This information is collected only once, upon initial application for a license.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 96–21226 Filed 8–19–96; 8:45 am]

BILLING CODE 6712–01–P

Notice of Public Information Collections Submitted to OMB for Review and Approval

August 14, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 19, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, N.W., Washington, DC 20503 or fain__t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0398.

Form No.: None.

Type of Review: Revision of an existing collection.

Number of Respondents: 320.

Estimated Time Per Response: 28.4375 hours.

Total Annual Burden: 9,100 hours.

Needs and Uses: The information gathered is used by the Commission to ensure that data accompanying all requests for equipment authorization are valid, and that proper testing procedures are used. Testing ensures that potential interference to radio communications is controlled, and if necessary, the data gathered may be used for investigating complaints or harmful interference, or for verifying the manufacture's compliance with the Commission's Rules. This revision eliminates the necessity for manufacturer's to file UHF noise figure data documenting the performance of TV receivers tested and marketed in the U.S. The requirement was eliminated from the rules by the adoption of the Report and Order in ET Docket 95–144.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 96–21224 Filed 8–19–96; 8:45 am]

BILLING CODE 6712–01–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 September 13, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First American Bank Corporation, Elk Grove Village, Illinois; to acquire 17.6 percent of the voting shares of Oak Park River Forest Bankshares, Inc., Oak Park, Illinois (in organization) and thereby indirectly acquire Community Bank of Oak Park River Forest, Oak Park, Illinois (in organization).

2. Stichting Priotiteit ABN AMRO Holding, Stichting Administratiekantoor ABN AMRO Holding, ABN AMRO Holding N.V., ABN AMRO Bank N.V., all of Amsterdam, The Netherlands; and ABN AMRO North America, Inc., Chicago, Illinois; to acquire 100 percent of the voting shares of CNBC Bancorp, Inc., Chicago, Illinois, and thereby indirectly acquire Columbia National Bank of Chicago, Chicago, Illinois.

In connection with this application, the Notificants also have applied to acquire CNBC Development Corporation, CNBC Investment Corporation, Sky Finance Company, and Sky Mortgage Company, and thereby engage in the activity of making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y; and CNBC Leasing Corporation, and thereby engage in the activity of leasing pursuant to § 225.25(b)(5) of the Board's Regulation Y. Notificants also have applied to acquire Columbia Financial Services, Inc., a wholly owned subsidiary of CNBC Bancorp, Inc., formed to hold the nonbank subsidiaries.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Mercantile Bancorporation Inc., St. Louis, Missouri; to acquire 100 percent of First Financial Corporation of America, Salem, Missouri, and thereby indirectly acquire The First National Bank of Salem, Salem, Missouri; and Ameribanc, Inc., St. Louis, Missouri, a wholly owned subsidiary of Mercantile Bancorporation Inc., to merge with First Financial Corporation of America, Salem, Missouri, and thereby indirectly acquire The First National Bank of Salem, Salem, Missouri.

Board of Governors of the Federal Reserve System, August 14, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board.

[FR Doc. 96–21148 Filed 8–19–96; 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; Correction

This notice corrects a notice (FR Doc. 96-20448) published on pages 41788 - 41789 of the issue for Monday, August 12, 1996.

Under the Federal Reserve Bank of Cleveland heading, the entry for Mellon Bank Corporation, is revised to read as follows:

1. Mellon Bank Corporation, Pittsburgh, Pennsylvania; and The Chase Manhattan Corporation, New York, New York, to acquire through their joint venture ChaseMellon Shareholder Services, L.L.C., Ridgefield Park, New Jersey, certain assets relating to the shareholder service business of Wells Fargo Bank, N.A., San Francisco, California, and certain of its affiliated banks pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Comments on this application must be received by August 26, 1996.

Board of Governors of the Federal Reserve System, August 14, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–21147 Filed 8–19–96; 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 September 3, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. The Bank of Nova Scotia, Toronto, Canada; to engage *de novo* through its subsidiary, Scotia Financial Services Inc., Atlanta, Georgia, in commercial finance activities pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Stichting Priorieteit ABN AMRO Holding, Stichting Adminstatiekantoor ABN AMRO Holding, ABN AMRO Holding, N.V., ABN AMRO BANK, N.V., all of Amsterdam, The Netherlands; and ABN AMRO North America, Inc., Chicago, Illinois; to engage *de novo* indirectly through their wholly-owned subsidiary, LeasePlan North America, Inc., Chicago, Illinois, and Chevron Credit Bank, N.A., Murray City, Utah (in organization), in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 14, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–21149 Filed 8–19–96; 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: 10:00 a.m., Friday, August 23, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. (a) Proposed revision to an interpretive rule under Regulation Y (Bank Holding Companies and Change in Bank Control) concerning investment adviser activities of bank holding companies (proposed earlier for public comment; Docket No. R–0868); and (b) proposed repeal of staff interpretation regarding the sale of mutual fund shares by bank holding companies.

Discussion Agenda

2. Publication for comment of proposed amendments to Regulation Y (Bank Holding Companies and Change in Bank Control) to eliminate unnecessary regulatory burden.

3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: August 16, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–21332 Filed 8–16–96; 2:17 pm]

BILLING CODE 6210–01–P

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: Approximately 11:30 a.m., Friday, August 23, 1996, following a recess at the conclusion of the open meeting.

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: August 16, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–21333 Filed 8–16–96; 2:16 pm]

BILLING CODE 6210–01–P

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Monday, August 26, 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: August 16, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–21364 Filed 8–16–96; 3:13 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The Division of Laboratory Systems (DLS), Public Health Practice Program Office (PHPPO) of the Centers for Disease Control and Prevention (CDC), Announces the Following Meetings

Name: Quality Control Issues Relevant to Regulations Under the Clinical Laboratory Improvement Amendments (CLIA): Meetings.

Times and Dates: 8:30 a.m.–4:30 p.m., September 25, 1996. 8:30 a.m.–4:30 p.m., September 26, 1996.

Place: CDC, Building 2, Auditorium B, 1600 Clifton Road, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 400 people.

Purpose: CDC will receive public input on clinical laboratory quality control issues relevant to the development of final CLIA regulations for quality control. We particularly encourage comments on: (1) The ability of current test systems to assess the potential for error in the total testing process; (2) processes to monitor the quality of clinical laboratory results over time; and (3) processes to assess appropriate operator test performance.

The meeting on September 25, 1996, will include presentations by manufacturers in the health care industry. On September 26, 1996, interested parties, other than manufacturers, will present their material. We will accept as many requests for presentations as possible.

Agenda items are identical for each day and consists of a brief overview of the meeting purpose followed by as many presentations as time allows. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Julie Wasil, Committee Management Specialist, DLS, PHPPO, CDC, 4770 Buford Highway NE, M/S G–25, Atlanta, Georgia 30341–3724, telephone 770/488–4651.

Individuals wishing to make presentations are encouraged to supply data to support their position and must submit copies of their presentation by close of business September 9, 1996, to the contact person listed above. Written materials will be accepted from all others through close of business September 20, 1996. Presenters will be limited to 5 minutes.

Due to resource limitations, we will not be able to provide copies of presentation materials to meeting attendees. Presenters wishing to distribute copies of their material at the meeting must provide copies for distribution.

Dated: August 14, 1996.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–21137 Filed 8–19–96; 8:45 am]

BILLING CODE 4163–18–M

Health Care Financing Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Withholding Medicare Payments to Recover Medicaid Overpayments; *Form No.:* HCFA–R–21; *Use:* Medicaid providers who have received overpayments may terminate or substantially reduce their participation in Medicaid to avoid the State's effort to recover the amounts due. This provision establishes a mechanism for State agencies to recoup the overpayments by withholding Medicare payments to these providers; *Frequency:* On occasion; *Affected Public:* State, local or tribal governments; *Number of Respondents:* 54; *Total Annual Hours:* 81.

2. *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Information Collection Requirements in HSQ–110, Acquisition, Protection and Disclosure of Peer Review Organization (PRO) Information-42 CFR Sections 476.104, 476.105, 476.116, and 476.134; *Form No.:* HCFA–R–70; *Use:* ''Medicare Disclosure Information, Regulatory'' The Peer Review Improvement Act of 1982 authorizes PRO's to acquire information necessary to fulfill their duties and functions and places limits on disclosure of the information. These requirements are on the PRO to provide notices to the affected parties when disclosing information about them. These requirements serve to protect the rights of the affected parties; *Frequency:* On occasion; *Affected Public:* Business or other for profit; *Number of Respondents:* 53; *Total Annual Hours:* 30,577.

3. *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Prepaid Health Plan Cost Report; *Form No.:* HCFA–276; *Use:* These forms are needed to establish the reasonable cost providing covered services to the enrolled Medicare population of an HMO in accordance with Section 1876 of the Social Security Act; *Frequency:* Quarterly, Annually; *Affected Public:* Business or other for profit; *Number of Respondents:* 82; *Total Annual Hours:* 9,934.

4. *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Medicare Credit Balance Reporting Requirements; *Form No.:* HCFA–838; *Use:* The collection of credit balance information is needed to ensure that millions of dollars in improper program payments are collected. Approximately 37,600 health care providers will be required to submit a quarterly credit balance report that indicates the amount of improper payments they received that are due to Medicare. The intermediaries will monitor the reports to ensure these funds are collected; *Frequency:* Quarterly; *Affected Public:* Not for profit institutions; *Number of Respondents:* 37,600; *Total Annual Hours:* 902,400.

To obtain copies of the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 12, 1996.

Edwin J. Glatzel,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–21102 Filed 8–19–96; 8:45 am]

BILLING CODE 4120–03–P

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

Customer Survey of Entities Eligible To Participate in the Drug Pricing Program—New

Section 602 of the Veterans Health Care Act of 1992 enacted Section 340B of the Public Health Service (PHS) Act, ''Limitation of Prices of Drugs Purchased by Covered Entities.'' This section provides that a manufacturer that sells outpatient drugs to covered entities must agree to charge a price that will not exceed the amount determined under a statutory formula. The covered entities—certain PHS grantees, disproportionate share hospitals (DSHs), and other selected entities, total approximately 11,000 sites. Most of these entities serve the economically

disadvantaged or medically uninsured. The legislative intent of Section 340B is ''to enable * * * certain Federally-funded clinics to obtain lower prices on the drugs that they provide to their patients.''

A customer survey is being developed to collect information by mail on various aspects of the program, including, for example, whether information on the program is reaching the covered entities, reasons some entities are not participating, satisfaction with the savings realized, and interest in possible modifications to the program. Both participating and nonparticipating entities will be included in the survey. The results will be used to improve the design and management of the program. Burden estimates are as follows:

Respondents	Number of respondents	Responses per respondent	Burden per response	Total burden hours
Covered Entities	925	1	.25	231.

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 14, 1996.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 96–21141 Filed 8–19–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

Proposed Collection; Comment Request; Women's Health and Aging Study—Telephone Follow-up

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute on Aging (NIA), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

PROPOSED COLLECTION: Title: Women's Health and Aging Study—Telephone Follow-up. Type of Information Collection Request: Revision. Need and Use of Information Collection: This proposed study is designed to obtain additional data on women (previously examined in the Women's Health and Aging Study, OMB No. 0925–0376, expiration 8/31/97) through telephone interviews with participants or their proxies 1 and 2 years after their final in-home contacts. The Women's Health and Aging Study (WHAS) is a community-based prospective epidemiologic study whose goal is to study the causes and course of physical disability in the one-third most disabled women living in the community. The main objective of this additional data collection is to obtain information on disability and nursing home admission that will serve as end points in 5-year prospective analyses. This information will be a valuable addition to outcome data on death and hospital admissions that will be obtained through linkage with the National Death Index and the Health Care Financing Administration Medicare data base for this same period of time. The variables collected in the follow-up telephone assessments will provide important endpoints for a great many analyses that address the primary goal of the study, evaluating factors related to the progression of disability and need for long-term care. Frequency of Response: Once a year. Affected Public: Individuals or households. Type of Respondents: Women age 68 and older. Estimated Number of Respondents: 800; Estimated Number of Responses per Respondent: 2; Average Burden Hours Per Response: .33; Estimated Total Annual Burden Hours Requested: 267. The annualized cost to respondents is estimated at: $2,664. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Jack Guralnik, Chief Epidemiology and Demography Office, Epidemiology, Demography, and Biometry Program, NIA, NIH, Gateway Building, Room 3C309, 7201 Wisconsin Avenue MSC 9205, Bethesda, MD 20892–9205, or call non-toll-free number (301) 496–1178 or E-mail your request, including your address to: JG48S@nih.gov

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before October 21, 1996.

Colleen Barros,

Executive Officer, NIA.

[FR Doc. 96–21126 Filed 8–19–96; 8:45 am]

BILLING CODE 4140–01–M

Submission for OMB Review; Comment Request; Prostate, Lung, Colorectal and Ovarian Cancer Screening Trial

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the Federal Register on June 7, 1996, page 29106 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

PROPOSED COLLECTION: Title: Prostate, Lung, Colorectal and Ovarian Cancer Screening Trial. Type of Information

Collection: EXTENSION, OMB control number 0925–0407, expiration date September 30, 1996. Need and Use of Information Collection Request: This trial is designed to determine if screening for prostate, lung, colorectal and ovarian cancer can reduce mortality from these cancers which currently cause an estimated 251,000 deaths annually in the U.S. The design is a two-armed randomized trial of men and women aged 55 to 74 at entry. The anticipated total sample size, after four and one half years of recruitment, is projected to be 148,000. The primary endpoint of the trial is cancer-specific mortality for each of the four cancer sites (prostate, lung, colorectal, and ovary). In addition, cancer incidence, stage shift, and case survival are to be monitored to help understand and explain results. Biologic prognostic characteristics of the cancers will be measured and correlated with mortality to determine the mortality predictive value of these intermediate endpoints. Basic demographic data, risk factor data for the four cancer sites and screening history data, as collected from all subjects at baseline, will be used to assure comparability between the screening and control groups and make appropriate adjustments in analysis. Further, demographic and risk factor information will be used to analyze the differential effectiveness of screening in high versus low risk individuals. Frequency of Response: On occasion. Affected Public: Individuals or households. Type of Respondents: Adult men and women. The annual reporting burden is as follows: Estimated Number of Respondents: 100,522; Estimated Number of Responses per Respondent: 1.98; Average Burden Hours Per Response: 0.59; and Estimated Total Annual Burden Hours Requested: 114,537. The annualized cost to respondents is estimated at: $1,145,367. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function 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, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

DIRECT COMMENTS TO OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. John Gohagan , Chief, Early Detection Branch, EDCOP, National Cancer Institute, NIH, EPN Building, Room 330, 6130 Executive Boulevard, MSC7346, Bethesda, MD 20892–7346, or call non-toll-free number (301) 496–3982 or E-mail your request, including your address to: gohaganj@dcpcepn.nci.nih.gov

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before September 19, 1996.

Dated: August 9, 1996.

Philip D. Amoruso,

Executive Officer, NCI.

[FR Doc. 96–21127 Filed 8–19–96; 8:45 am]

BILLING CODE 4140–01–M

National Eye Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Eye Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Clinical Research.

Date: August 23, 1996.

Time: 9:00 a.m.

Place: National Eye Institute, Executive Plaza South, Suite 350, 6120 Executive Blvd., Bethesda, MD 20892–7164.

Contact Person: Andrew P. Mariani, Ph.D., Executive Plaza South, Room 350, 6120 Executive Blvd., Bethesda, MD 20892–7164, (301) 496–5561.

Purpose/Agenda: Review of Grant Applications.

The meeting will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.867, Vision Research: National Institutes of Health)

Dated: August 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–21133 Filed 8–19–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Notice of Meeting of Board of Scientific Counselors, National Institute of Environmental Health Sciences

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Environmental Health Sciences, September 29-October 1, 1996, in Building 101, South Campus, Conference Rooms A, B, & C, National Institute of Environmental Health Sciences (NIEHS), Research Triangle Park, North Carolina.

This meeting will be open to the public from 8:30 a.m. on September 30 to approximately 10:30 a.m. on October 1, for the purpose of presenting an overview of the organization and conduct of research in the Laboratory of Molecular Carcinogenesis, the Laboratory of Experimental Pathology, and the Cancer Genetics Section (LECM). Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6) of Title 5, U.S. Code and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on September 29 from approximately 8:00 p.m. to 9:30 p.m. and on October 1, from 10:30 a.m. to adjournment, for the evaluation of the programs of the laboratories listed above, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Carl Barrett, Scientific Director, Division of Intramural Research, NIEHS, Research Triangle Park, NC 27709, telephone (919) 541–3205, will furnish rosters of committee members and program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dated: August 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–21129 Filed 8–19–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Notice of Meeting of the National Advisory Council on Aging

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, Thursday, September 26, and Friday, September 27, 1996, to be held at the National Institutes of Health, Building 31, Conference Room 10, Bethesda, Maryland. This meeting will be open to the public on Thursday, September 26, from 8:30 a.m. to 2:30 p.m. for a public interest session (Director's Status Report, Program Updates, Public Information Office, Comments from Public Interest Groups, and a Report of the Advisory Committee to the Director, NIH meeting).

The meeting will be open again on Friday, September 27, from 8:30 a.m. until adjournment for a report on the Minority Task Force Meeting, a report on the Working Group on Program, and a discussion on the Alzheimer's Disease Centers. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting of the Council will be closed to the public on Thursday, September 26, from 2:30 p.m. to recess for the review, discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Committee Management Officer for the National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, Maryland 20892 (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. McCann at (301) 496–9322, in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: August 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–21130 Filed 8–19–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Services Research Review Committee.

Date: October 8–October 9, 1996.

Time: 8 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Angela L. Redlingshafer, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: Clinical Neuroscience and Biological Psychopathology Review Committee.

Date: October 9–October 11, 1996.

Time: 9 a.m.

Place: Hampshire Hotel, 1310 New Hampshire Ave., NW., Washington, DC 20036.

Contact Person: Maureen L. Eister, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: Neuropharmacology and Neurochemistry Review Committee.

Date: October 9–October 11, 1996.

Time: 8 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Shirley H. Maltz, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3367.

Committee Name: Psychobiology, Behavior, and Neuroscience Review Committee.

Date: October 10–October 11, 1996.

Time: 9 a.m.

Place: Renaissance Hotel, Downtown, 999 9th Street, Washington, DC 20001.

Contact Person: William H. Radcliffe, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: Mental Disorders of Aging Review Committee.

Date: October 10–October 11, 1996.

Time: 8:30 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: W. Gregory Zimmerman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

Committee Name: Clinical Psychopathology Review Committee.

Date: October 10–October 11, 1996.

Time: 8 a.m.

Place: Barcelo Washington Hotel, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Jean Speas, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

Committee Name: Child/Adolescent Development, Risk, and Prevention Review Committee.

Date: October 17–October 18, 1996.

Time: 9 a.m.

Place: St. James Hotel, 950 24th 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.

Committee Name: Health Behavior and Prevention Review Committee.

Date: October 17–October 18, 1996.

Time: 8:30 a.m.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Monica F. Woodfork, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

Committee Name: Cognitive Functional Neuroscience Review Committee.

Date: October 17–October 18, 1996.

Time: 8:30 a.m.

Place: One Washington Circle, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Shirley H. Maltz, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3367.

Committee Name: Epidemiology and Genetics Review Committee.

Date: October 21–October 22, 1996.

Time: 8 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Shirley Williams, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: Mental Health Small Business Research Review Committee.

Date: October 21–October 22, 1996.

Time: 8 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Richard Johnson, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: Social and Group Processes Review Committee.

Date: October 24–October 25, 1996.

Time: 9 a.m.

Place: The Inn at Foggy Bottom, 824 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: Perception and Cognition Review Committee.

Date: October 24–October 25, 1996.

Time: 9 a.m.

Place: St. James Hotel, 950 24th Street, NW., Washington, DC 20037.

Contact Person: Regina M. Thomas, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: Violence and Traumatic Stress Review Committee.

Date: October 24–October 25, 1996.

Time: 8:30 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

Committee Name: Treatment Assessment Review Committee.

Date: October 24–October 25, 1996.

Time: 8 a.m.

Place: Barcelo Washington Hotel, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

Committee Name: Molecular, Cellular, and Developmental Neurobiology Review Committee.

Date: October 28–October 29, 1996.

Time: 8 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Donna Ricketts, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: Mental Health AIDS and Immunology Review Committee–1.

Date: November 1, 1996.

Time: 8:30 a.m.

Place: St. James Hotel, 950 24th Street, NW., Washington, DC 20037.

Contact Person: Regina M. Thomas, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: Mental Health AIDS and Immunology Review Committee—2.

Date: November 5, 1996.

Time: 8:30 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: Child Psychopathology and Treatment Review Committee.

Date: November 7–November 8, 1996.

Time: 8 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Angela L. Redlingshafer, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: August 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–21131 Filed 8–19–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Notice of Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council on September 19–20, 1996. The meeting will be held in Building 1, Wilson Hall, National Institutes of Health, Bethesda, Maryland. The meeting of the Subcommittee on Planning will be open on September 19. The Subcommittee meeting will be held in Building 31, Room 2A03, from 8:00 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

The Council meeting will be open to the public on September 19 from 9:30 a.m. until 5:00 p.m. The agenda includes a presentation by the Director, NIH, report by the Director, NICHD, report by the Endocrinology, Nutrition and Growth Branch, and other business of Council. The meeting will be open on September 20 upon completion of applications at approximately 1:00 p.m. to adjournment if any policy issues are raised which need further discussion.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Public Law 92–463, the meeting of the full Council will be closed to the public on September 19 from 8:00 a.m. to approximately 1:00 p.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Executive Secretary, NICHD, 6100 Executive Boulevard, Room 5E03, National Institutes of Health, Bethesda, Maryland 20892–7510, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information. Individuals who plan to attend the open session and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Plummer.

(Catalog of Federal Domestic Assistance Programs Nos. 93.864, Population Research, and 93.865, Research for Mothers and Children, National Institutes of Health)

Dated: August 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–21132 Filed 8–19–96; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Meetings of the Board of Regents and the Extramural Programs Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on September 24–25, 1996, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. The Extramural Programs Subcommittee will meet on September 23 in Conference Room B, Building 38A, from 2 p.m. to approximately 3:30 p.m., and will be closed to the public.

The meeting of the Board will be open to the public from 9 a.m. to approximately 4:30 p.m. on September 24 and from 9 a.m. to adjournment on September 25 for administrative reports and program discussions. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign-language interpretation or other reasonable accommodations, should contact Mrs. Kimberly Caraballo at 301–496–4621 two weeks before the meeting.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the entire meeting of the Extramural Programs Subcommittee on September 23 will be closed to the public from 2 p.m. to approximately 3:30 p.m., and the regular Board meeting on September 24 will be closed from approximately 4:30 p.m. to 5 p.m. for the review, discussion, and

evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301–496–6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: August 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–21128 Filed 8–19–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; 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 Division of Research Grants Special Emphasis Panel (SEP) meeting:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: August 21, 1996.

Time: 12:00 p.m.

Place: NIH, Rockledge 2, Room 4142 (Telephone Conference).

Contact Person: Dr. Edmund Copeland, Scientific Review Administrator, 6701 Rockledge Drive, Room 4142, Bethesda, Maryland 20892, (301) 435–1715.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

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 Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 15, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–21274 Filed 8–16–96; 11:46 am]

BILLING CODE 4140–01–M

Division of Research Grants; 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 Division of Research Grants Special Emphasis Panel (SEP) meeting:

Purpose/Agenda: To review grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: August 27, 1996.

Time: 8:30 a.m.

Place: Pooks Hill Marriott, Bethesda, Maryland.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

This notice is being published less than 15 days prior to the above meeting date due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

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 Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 15, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–21275 Filed 8–16–96; 11:46 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel I in September.

A summary of the meeting and a roster of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–4783.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, section 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: September 9, 1996—9:30 a.m.–12:30 p.m.

Place: Doubletree Hotel, 1750 Rockville Pike, Rockville, Maryland 20852.

Meeting Room: Presidential II.

Closed: September 9, 1996—9:30 a.m. until 12:30 p.m.

Panel: Minority Fellowship Program.

Contact: Thomas W. Granzow, Ph.D., Room 17–89, Parklawn Building, Telephone: (301) 443–5062 and FAX: (301) 443–3437.

Dated: August 14, 1996.

Jeri Lipov,

Committee Management Officer, SAMHSA.

[FR Doc. 96–21140 Filed 8–19–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Amendment to Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Amendments to Tribal-State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment III to the Compact for regulation of Class III gaming between the Confederated Tribes of the Grand Ronde Community of Oregon and the State of Oregon which was executed on June 17, 1996.

DATES: This action is effective August 20, 1996.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of

Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: August 7, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–21213 Filed 8–19–96; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management

[AZ–055–06–1220–00]

Arizona: Closure of Public Land to Camping, La Paz County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure of public lands to camping.

SUMMARY: Notice is hereby given that the following described lands within the corporate boundary of the Town of Quartzsite, Arizona, are closed to all types of camping.

Gila and Salt River Meridian, Arizona

T. 3 N., R. 19 W.,
Sec. 4, that portion of the W½W½NW¼NE¼ lying west of Tyson Wash;
Sec. 5, lots 1 to 4, inclusive, S½N½, S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼.

T. 4 N., R. 19 W.,
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Sec. 8, all;
Sec. 9, N½, SW¼, S½NE¼SE¼, W½SE¼, SE¼SE¼;
Sec. 10, S½;
Sec. 11, S½S½;
Sec. 12, 13 and 14, all;
Sec. 15, E½, N½NW¼, N½S½NW¼, SW¼SW¼NW¼, SE¼SE¼NW¼, SW¼;
Sec. 17, all;
Sec. 18, lots 1 to 4, inclusive, E½, E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Sec. 20, N½, SW¼, N½SE¼, SW¼SE¼, N½SE¼SE¼, SW¼SE¼SE¼, S½SE¼SE¼SE¼;
Sec. 21 W½NE¼, N½NW¼, SW¼NW¼, E½SE¼NW¼, SW¼SE¼NW¼;
Sec. 22, lot 1, NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 23, N½, N½S½, S½NE¼SW¼SW¼, NW¼SW¼SW¼, SE¼SW¼SW¼, N½SE¼SW¼, SW¼SE¼SW¼, N½S½SE¼, SE¼SW¼SW¼SE¼, SE¼SE¼SW¼SE¼, E½SW¼SE¼SE¼, W½SE¼SE¼SE¼;
Sec. 24, N½, N½SW¼, S½N½SW¼SW¼, S½SW¼SW¼, SE¼SW¼, SE¼;
Sec. 26, S½NE¼NE¼NE¼NE¼, W½NE¼NE¼NE¼, SE¼NE¼NE¼NE¼, E½NW¼NE¼NE¼, S½NW¼NW¼NE¼NE¼, SW¼NW¼NE¼NE¼, E½NE¼NW¼NE¼, SW¼NE¼NW¼NE¼, E½NW¼NW¼NE¼, SW¼NW¼NW¼NE¼, S½N½NE¼, S½NE¼, S½NE¼NE¼NW¼, W½NE¼NW¼, SE¼NE¼NW¼, SE¼NW¼;
Sec. 28, NW¼SE¼;
Sec. 29, N½NE¼NE¼, W½SW¼NE¼NE¼, NW¼NE¼, N½NW¼, S½SW¼;
Sec. 30, N½, SW¼, W½SE¼, SE¼SE¼;
Sec. 31, lots 1, 3 and 4, E½, E½W½;
Sec. 32, all;
Sec. 33, that portion of the W½ lying west of Tyson Wash.

The area affected by the closure contains 13,177.71 acres more or less.

SUPPLEMENTARY INFORMATION: The camping closure is being implemented for health and safety reasons, to resolve conflicts relating to public/private lands interface within the town, to facilitate disposal of public land within the town, and to prevent further environmental degradation of the area. The camping closure shall apply to all persons and shall remain in effect until further notice. Authority for this action is contained in 43 CFR 8364.1. Violation of this regulation is punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months. A map of the closure area will be posted in the Town Hall and Chamber of Commerce in the Town of Quartzsite and is available at the Yuma District Office, 2555 East Gila Ridge Road, Yuma, Arizona 85365.

EFFECTIVE DATE: This order is effective upon signature of the authorized officer, August 13, 1996.

FOR FURTHER INFORMATION CONTACT: Acting District Manager Gail Acheson, Yuma District Office, 2555 East Gila Ridge Road, Yuma, Arizona 85365, telephone (520) 317–3200.

Dated: August 13, 1996.

Gail Acheson,

Acting District Manager.

[FR Doc. 96–21121 Filed 8–19–96; 8:45 am]

BILLING CODE 4310–32–M

[CA–068–06–1220–00]

Final Supplementary Rule and Response to Comments Affecting Public Lands Within the Barstow Resource Area; California

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: This notice establishes a supplementary rule regarding recreational shooting within the Barstow Resource Area, Bureau of Land Management. This supplementary rule requires that, on Public Lands within the Barstow Resource Area, in areas permitted by San Bernardino County Ordinance 22.011 for legal recreational target shooting of rifles, handguns and shotgun slugs, no person shall fire, shoot or discharge a firearm at any object other than a retrievable paper silhouette or bulls-eye target or a firearm target constructed of plate iron or plate steel such as an iron silhouette, knock-down or spinner target. This supplementary rule will become effective and enforceable on August 26, 1996.

SUMMARY: In accordance with title 43, Code of Federal Regulations § 8365.1–6, the State Director may establish supplementary rules in order to provide for the protection of persons, property, and public lands and resources. This authority was delegated to the District Managers and Area Managers pursuant to BLM Manual 1203, California Supplement.

Copies of this supplementary rule would be made available at the local BLM office and affected lands within the Barstow Resource Area would be posted.

PENALTIES: Failure to comply with this supplementary rule would be punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months.

SUPPLEMENTARY INFORMATION: This supplementary rule was proposed to deter and prevent the accumulation of household refuse and trash which is being deposited on these Public Lands by a significant portion of recreational shooters. Shooters on public lands have used as targets and then discarded old television sets, glass bottles, propane gas cylinders, and other similar items and, as a result, have adversely impacted the quality of these public lands. These types of discarded targets pose a significant public safety threat and cause unsightly litter. This supplementary rule will not infringe upon Constitutional rights of an individual to own or possess lawful firearms. This rule does not impact or effect lawful hunting of wild birds or game. Additionally, this rule does not impact or effect lawful skeet shooting in areas open for the discharging of shotguns. All shooters will be responsible to retrieve and properly dispose of their targets and spent shells upon leaving Public Lands.

Response to Comments: The majority of written comments submitted during the thirty day comment period were supportive of this supplementary rule. In response to several concerns, this rule does not prohibit or impact lawful skeet shooting within areas open to shotgun shooting.

The BLM does realize that littering and illegal dumping on public lands is

a major problem. The BLM realizes that the majority of recreational shooters are responsible and do not leave behind their refuse. However, this supplementary rule was implemented to promote responsible target shooting on public land and to deter the minority of shooters who do contribute to this larger refuse problem.

FOR MORE INFORMATION CONTACT: Maps depicting areas affected by this proposed rule and other pertinent information may be obtained at the BLM Barstow Resource Area office (619–255–8700) or the California Desert Information Center (619–255–8760), both located in Barstow, California.

Tim Read,

Area Manager.

[FR Doc. 96–21099 Filed 8–19–96; 8:45 am]

BILLING CODE 4310–40–P

[NV–930–1430–01; N–58667]

Amended Land Description for Plan Amendment and Recreation and Public Purposes Act Classification: Churchill County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Change to May 21, 1996; Notice of Intent.

SUMMARY: Based on public comments received in response to BLM's May 21, 1996 Notice of Intent to Prepare a Planning Amendment to the Lahontan Resource Management Plan, the City of Fallon has applied for a new location for the proposed landfill within the public land described as:

T. 16 N., R. 29 E., MDM, NV
Sec. 20, E½E½, NW¼NE¼ (unsurveyed).
Sec. 21, All (unsurveyed). (Containing ±840 acres)

This land has been examined and determined to be suitable for classification pursuant to the Recreation and Public Purposes Act of 1926, as amended (43 U.S.C. 869 *et seq.*). This public land is within an area currently identified in the Lahontan Resource Management Plan (RMP) for retention in federal ownership for multiple uses. The Bureau of Land Management will consider amending the RMP to change the land designation in this area from retention status to disposal status. The amendment and associated environmental document will also analyze the suitability of conveyance of approximately 300 acres of the land to the City of Fallon for use as a landfill. Conveyance may only occur if the plan amendment is approved. No further consideration will be given to changing the land tenure designation on the public land surrounding Russell Spit, as described in our Federal Register notice of May 21, 1996.

SEGREGATION: This land is hereby segregated from all forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. Pending a decision on plan amendment and action on the City of Fallon's Recreation and Public Purposes application, this segregation shall continue for a period of 18 months or until a conveyance document is issued or an opening order is published in the Federal Register, whichever occurs first.

DATES AND ADDRESSES: For a period of 30 days from the date of publication of this notice in the Federal Register, interested persons may submit comments regarding the proposed plan amendment to the District Manager, Carson City District Office, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89706. Comments regarding the land classification will be accepted for a period of 45 days. Any objections to the classification will be evaluated by the State Director. In the absence of any objections, the classification will become effective 60 days from the date of publication of this notice in the Federal Register.

All other information presented in the Notice of May 21, 1996 remains unchanged.

Dated this 7th day of August, 1996.

John O. Singlaub,

District Manager.

[FR Doc. 96–21100 Filed 8–19–96; 8:45 am]

BILLING CODE 4310–HC–P

National Park Service

Indian Memorial Advisory Committee

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a scheduled meeting of the Little Bighorn Battlefield National Monument Advisory Committee (a.k.a. Indian Memorial Advisory Committee.) Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

MEETING DATE AND TIME: September 6–7, 1996, 9 a.m.–12 p.m. & 1:30 p.m.–5 p.m. on 9/6/96, 8 a.m.–12 p.m. & 1:30 p.m.–5 p.m. on 9/7/96.

ADDRESS: Sheraton Billings Hotel, 27 N. 27th Street, Billings, Montana 59101. (406) 252–7400.

THE AGENDA OF THIS MEETING WILL BE: Introductions/opening remarks, administrivia, minutes from last meeting, discuss follow-up actions from last meeting, presentation by National Park Foundation representative, fundraising and public relations (full and sub-committee), budget for fiscal year 1997, set up of future events sub-committees (contestant questions and answers, public exhibition, groundbreaking ceremony), review of design competition materials, committee logo for next phase.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with: Superintendent, Little Bighorn Battlefield National Monument, P.O. Box 39, Crow Agency, Montana 59022, telephone (406) 638–2621. Minutes of the meeting will be available for public inspection four weeks after the meeting at the Office of the Superintendent of Little Bighorn Battlefield National Monument.

SUPPLEMENTARY INFORMATION: The Advisory Committee was established under Title II of the Act of December 10, 1991, for the purpose of advising the Secretary on the site selection for a memorial in honor and recognition of the Indians who fought to preserve their land and culture at the Battle of Little Bighorn, on the conduct of a national design competition for the memorial, and ''. . . to ensure that the memorial designed and constructed as provided in section 203 shall be appropriate to the monument, its resources and landscape, sensitive to the history being portrayed and artistically commendable.''

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Sutteer, Chief, Office of American Indian Trust Responsibilities, Intermountain Field Area Office, National Park Service, 12795 W. Alameda Parkway, P.O. Box 25287, Denver, Colorado 80225–0287, (303) 969–2511.

Dated: August 8, 1996.

Gerard A. Baker,

Designated Federal Officer, Little Bighorn Battlefield National Monument, National Park Service.

[FR Doc. 96–21097 Filed 8–19–96; 8:45 am]

BILLING CODE 4310–70–P

National Capital Region; National Capital Memorial Commission Notice of Public Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission will be held on Thursday, August 29, 1996, at 1 p.m., at the National Building Museum, Room 312, 5th and F Streets, NW.

The Commission was established by Public Law 99–652, the Commemorative Works Act, for the purpose of preparing and recommending to the Secretary of the Interior, Administrator, General Services Administration, and Members of Congress broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended), through the media of monuments, memorials and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary and Administrator, and to serve as information focal point for those persons seeking to erect memorials on Federal land in the National Capital Region.

The members of the Commission are as follows:

Director, National Park Service
Chairman, National Capital Planning Commission
The Architect of the Capitol
Chairman, American Battle Monuments Commission
Chairman, Commission of Fine Arts
Mayor of the District of Columbia
Administrator, General Services Administration
Secretary of Defense

The purpose of the meeting will be to discuss currently authorized and proposed memorials in the District of Columbia and environs.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact the Commission at 202–619–7097. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Office of Land Use Coordination, National Capital Region, 1100 Ohio Drive, SW., Room 201, Washington, D.C., 20242.

Joseph Lawler,

Acting Field Director, National Capital Area.

[FR Doc. 96–21098 Filed 8–19–96; 8:45 am]

BILLING CODE 4310–70–M

Native American Graves Protection and Repatriation Review Committee: Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice.

Notice is hereby given in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (1988), that a meeting of the Native American Graves Protection and Repatriation Act Review Committee will be held on November 1, 2 and 3, 1996 in Myrtle Beach, SC.

The Committee will meet at the Sands Ocean Club Resort 9550 Shore Dr., Myrtle Beach, SC 29572, telephone (800) 845–0633 fax (803) 497–3835. Meetings will begin each day at 8:30 a.m. and conclude not later than 5:00 p.m.

The Native American Graves Protection and Repatriation Review Committee was established by Public Law 101–601 to monitor, review, and assist in implementation of the inventory and identification process and repatriation activities required under the statute.

On the agenda for this meeting will be: discussion of the committee's draft recommendations regarding the disposition of culturally unidentifiable human remains in museums and Federal collections; dicussions with disputants over the disposition of an Oneida wampum belt currently in the possession of the Field Museum of Natural History, Chicago; review of documentation related to a dispute over a Hawaiian object currently in the possession of the Museum of Natural History at Roger Williams Park, Providence; the committee's 1995-1996 report to Congress; and public comment on implementation of the statute in the Southeastern United States.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file a written statement concerning the matters to be discussed with Dr. Francis P. McManamon, Departmental Consulting Archeologist.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact Dr. Francis P. McManamon, Departmental Consulting Archeologist, Archeology and Ethnography Program (MS2275), National Park Service, P.O. Box 37127 Washington, D.C. 20013–7127, Telephone (202) 343–4101. Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting at the office of the Departmental Consulting Archeologist, Suite 210, 800 North Capital Street, Washington, D.C.

Dated: August 14, 1996.

Veletta Canouts,

Acting, Departmental Consulting Archeologist,

Deputy Chief, Archeology and Ethnography Program.

[FR Doc. 96–21104 Filed 8–19–96; 8:45 am]

BILLING CODE 4310–70–F

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 August 10, 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, D.C. 20013–7127. Written comments should be submitted by September 4, 1996.

Carol D. Shull,

Keeper of the National Register.

FLORIDA

Hillsborough County

Standard Oil Service Station, 1111 N. Wheeler St., Plant City, 96000974

Palm Beach County

Comeau Building, 319 Clematis St., West Palm Beach, 96000975

NORTH CAROLINA

Lincoln County

Pryor—Sifford House and Outbuildings, 7270 Sifford Rd., Stanley vicinity, 96000976

OKLAHOMA

McIntosh County

Tabor House, 631 W. Lafayette, Checotah, 96000979

Nowata County

Diamond Point Dependent District No. 44 School, Jct. of Co. Rds. 409 and 24.5, Nowata vicinity, 96000977

Tillman County

Rock Island Depot, 201 S. Bridge Rd., Grandfield, 96000978

OREGON

Malheur County

Green Lantern Saloon (Nyssa MPS), 11 S. 1st St., Nyssa, 96000980
Hotel Western (Nyssa MPS), 9 Good Ave., Nyssa, 96000981
Thompson, Al and Son's, Feed and Seed Company (Nyssa MPS), 117 Good Ave., Nyssa, 96000982

Vinsonhaler Blacksmith Shop (Nyssa MPS), 122 Good Ave., Nyssa, 96000983

SOUTH CAROLINA

Greenville County

James, Louie, House, 401 W. Poinsett St., Greer, 96000985

Richland County

Elmwood Cemetery, 501 Elmwood Ave., Columbia, 96000984

WEST VIRGINIA

Marshall County

West Virginia State Penitentiary, 818 Jefferson Ave., Moundsville, 96000987

Ritchie County

Bank of Cairo, Jct. of Main St. and former Baltimore and Ohio RR line, Cairo, 96000986

WISCONSIN

Iowa County

Iowa Street Historic District, Roughly, Iowa St. from Division St. to Diagonal St., Dodgeville, 96000991

Sauk County

Van Orden, Jacob, House, 531 4th Ave., Baraboo, 96000988

Waukesha County

Weston's Antique Apple Orchard, 19760 W. National Ave., New Berlin, 96000989

Winnebago County

Smith, Hiram, House, 336 Main St., Neenah, 96000990

[FR Doc. 96–21180 Filed 8–19–96; 8:45 am]

BILLING CODE 4310–70–P

Draft Recommendations Regarding the Disposition of Culturally Unidentifiable Human Remains and Associated Funerary Objects

AGENCY: National Park Service, Interior.

ACTION: Notice and Request for Comments.

Section 8 (c)(5) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*) requires the Review Committee to recommend specific actions for developing a process for the disposition of culturally unidentifiable Native American human remains. The committee has given this matter great thought and has developed the enclosed draft documents outlining their positions. The enclosed documents are intended for wide circulation to elicit comments from Indian tribes, Native Hawaiian organizations, museums, Federal agencies, and national scientific and museum organizations.

Anyone interested in commenting on the committee's draft recommendations should send written comments to:

The NAGPRA Review Committee
c/o Archeological Assistance Division
National Park Service
Box 37127, Suite 210
Washington DC, 20013–7127

Comments received by October 15, 1996 will be considered by the committee at its next scheduled meeting. For additional information, please contact Dr. Francis P. McManamon at (202) 343–4101.

Note: We will not accept any comments in electronic form.

Enclosure

Dated: August 14, 1996.

Veletta Canouts,

Acting, Departmental Consulting Archeologist,

Deputy Chief, Archeology and Ethnography Program.

Draft Recommendations Regarding the Disposition of Culturally Unidentifiable Human Remains

Introduction

The Native American Graves Protection and Repatriation Review Committee is charged under section 8 (c)(5) of the Native American Graves Protection and Repatriation Act (NAGPRA) with ''compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains.''

The committee issued a draft set of recommendations for guidelines regarding disposition of culturally unidentifiable human remains for public comment and review. One hundred twenty nine Indian tribes, Native Hawaiian organizations, scientific organizations, Federal agencies, individuals, and museums responded to this draft. Based on these responses, the committee concluded that disposition of a significant portion of Native American human remains listed as culturally unidentifiable for purposes of NAGPRA may possibly be decided through regulatory action. The committee believes that decisions regarding disposition of a small number of generally very ancient human remains will require amendments to NAGPRA by Congress.

Proposed Regulatory Language and Methods for Disposition of Culturally Unidentifiable Human Remains

By clarifying and defining the meaning of the statutory term, ''shared group identity,'' the committee believes it is possible to decide disposition of many human remains presently classified as ''culturally unidentifiable.'' under NAGPRA. If ''shared group identity'' is interpreted to recognize that in several circumstances more than one Indian tribe or Native Hawaiian organization may share identity with prehistoric human remains or human remains associated with an earlier group then many of the problems regarding disposition of culturally unidentifiable human remains may be resolved.

''Shared group identity'' has not, to date, been defined in statute or regulation. The term is central to the definition of ''cultural affiliation'' and thus is at the core of NAGPRA. By statute, ''cultural affiliation'' means ''that there is a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and an identified earlier group.'' There is nothing in this language to preclude more than one Indian tribe from establishing cultural affiliation through shared group identity to an earlier group. There are, in fact, many instances in which multiple Indian tribes claim or may show shared group identity. Thus, the committee proposes to define ''shared group identity'' to include the possibility of a relationship between more than one present day Indian tribe or Native Hawaiian organization and an earlier historic or prehistoric group.

The committee, therefore, proposes the following definition for ''shared group identity.''

Shared group identity means a relationship between a present day Indian tribe or tribes and an earlier group based on: (1) direct historical links and/or (2) a combination of geographical, temporal, and cultural links. Geographical, temporal, and/or cultural links may be established through biological, archaeological, linguistic, folkloric, oral traditional, or other relevant information or expert opinion [see section 7 (a)(4) of the Act]. This definition provides for the possibility of more than one Indian tribe or Native Hawaiian organization establishing cultural affiliation with a prehistoric or earlier group. At the same time, it employs language and concepts already well established within the framework of NAGPRA.

Several points support this approach. It is likely that a substantial number of human remains will be classified as culturally unidentifiable. Many museums and Federal agencies recognize that while it may not be possible to affiliate individual human remains with a single Indian tribe, it is often possible to narrow the field to a few Indian tribes who are culturally affiliated with the human remains based on a preponderance of the evidence. The high number of human remains listed as culturally unidentifiable may

also reflect a lack of consistency regarding the use of the term ''Indian tribe.'' For example, a set of human remains may be identified as ''Sioux'' while lacking a more precise identification linking them with one or another or several Sioux tribes. Finally, many cases in recent years provide a foundation for narrowing the number of individual human remains that are considered culturally unidentifiable. Specifically, in cases of prehistoric remains, there are several avenues for present day Indian tribes or Native Hawaiian organizations to establish shared group identity with prehistoric groups. For example, an Indian tribe or Native Hawaiian organization may not be able to establish an unbroken historical connection with a particular prehistoric culture, but may be able to establish shared group identity based on clear geographical and temporal ties to the area and time of the earlier group coupled with additional evidence, such as oral histories and other cultural traditions and lifeways.

Implementation of NAGPRA under this approach would be relatively straightforward and simple. Indian tribes, or tribes working at their discretion, in cooperation with museums or Federal agencies or other relevant experts, will be responsible for developing identifications of shared group identity with specific prehistoric cultures or earlier groups. Once an Indian tribe or tribes, or an Indian tribe and a museum or Federal agency, has compiled information establishing cultural affiliation based on shared group identity with a prehistoric culture or earlier group, they will notify the National Park Service of their claims. The National Park Service will compile a list of all human remains that have been initially identified as culturally unidentifiable. This list will be submitted to the committee and to Indian tribes. Guidelines for repatriation, as provided in existing NAGPRA statutes and regulations, will apply. Indian tribes may request repatriation, based on their claims and based on agreements among claimants regarding proposed disposition of such human remains. Museums or Federal agencies will evaluate and act upon the claims, as outlined in NAGPRA statutes and regulations. The proposed process will be further simplified in practice since several Indian tribes have already established regional or cultural associations based on shared group identity with human remains in the possession or control of museums and Federal agencies.

Issues Requiring Amendments to NAGPRA by Congress

1) Non-Federally Recognized Native American Groups: The definition of ''Indian tribe'' used in NAGPRA limits participation in the NAGPRA process to Indian tribes who are currently recognized as tribes by the Bureau of Indian Affairs. Many Native American groups are not presently Federally recognized through accidents of political rather than cultural history. While mechanisms have been developed to provide some access to NAGPRA for non-Federally recognized Native American groups, the committee recommends that the Secretary urge Congress to amend NAGPRA to provide a means whereby legitimate, non-Federally recognized Native American groups may participate in NAGPRA.

2) Culturally unidentifiable associated funerary objects: NAGPRA, as currently framed, does not provide for repatriation of culturally unidentifiable associated funerary objects. The committee recommends that the Secretary urge Congress to amend NAGPRA to provide for a means for Indian tribes or Native Hawaiian organizations to repatriate associated funerary objects along with human remains when several Indian tribes have established cultural affiliations and joint agreements for disposition of such human remains and their associated funerary objects, as outlined in the section above.

Conclusion

The committee believes that the steps outlined above provide viable solutions to otherwise complex and vexing problems. Comments from the field were valuable in helping the committee pursue a very different sent of potential solutions from those offered in the first draft. We look forward to receiving additional comments and suggestions prior to making our final recommendations to the Secretary of the Interior regarding disposition of culturally unidentifiable human remains.

Draft Recommendations for the Disposition of Human Remains Culturally Affiliated with Non-Federally Recognized Native American Groups

The Native American Graves Protection and Repatriation Review Committee is charged under section 8 (c)(5) of the Native American Graves Protection and Repatriation Act (NAGPRA) with ''compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains.''

In the course of holding meetings across the United States and hearing public commentary from many groups and individuals, the review committee has come to recognize that there are different kinds of remains that may be classified as ''culturally unidentifiable'' under the definitions and requirements of NAGPRA. One particular subgroup are those remains that are culturally affiliated with Native American groups which are not formally recognized by the Bureau of Indian Affairs (BIA) as ''Indian tribes''. Examples of such non-Federally recognized Native American groups might include groups recognized by individual States; ones that were once recognized by the BIA but for various reasons no longer have such recognition; or ones that have applied for BIA recognition but have not yet been reviewed or approved. (This list is intended to give examples only, and it not meant to be inclusive or definitive.) In these cases, the remains are only ''culturally unidentifiable'' because the definition of ''Indian tribe'' has been interpreted by the Department of the Interior to mean only those groups that have received formal recognition by the BIA. The review committee believes that it may be necessary to amend the statute in order to fully enfranchise these non-Federally recognized Native American groups with all rights and responsibilities accorded by NAGPRA to Federally recognized Indian tribes. In the absence of such an amendment, the review committee recommends that general guidelines can be added to the current regulations which will encourage non-Federally recognized Native American groups to work cooperatively with museums, Federal agencies and Federally recognized Indian tribes and allow for the repatriation of culturally affiliated human remains and associated funerary objects.

The review committee has reviewed four cases to date involving non-Federally recognized Native American groups and has made recommendations to the Secretary of the Interior to approve the repatriation of human remains to these groups. Two of these cases—the Robert S. Peabody Museum of Archaeology at Phillips Academy repatriation to the Mashpee Wampanoag and the Hood Museum of Art at Dartmouth College repatriation to the Abanaki Nation—have been completed with the required Notices of Inventory Completion published in the *Federal Register.* Until such time as the statute is amended to provide full standing to

non-Federally recognized Native American groups, the review committee recommends the following five step process:

a. Museums and Federal agencies that believe they possess human remains culturally affiliated with non-Federally recognized Native American groups are encouraged to notify these groups and work with them to reach agreement on possible repatriation of those human remains. Museum and Federal agencies should use the statute and regulations to assess the potential cultural affiliation of non-Federally recognized Native American groups with specific human remains. Determinations should be based on a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion [25 U.S.C. 3006 (c)(4)].

b. Non-Federally recognized Native American groups are encouraged to work with museums and Federal agencies to reach agreement on possible repatriation of human remains.

c. In discussions over the possible repatriation of human remains to non-Federally recognized Native American groups, the group and the museum or Federal agency holding the human remains are encouraged to consult with all Federally recognized Indian tribes who may have an interest in the geographic area from which the remains originated.

d. When agreement is reached to repatriate human remains to a non-Federally Native American group, this agreement should be submitted to the review committee for consideration. The review committee will then review the facts and circumstances of the case and make a recommendation on the repatriation to the Secretary of the Interior. If the Secretary agrees with the recommendations, he will recommend to the museum or agency to proceed with the repatriation.

e. If the decision is made to proceed with the repatriation, a Notice of Inventory Completion will be published in the *Federal Register*, with a waiting period of 30 days prior to the actual repatriation of the human remains.

These five steps are intended to provide a general process for non-Federally recognized Native American groups to work cooperatively with museums and Federal agencies to repatriate human remains with which they share group identity. They should not be interpreted as introducing new compliance requirements for museums and Federal agencies.The review committee believes that the above observations and recommendations provide viable solutions to otherwise complex and vexing problems. Public comments were invaluable in helping pursue a very different set of potential solutions from those offered in the first draft. The review committee looks forward to receiving additional comments and suggestions prior to making final recommendations to the Secretary of the Interior regarding the disposition of cultural unidentifiable human remains.

[FR Doc. 96–21105 Filed 8-19-96; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains in the Possession of Olympic National Park, Port Angeles, WA

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 the inventory of human remains in the possession of the National Park Service at Olympic National Park, Port Angeles, WA.

A detailed assessment of the human remains was made by National Park Service professional staff in consultation with representatives of the Makah Tribal Council.

Prior to 1952, human remains representing one adult individual were recovered from a site located within the Makah Indian Reservation, and donated to the park in 1952 by Mr. Fred Pennoyer. Mr. Pennoyer stated he removed the skull at ''the Makah site of Waatch.'' No known individual was identified. No associated funerary objects are present.

The Makah site of Waatch was archeologically documented in 1947 by Richard Daugherty as being affiliated with the Makah Indian Tribe. A C–14 sample from the site yielded a date of approximately 4,000 years BP. Numerous historical documents confirm Makah occupation of the site well into the historic period. The National Park Service has interpreted these data to indicate a continuity of Makah occupation of this site. These remains are believed to date to the Makah occupation of the site. Visual examination of the human remains indicate they are Native American.

Based on the above mentioned information, officials of the National Park Service have determined that, pursuant to 43 CFR 10 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Park officials 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 the human remains and the Makah Indian Tribe of Washington.

This notice has been sent to officials of the Makah Tribal Council. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Mr. David Morris, Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, WA 98362; telephone: (360) 452–4501, ext. 310 before September 19, 1996. Repatriation of the human remains to the Makah Indian Tribe may begin after that date if no additional claimants come forward.

Dated: August 14, 1996.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Chief, Archeology and Ethnography Program.

[FR Doc. 96–21106 Filed 8-19-96; 8:45 am]

BILLING CODE 4310–70–F

Bureau of Reclamation

Review of Existing Coordinated Long-Range Operating Criteria for Colorado River Reservoirs

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Operating Criteria for Colorado River Reservoirs (Operating Criteria), promulgated pursuant to Public Law 90–537, were published in the Federal Register on June 10, 1070. The Operating Criteria provided for the coordinated long-range operation of the reservoirs constructed and operated under the authority of the Colorado River Storage Project Act, the Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act for the purposes of complying with and carrying out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty. The existing Operating Criteria are included at the end of this notice. Written comments are invited from the public as to whether the Operating Criteria should be modified.

DATES: Written comments must be received by October 18, 1996.

ADDRESSES: Written comments may be mailed to: Regional Director, Lower Colorado Region, Bureau of

Reclamation, P.O. Box 61470, Boulder City, Nevada 89005, or Regional Director, Upper Colorado Region, Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102.

FOR FURTHER INFORMATION CONTACT: Bruce Moore at (801) 524–5415 or in writing to the Bureau of Reclamation, Upper Colorado Region, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102.

SUPPLEMENTARY INFORMATION: The Operating Criteria provide for review at least every 5-years with participation by such Colorado River Basin State representatives as each Governor may designate and other parties and agencies as the Secretary may deem appropriate. Pub. L. 90–537 allows the Secretary of the Interior, as a result of actual operating experiences or unforeseen circumstances, to modify the Operating Criteria to better achieve their specified statutory purposes. This will be the fifth 5-year review of the Operating Criteria conducted since their initial promulgation in 1970. The Commissioner of Reclamation shall be the authorized agent of the Secretary of the Interior for the purpose of conducting and coordinating this review.

The scope of this review shall be consistent with the statutory purposes of the Operating Criteria, which are ''to comply with and carry out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty.'' Long-range operations generally refer to reservoir operations on an annual or less frequent basis, as opposed to short-term (hourly or daily) operations.

In addition to accepting written comments, open public meetings will be held during calendar years 1996 and 1997. Notification of dates, times and places for public meetings will be made through the media and to all respondents to this notice.

Dated: August 14, 1996.

Stephen V. Magnussen,

Acting Commissioner.

Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Public Law 90–537)

Criteria for coordinated long-range operation of Colorado River Reservoirs pursuant to the Colorado River Basin Project Act of September 30, 1968 (Public Law 90–537).

These Operating Criteria are promulgated in compliance with section 602 of Public Law 90–537. They are to control the coordinated long-range operation of the storage reservoirs in the Colorado River Basin constructed under the authority of the Colorado River Storage Project Act (hereinafter ''Upper Basin Storage Reservoirs'') and the Boulder Canyon Project Act (Lake Mead). The Operating Criteria will be administered consistent with applicable Federal laws, the Mexican Water Treaty, interstate compacts, and decrees relating to the use of the waters of the Colorado River.

The Secretary of the Interior (hereinafter the ''Secretary'') may modify the Operating Criteria from time to time in accordance with section 602(b) of Public Law 90–537. The Secretary will sponsor a formal review of the Operating Criteria at least every 5 years, with participation by State representatives as each Governor may designate and such other parties and agencies as the Secretary may deem appropriate.

I. Annual Report

(1) On January 1, 1972, and on January 1 of each year thereafter, the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report describing the actual operation under the adopted criteria for the preceding compact water year and the projected plan of operation for the current year.

(2) The plan of operation shall include such detailed rules and quantities as may be necessary and consistent with the criteria contained herein, and shall reflect appropriate consideration of the uses of the reservoirs for all purposes, including flood control, river regulation, beneficial consumptive uses, power production, water quality control, recreation, enhancement of fish and wildlife, and other environmental factors. The projected plan of operation may be revised to reflect the current hydrologic conditions, and the Congress and the Governors of the Colorado River Basin States shall be advised of any changes by June of each year.

II. Operation of Upper Basin Reservoirs

(1) The annual plan of operation shall include a determination by the Secretary of the quantity of water considered necessary as of September 30 of that year to be in storage as required by section 602(a) of Public Law 90–537 (hereinafter ''602(a) Storage''). The quantity of 602(a) Storage shall be determined by the Secretary after consideration of all applicable laws and relevant factors, including, but not limited to, the following:

(a) Historic streamflows;

(b) The most critical period of record;

(c) Probabilities of water supply;

(d) Estimated future depletions in the upper basin, including the effects of recurrence of critical periods of water supply;

(e) The ''Report of the Committee on Probabilities and Test Studies to the Task Force on Operating Criteria for the Colorado River,'' dated October 30, 1969, and such additional studies as the Secretary deems necessary;

(f) The necessity to assure that upper basin consumptive uses not be impaired because of failure to store sufficient water to assure deliveries under section 602(a) (1) and (2) of Public Law 90–537.

(2) If, in the plan of operation, either:

(a) The Upper Basin Storage Reservoirs active storage forecast for September 30 of the current year is less than the quantity of 602(a) Storage determined by the Secretary under Article II(1) hereof, for that date; or

(b) The Lake Powell active storage forecast for that date is less than the Lake Mead active storage forecast for that date; the objective shall be to maintain a minimum release of water from Lake Powell of 8.23 million acre-feet for that year. However, for the years ending September 30,1971 and 1972, the release may be greater than 8.23 million acre-feet if necessary to deliver 75 million acre-feet at Lees Ferry for the 10-year period ending September 30, 1972.

(3) If, in the plan of operation, the Upper Basin Storage Reservoirs active storage forecast for September 30 of the current water year is greater than the quantity of 602(a) Storage determination for that date, water shall be released annually from Lake Powell at a rate greater than 8.23 million acre-feet per year to the extent necessary to accomplish any or all of the following objectives:

(a) To the extent it can be reasonably applied in the States of the Lower Division to the uses specified in Article III(e) of the Colorado River Compact, but no such releases shall be made when the active storage in Lake Powell is less than the active storage in Lake Mead.

(b) To maintain, as nearly as practicable, active storage in Lake Mead equal to the active storage in Lake Powell, and

(c) To avoid anticipated spills from Lake Powell.

(4) In the application of Article II(3)(b) herein, the annual release will be made to the extent that it can be passed through Glen Canyon Powerplant when operated at the available capacity of the powerplant. Any water thus retained in Lake Powell to avoid bypass of water at

the Glen Canyon Powerplant will be released through the Glen Canyon Powerplant as soon as practicable to equalize the active storage in Lake Powell and Lake Mead.

(5) Releases from Lake Powell pursuant to these criteria shall not prejudice the position of either the upper or lower basin interests with respect to required deliveries at Lees Ferry pursuant to the Colorado River Compact.

III. Operation of Lake Mead

(1) Water released from Lake Powell, plus the tributary inflows between Lake Powell and Lake Mead, shall be regulated in Lake Mead and either pumped from Lake Mead or released to the Colorado River to meet requirements as follows:

(a) Mexican Treaty obligations;

(b) Reasonable consumptive use requirements of mainstream users in the lower basin;

(c) Net river losses;

(d) Net reservoir losses;

(e) Regulatory waters.

(2) Until such time as mainstream water is delivered by means of the Central Arizona Project, the consumptive use requirements of Article III(1)(b) of these Operating Criteria will be met.

(3) After commencement of delivery of mainstream water by means of the Central Arizona Project, the consumptive use requirements of Article III(1)(b) of these Operating Criteria will be met to the following extent:

(a) *Normal.* The annual pumping and release from Lake Mead will be sufficient to satisfy 7,500,000 acre-feet of annual consumptive use in accordance with the decree in Arizona v. California, 376 U.S. 340 (1964).

(b) *Surplus.* The Secretary shall determine from time to time when water in quantities greater than ''Normal'' is available for either pumping or release from Lake Mead pursuant to Article II(B)(2) of the decree in Arizona v. California after consideration of all relevant factors, including, but not limited to, the following:

(i) The requirements stated in Article III(1) of these Operating Criteria;

(ii) Requests for water by holders of water delivery contracts with the United States, and of other rights recognized in the decree in Arizona v. California;

(iii) Actual and forecast quantities of active storage in Lake Mead and the Upper Basin Storage Reservoirs; and

(iv) Estimated net inflow to Lake Mead.

(c) *Storage.* The Secretary shall determine from time to time when insufficient mainstream water is available to satisfy annual consumptive use requirements of 7,500,000 acre-feet after consideration of all relevant factors, including, but not limited to, the following:

(i) The requirements stated in Article III(1) of these Operating Criteria;

(ii) Actual and forecast quantities of active storage in Lake Mead;

(iii) Estimate of net inflow to Lake Mead for the current year;

(iv) Historic streamflows, including the most critical period of record;

(v) Priorities set forth in Article II(a) of the decree in Arizona v. California; and

(vi) The purposes stated in Article I(1) of these Operating Criteria.

The shortage provisions of Article II(B)(3) of the decree in Arizona v. California shall thereupon become effective and consumptive uses from the mainstream shall be restricted to the extent determined by the Secretary to be required by section 301(b) of Public Law 90–537.

IV. Definitions

(1) In addition to the definitions in section 606 of Public Law 90–537, the following shall also apply:

(a) *Spills,* as used in Article II(3)(c) herein, means water released from Lake Powell which cannot be utilized for Project purposes, including, but not limited to, the generation of power and energy.

(b) *Surplus,* as used in Article III(3)(b) herein, is water which can be used to meet consumptive use demands in the three Lower Division States in excess of 7,500,000 acre-feet annually. The term ''surplus'' as used in these Operating Criteria is not to be construed as applied to, being interpretive of, or in any manner having reference to the term ''surplus'' in the Colorado River Compact.

(c) *Net inflow to Lake Mead,* as used in Article III(3) (b)(iv) and (c)(iii) herein, represents the annual inflow to Lake Mead in excess of losses from Lake Mead.

(d) *Available capability,* as used in Article II(4) herein, means that portion of the total capacity of the powerplant that is physically available for generation.

[FR Doc. 96–21216 Filed 8–19–96; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL DEVELOPMENT CORPORATION AGENCY

Overseas Private Investment Corporation; Submission for OMB Review; Comment Request

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Agencies are required to publish a Notice in the Federal Register notifying the public that the Agency has prepared an information collection request for OMB review and approval and has requested public review and comment on the submission. OPIC published its first Federal Register Notice on this information collection request on June 14, 1996, in 61 FR 30257, at which time a 60 calendar-day comment period was announced. This comment period ended on August 13, 1996. No comments were received in response to this Notice. This information collection submission has now been submitted to OMB for review. Comments are again being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology.

The proposed form under review is summarized below.

DATES: Comments must be received on or before September 19, 1996.

ADDRESSES: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the OMB Reviewer and the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: Lena Paulsen, Manager, Information Center, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202/336–8565.

OMB Reviewer: Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503, 202/395–5871.

Summary of Form Under Review

Type of Request: Revision.

Title: Sponsor Disclosure Report in Support of an Application for Financing.

Form Number: OPIC–129.

Frequency of Use: Once per project sponsor per project.

Type of Respondents: Individuals, business or other institutions.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or individuals investing overseas in emerging economies.

Reporting Hours: 4 hours per project.

Number of Responses: 70 per year.

Federal Cost: $1,200 per year.

Authority for Information Collection: Sections 231 and 234 (b) and (c) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The Sponsor Disclosure Report In Support of an Application for Financing requests information as required per OPIC's governing legislation. Such information is needed to determine whether a project and its sponsor meet eligibility criteria for OPIC financing, specifically with regard to creditworthiness, effects on the U.S. economy, and legislative and regulatory compliance.

Dated: August 14, 1996.

Marc Monheimer,

Senior Commercial Counsel, Department of Legal Affairs.

[FR Doc. 96–21136 Filed 8–19–96; 8:45 am]

BILLING CODE 3210–01–M

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: August 26, 1996 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Inv. No. 731–TA–749 (Preliminary)—(Persulfates from the People's Republic of China)—briefing and vote.
5. Outstanding action jackets:
   1. GC–96–043, Possible APO breach in an investigation under Title VII of the Tariff Act of 1930.
   2. GC–96–044, Initial determination granting a motion for temporary relief in Inv. No. 337–TA–383 (Certain Hardware Logic Emulation Systems).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: August 16, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–21338 Filed 8–16–96; 2:18 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services

FY 1996 Community Policing Discretionary Grants

AGENCY: Office of Community Oriented Policing Services, Department of Justice.

ACTION: Notice of Availability.

SUMMARY: The Department of Justice, Office of Community Oriented Policing Services (''COPS'') announces the availability of grants to support the purchase of equipment and technology, and the procurement of support services under COPS Making Officer Redeployment Effective (''COPS MORE 96''). Eligible applicants under COPS MORE 96 are those state, local and other public law enforcement agencies, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia that employ career law enforcement officers.

DATES: COPS MORE 96 Application Kits will be available after August 23, 1996. The COPS Office will accept applications for COPS MORE 96 from September 9 through October 31, 1996. Large jurisdictions (those serving populations greater than 150,000) are strongly encouraged to apply by September 9, 1996.

ADDRESSES: COPS MORE 96 Application Kits will be mailed to all eligible agencies or may be obtained by writing to COPS MORE 96, 1100 Vermont Avenue, NW., Washington, DC, 20530, or by calling the Department of Justice Response Center, (202) 307–1480 or 1–800–421–6770, or the full application kit is also available on the COPS Office web site at: http://www.usdoj.gov/cops. Completed application kits should be sent to COPS MORE 96, COPS Office, 1100 Vermont Avenue, NW., Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Crime Bill Response Center, (202) 307–1480 or 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Overview

The Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103–322) authorizes the Department of Justice to make grants to increase deployment of law enforcement officers devoted to community policing on the streets and rural routes in this nation. COPS MORE 96 is designed to expand the time available for community policing by current law enforcement officers, rather than fund the hiring or rehiring of additional law enforcement officers.

COPS MORE 96 permits eligible agencies to seek funding for the purchase of equipment and technology, and the procurement of support resources (including civilian personnel). As a result of this funding, the number of officers redeployed by agencies in community policing must be equal to or greater than the number of officers that would result from grants of the same amount for hiring new officers. Application Kits will be available after August 23, 1996. Completed Applications Kits must be received by the COPS Office between September 9 and October 31, 1996.

Applicants must provide a thorough explanation of how the proposed redeployment funds will actually result in the required increase in the number of officers deployed in community policing. Additionally, the applicant must specify within the COPS MORE 96 Application a plan for continuing the proposed activity following the conclusion of COPS MORE 96 funding. Technical assistance with the development of community policing plans will be provided to jurisdictions in need of such assistance. Grants will be made for up to 75 percent of the cost of the equipment, technology, or civilian salaries for one year, with the remainder to be paid by state or local funds. Waivers of the non-federal share will be considered upon a showing of severe fiscal distress. COPS redeployment funds may not be used to replace funds that eligible agencies otherwise would have devoted to equipment, technology, or civilian hiring.

COPS funding must be allocated based on a formula previously established by Congress. Under this formula, 50 percent of the annual grant funds are awarded to jurisdictions serving populations over 150,000, and 50 percent of the funds are awarded to those serving 150,000 or below. The COPS Office already has reached the funding limit for FY 96 for smaller jurisdictions, therefore applications for

the larger jurisdictions will be considered first. Funding for the remaining applicants will be based upon FY 97 appropriations.

An award under COPS MORE 96 will not affect the eligibility of an agency's application for a grant under any other COPS program.

The Catalog of Federal Domestic Assistance (CFDA) reference for this program is 16.710.

Dated: August 12, 1996.

Joseph E. Brann,

Director.

[FR Doc. 96–21194 Filed 8–19–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, notice is hereby given that a proposed consent decree in *United States* v. *Sadeane Lang, Independent Executrix of the Estate of Donald R. Lang,* Civil Action No. 1:94CV57, was lodged on August 7, 1996 with the United States District Court for the Eastern District of Texas, Beaumont Division. Donald R. Lang was the owner and/or operator at the time of disposal of hazardous substances of the Turtle Bayou Superfund Site (also known as the Petro-Chemical Systems, Inc. Site) (''Site''), located in Liberty County, Texas, approximately fifteen miles southeast of the City of Liberty and approximately sixty-five miles northeast of Houston, Texas. The Environmental Protection Agency (''EPA'') and the Department of Justice incurred and continues to incur costs for response actions at and in connection with the Site. The proposed Consent Decree provides that based upon a limited ability to pay, the Defendant will pay $250,000 to the United States of the past costs incurred and paid by EPA and the Department of Justice through January 31, 1990.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Sadeane Lang, Independent Executrix of the Estate of Donald R. Lang,* DOJ Ref. #90–11–3–709.

The proposed consent decree may be examined at the Office of the United States Attorney, 350 Magnolia Avenue, Suite 150, Beaumont, Texas 77701; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section.

[FR Doc. 96–21199 Filed 8–19–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Anchorshade, Inc.; Competitive Impact Statements; Correction

AGENCY: Department of Justice.

ACTION: Correction.

SUMMARY: In the notice regarding *United States* verses *AnchorShade, Inc.,* which begins in Vol. 61, No. 129 on page 34867, in the issue of Wednesday, July 3, 1996, make the following correction:

On page 34868 in the second column, on line 16 under ''For the Defendant:'' only list Barry L. Haley and his address. Patricia Jannaco, with her address, should have been listed under the 9th line, under Chief, New York Office.

Dated: August 13, 1996.

Rebecca P. Dick,

Deputy Director Of Operations, Antitrust Division.

[FR Doc. 96–21193 Filed 8–19–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1993—Cable Television Laboratories, Inc.; Correction

In notice document (61 FR 38216) in the issue of July 23, 1996 make the following correction:

On page 38216–02, in the third paragraph, the 16th through the 19th lines should be deleted beginning with the words ''The last notification'' and ending with the date ''April 30, 1996 (61 FR 19089)''.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–21197 Filed 8–19–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—''United Technologies Research Center''

Notice is hereby given that, on July 26, 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''), United Technologies Research Center (''UTRC''), an unincorporated operating unit of United Technologies Corporation (''UTC''), has filed written notifications on behalf of UTC and participants in the venture, simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are UTC, Hartford, CT, acting through UTRC, East Hartford, CT, Pratt & Whitney GESP, West Palm Beach, FL, Hamilton Standard, Windsor Locks, CT, and United Technologies Microelectronics Center, Inc., Colorado Springs, CO; AlliedSignal Inc., Morristown, NJ, acting through its Aerospace Equipment Systems Division, Tempe, AZ and Microelectronics & Technology Center, Columbia, MD; The Boeing Company, Kent, WA, acting through its Defense and Space Group, Kent, WA; Honeywell Incorporated, Minneapolis, MN, acting through its Solid State Electronics Center, Plymouth, MN; Moog Inc., East Aurora, NY; Parker Hannifin Corporation, Irvin, CA, acting through its Control Systems Division, Irvine, CA and Gull Electronic Systems Division, Smithtown, NY; Rockwell International Corporation, Thousand Oaks, CA, acting through the Rockwell Science Center, Thousand Oaks, CA; Toranaga Technologies Corporation, Carlsbad, CA, acting through Toranaga Technologies, Inc., Carlsbad, CA; and The University of Maryland, at College Park, MD.

Its general areas of planned activities are to engage in cooperative research and development in the area of high temperature distributed control systems including, without limitation, the experimental building, finishing, assembly and testing of models, prototypes and equipment, and the development of materials and processes. The aforementioned parties will not individually engage in production of the resulting product under this joint research and development venture.

Membership in the program remains open, and UTC intends to file additional written notifications disclosing all changes in the membership or planned activities.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–21198 Filed 8–19–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 15, 1996.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L 104–13, 44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5095). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OAW/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the Federal Register.

The OMB 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 submission of responses.

Agency: Employment and Training Administration.

Title: Migrant and Seasonal Farmworker Program Customer Satisfaction Survey.

OMB Number: 1205–Onew.

Frequency: On-time.

Affected Public: Individuals or households.

Number of Respondents: 1,680.

Estimated Time Per Respondent: 20 minutes.

Total Burden Hours: 560.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Department of Labor proposes to conduct a customer satisfaction survey of current and former participants of the Migrant and Seasonal Farmworker Program. Responses will be used to examine the relationships between services and customer satisfaction. Results will be used to guide policy and program level decisions that are likely to improve services to customers.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 96–21182 Filed 8–19–96; 8:45 am]

BILLING CODE 4510–23–M

Office of the Secretary; Advisory Committee on Veterans Employment and Training; Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act and Office of Management and Budget Circular A–63 of March 1974, and after consultation with GSA, the Secretary of Labor has determined that the renewal of the Advisory Committee on Veterans Employment and Training is in the public interest in connection with the performance of duties imposed on the Department by section 4110 of title 38, United States Code.

The Advisory Committee on Veterans Employment and Training shall: assess the employment and training needs to veterans; determine the extent to which the programs and activities of the Department of Labor are meeting such needs; carry out such other activities that are necessary to make the reports and recommendations required by law; and, not later than July 1 of each year, report to Secretary of Labor on the employment and training needs of veterans.

The Committee shall consist of at least 12, but not more than 18, individuals appointed by the Secretary of Labor to serve as members of the Advisory Committee, consisting of: representatives nominated by veterans' organizations that are chartered by Federal law and have a national employment program; and not more than 6 individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of the Department of Labor.

The Advisory Committee will report to the Assistant Secretary for Veterans' Employment and Training. It will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act, and its charter will be filed under the Act.

Interested persons are invited to submit comments regarding the renewal of the Advisory Committee on Veterans Employment and Training. Such comments should be addressed to: Mr. Charles F. Lee, Executive Assistant, Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 219–9116.

Signed at Washington, D.C., this 9th day of August, 1996.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 96–21183 Filed 8–19–96; 8:45 am]

BILLING CODE 4510–23–M

Employment Standards Administration

Proposed Collection; Comment Request

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 Employment Standards Administration is soliciting comments concerning the proposed extension collections of: Agreement and Undertaking (OWCP–1) and Request to be Selected as Payee

(CM–910). A copy of the proposed information collection requests can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before October 18, 1996. The Department of Labor 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.

ADDRESSES: Ms. Margaret J. Sherrill, U.S. Department of Labor, 200 Constitution Ave., N.W., Room S–3201, Washington, D.C. 20210, telephone (202) 219–7601 (this is not a toll-free number), fax (202) 219–6592.

SUPPLEMENTARY INFORMATION:

Agreement and Undertaking

I. Background

Coal mine operators and longshore companies desiring to be self-insurers are required by law (30 U.S.C. 933 BL and 33 U.S.C. 932 LS) to produce security in terms of an indemnity bond or security deposit. Once a company's application to become self-insured is reviewed by the Division of Coal Mine Workers' Compensation (DCMWC) or by the Division of Longshore and Harbor Workers' Compensation (DLHWC) and it is determined the company is potentially eligible, an amount of security is determined to guarantee the payment of benefits required by the Act. The OWCP–1 form is executed by the self-insurer who agrees to abide by the Department's rules and authorizes the Secretary, in the event of default, to file suit to secure payment from a bond underwriter or in the case of a Federal Reserve account, to sell the securities for the same purpose. A company cannot be authorized to self-insure until this requirement is met. Regulations establishing this requirement are at 20 CFR 726.110 for Coal Mine/Black Lung and 20 CFR 703.304 for Longshore.

II. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to determine if a coal mine or longshore company is potentially eligible to become self-insured. The information is reviewed to ensure that the correct amount of negotiable securities are deposited or indemnity bond is purchased and that in case of default, OWCP has the authority to utilize the securities or bond. If this Agreement and Undertaking were not required, OWCP would not be empowered to utilize the company's security deposit to meet its financial responsibilities for the coal mine or longshore benefits in case of default.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Agreement and Undertaking.
OMB Number: 1215–0034.
Agency Number: OWCP–1.
Affected Public: Businesses or other for-profit.
Total Respondents: 300.
Frequency: On occasion.
Total Responses: 300.
Average Time per Response: 15 minutes.
Estimated Total Burden Hours: 75.
Total Burden Cost (capital/startup): $0.
Total Burden Cost (operating/maintenance): $105.

Request to be Selected Payee

I. Background

Benefits are payable by the Department of Labor to miners who are totally disabled due to pneumoconiosis and to certain survivors of a miner under the Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 901). If a beneficiary is incapable of handling his affairs, the person or institution responsible for his care is required to apply to receive the benefit payments on the beneficiary's behalf. The CM–910 is the form that is completed by representative payee applicants. The payee applicant completes the form and mails it for evaluation to the district office that has jurisdiction over the beneficiary's claim file. The collection of this information is required under 20 CFR 725.504–513.

II. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to carry out its responsibility to determine the relationship of the applicant to the beneficiary and to assess the applicant's ability to undertake the responsibilities of representative payee.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Request to be Selected Payee.
OMB Number: 1215–0166.
Agency Number: CM–910.
Affected Public: Individuals or households; businesses or other for-profit; Not-for-profit institutions.
Total Respondents: 600.
Frequency: Once.
Total Responses: 600.
Average Time per Response: 20 minutes.
Estimated Total Burden Hours: 200.
Total Burden Cost (capital/startup): $0.
Total Burden Cost (operating/maintenance): $210.

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: August 15, 1996.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 96–21181 Filed 8–19–96; 8:45 am]

BILLING CODE 4510–27–M

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance 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 Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed

revision of the ''National Longitudinal Survey of Women.''

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before October 21, 1996.

BLS is particularly interested in comments which help the agency to:

- 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.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue NE., Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The National Longitudinal Survey (NLS) of Women has been conducted since the late 1960's. Historically, the NLS of Women was collected as two surveys, the Survey of Work Experience for Mature Women and the Survey of Work Experience for Young Women. In 1995 the Census Bureau combined the mature and young women's cohort into one panel.

The data collected by the NLS of Women will contribute to the knowledge about labor market processes involved in the work to retirement transition, and opportunities and services for women who desire to enter or reenter the labor force. Survey data will contribute to the knowledge about women's ability to succeed in the job market and how their levels of success relate to educational attainment, vocational training, prior occupational experiences, general and job-specific experiences, and retirement decisions.

The NLS research contributes to the formation of national policy in the areas of education, training and employment programs, unemployment compensation, and social security benefits. In addition, members of the academic community publish articles and reports based on these NLS data for the Department of Labor (DOL) and other funding agencies. The DOL uses the changes measured in the labor market to design programs that would ease employment and unemployment problems. The survey design provides data gathered over time to form the only data set that contains this information. Without the collection of these data, an accurate longitudinal data set could not be provided to researchers and policy-makers, and the DOL could not perform its policy- and report-making activities, as described above.

II. Current Actions

The 1997 NLS of Women will document work experience, labor force attachment, participation in educational or training programs, financial situations, health status and health benefits. The survey will identify any significant trends in the woman's work experience as a whole. It will continue to obtain detailed information on the work history and pension coverage of the respondent's husband. In addition, it will obtain information on respondents who give (or receive) time or money to (or from) parents as well.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics.

Title: National Longitudinal Survey of Women.

OMB Number: 1220–0110.

Affected Public: Individuals or households.

Total Respondents: 7,221.

Frequency: Biennially.

Total Responses: 7,221.

Average Time Per Response: 64.5 minutes.

Estimated Total Burden Hours: 7,762 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

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 also will become a matter of public record.

Signed at Washington, DC, this 15th day of August, 1996.

Peter T. Spolarich,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 96–21184 Filed 8–19–96; 8:45 am]

BILLING CODE 4510–24–M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Full Committee Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act, will meet on September 12 and 13, 1996, in Room C5520, Seminar Room 6, of the Department of Labor Building located at 200 Constitution Avenue NW, Washington, DC. The meeting is open to the public and will begin at 9:00 a.m. each day lasting until approximately 4:00 p.m. the first day and 3:00 p.m. the second day.

Agenda items will include: a brief overview of current activities in the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH); presentation of the HazCom Workgroup's final draft report to the full committee for action; a discussion of NIOSH plans for the implementation of the National Occupational Research Agenda (NORA); a discussion of OSHA compliance and related intervention initiatives; a brief report on activities related to ergonomics and the formation of a NACOSH Ergonomics Workgroup; and a continuation of the committee's planning session to determine issues and topics for future committee action.

Two new members have been appointed to serve two-year terms. They are: Rebecca F. Moreland, President of Chesapeake Occupational Health Services, Inc., who will be a Management Representative; and Margaret Mock Carroll, Manager of Safety Engineering for Sandra National Laboratories who will be a Safety Representative.

Three members whose terms expired in June have been reappointed. They are: Nancy Lessin, Senior Staff for Policy at the Massachusetts Coalition for Occupational Safety and Health (Public Representative); Peg Seminario, Director

of Occupational Safety and Health for the AFL-CIO (Labor Representative); and Andrea K. Taylor, Occupational Health Consultant to United Auto Workers (Health Representative).

In addition, one year has been added to the terms of the following members: Kenneth J. Zeller, Indiana Commissioner of Labor (Public Representative); Kathleen M. Rest, Associate Professor, Occupational Health Program, University of Massachusetts Medical Center (Public Representative and Committee Chair); Henry B. Lick, Manager of Industrial Hygiene for Ford Motor Company (Management Representative); Michael J. Wright, Director of Health, Safety and the Environment for United Steelworkers (Labor Representative); Kenneth D. Brock, Senior Vice President and General Manager of Liberty Mutual Insurance (Safety Representative); and James A. Merchant, Professor of Preventive and Internal Medicine, University of Iowa (Health Representative).

One additional Public Representative has been selected by the National Institute for Occupational Safety and Health (NIOSH) and is currently being processed by the Health and Human Services Department.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Joanne Goodell at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Anyone wishing to make an oral presentation should notify Ms. Goodell before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Persons who request the opportunity to address the Advisory Committee may be allowed to speak to the extent time permits, at the discretion of the Chair of the Advisory Committee. Individuals with disabilities who need special accommodations should contact Tom Hall one week before the meeting at the address indicated below.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 of the Department of Labor Building (202–219–7500).

FOR ADDITIONAL INFORMATION CONTACT: Joanne Goodell, Directorate of Policy, Occupational Safety and Health Administration, Room N–3641, 200 Constitution Avenue, NW, Washington, DC, 20210, telephone (202) 219–8021, ext. 107.

Signed at Washington, D.C. this 12th day of August, 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 96–21185 Filed 8–19–96; 8:45 am]

BILLING CODE 4510–26–M

LEGAL SERVICES CORPORATION

Notice of Intent to Compete for 1997 Competitive Grant Funds

AGENCY: Legal Services Corporation.

ACTION: Announcement of Applicants.

SUMMARY: The Legal Services Corporation (LSC or Corporation) hereby announces those applicants who have filed a Notice of Intent to compete for 1997 grant funds.

DATES: Grant proposals must be received at LSC offices by 5:00 p.m. EST, August 21, 1996.

ADDRESS: Legal Services Corporation—Competitive Grants, 750 First Street N.E., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Stephanie Rorie, Office of Program Services, (202) 336–8866.

Service areas identified in LSC RFP (August 1996)	Name of organization
AL–1	Legal Services Corporation of Alabama, Inc., AMICUS Staffing, Heart of Dixie Legal Services.
AL–2	Legal Services of North-Central Alabama, Inc., AMICUS Staffing, Heart of Dixie Legal Services.
AL–3	Legal Services of Metro Birmingham, Inc., AMICUS Staffing, Heart of Dixie Legal Services.
MAL	Legal Services Corporation of Alabama, Inc., AMICUS Staffing, Heart of Dixie Legal Services.
AK–1	Alaska Legal Services Corporation.
NAK–1	Alaska Legal Services Corporation.
AZ–1	Pinal & Gila Counties Legal Aid Society, J. Keith Bohren.
AZ–2	DNA—People's Legal Services, Inc.
AZ–3	Community Legal Services, Inc., J. Keith Bohren.
AZ–4	Southern Arizona Legal Aid, Inc.
MAZ	Community Legal Services, Inc., Pinal & Gila Counties Legal Aid Society.
NAZ–1	Pinal & Gila Counties Legal Aid Society.
NAZ–2	Community Legal Services, Inc., J. Keith Bohren.
NAZ–3	Papago Legal Services, Inc.
NAZ–4	Southern Arizona Legal Aid, Inc., J. Keith Bohren.
NAZ–5	DNA—People's Legal Services, Inc.
AR–1	Ozark Legal Services, AMICUS Staffing.
AR–2	Legal Services of Northeast Arkansas, Inc., AMICUS Staffing.
AR–3	Western Arkansas Legal Services, AMICUS Staffing.
AR–4	East Arkansas Legal Services, AMICUS Staffing.
AR–5	Center For Arkansas Legal Services, AMICUS Staffing.
MAR	Center For Arkansas Legal Services.
CA–1	California Indian Legal Services, Inc.
CA–2	Jones and Kramer, LLC, Greater Bakersfield Legal Assistance, Inc.
CA–3	Central California Legal Services.
CA–4	Legal Aid Foundation of Long Beach, Group E.D.O., Law Office of Matthew Elliot Green, Nat'l Hispanic Education Fndt. & Lgl Defense Fund, Arnold Lutz, Malcolm Stephen McNeil.
CA–5	Legal Aid Foundation of Los Angeles, Chassman, Young & Seelig, LLP, J. Keith Bohren, Group E.D.O., Law Office of Matthew Elliot Green, Nat'l Hispanic Education Fndt. & Legal Defense Fund, Arnold Lutz, Malcolm Stephen McNeil.
CA–6	J. Keith Bohren, Legal Aid Society of Alameda County.
CA–7	Channel Counties Legal Services Association.
CA–7	Legal Aid Foundation of Santa Barbara County, Group E.D.O., Arnold Lutz, Oxnard Legal Clinic, Inc.

Service areas identified in LSC RFP (August 1996)	Name of organization
CA–8	San Fernando Valley Neighborhood Legal Services, Inc., Group E.D.O., Law Office of Matthew Elliot Green, Nat'l Hispanic Education Fndt. & Legal Defense Fund, Arnold Lutz.
CA–9	LS Program for Pasadena & San Gabriel-Pomona Valley, California Mexican-American Community Foundation, Group E.D.O., Nat'l Hispanic Education Fndt, & Legal Defense Fund, Arnold Lutz.
CA–10	Legal Aid Society of San Mateo County.
CA–11	Contra Costa Legal Services Foundation, J. Keith Bohren.
CA–12	Inland Counties Legal Services Inc., Group E.D.O.
CA–13	Legal Services of Northern California Inc., J. Keith Bohren.
CA–14	Legal Aid Society of San Diego, Inc., J. Keith Bohren, The Women's Legal Center of San Diego, Inc., Mira Mehta, Arnold Lutz.
CA–15	George Siddell, California Rural Legal Assistance, Inc., Group E.D.O.
CA–16	San Francisco Neighborhood Lgl Assist. Fndt., J. Keith Bohren, Arnold Lutz.
CA–17	Legal Aid of Marin.
CA–18	Community Legal Services, Inc., Arnold Lutz.
CA–19	Legal Aid Society of Orange County, Inc., Arnold Lutz.
CA–20	Legal Aid for the Central Coast.
CA–21	George Siddell, Tulare/Kings Counties Legal Services, Inc.
CA–22	Legal Aid for the Central Coast, J. Keith Bohren.
CA–23	Redwood Legal Assistance.
MCA	California Rural Legal Assistance, Inc., Legal Aid Foundation of Santa Barbara County, Group E.D.O., Oxnard Legal Clinic, Inc.
NCA–1	Legal Aid Foundation of Santa Barbara County, California Indian Legal Services, Inc.
NCA–1	J. Keith Bohren.
CO–1	Pikes Peak Legal Services.
CO–2	Colorado Rural Legal Services, Inc.
CO–3	Legal Aid Society of Metropolitan Denver, Inc.
CO–4	Colorado Rural Legal Services, Inc., Pueblo County Legal Services, Inc., Patrick Joseph Canty, Pikes Peak Legal Services.
MCO	Colorado Rural Legal Services, Inc.
NCO–1	Colorado Rural Legal Services, Inc.
CT–1	Statewide Legal Services of Connecticut, Inc.
MCT	Statewide Legal Services of Connecticut, Inc.
NCT–1	No Applicant.
DE–1	Legal Services Corporation of Delaware, Inc.
MDE	Legal Aid Bureau, Inc.
DC–1	Archiocesan Legal Network of Catholic Charities, Thompson & Scott, P.C., Neighborhood LS Program of the District of Columbia, Gregory L. A. Thomas, Lawrence & Associates Legal Group.
FL–1	Central Florida Legal Services, Inc., AMICUS Staffing.
FL–2	Legal Aid Service of Broward County, Inc., AMICUS Staffing.
FL–3	Florida Rural Legal Services, Inc., State of Florida—15th Judicial Circuit, AMICUS Staffing.
FL–4	Jacksonville Area Legal Aid, Inc., AMICUS Staffing.
FL–5	Legal Services of Greater Miami, Inc., AMICUS Staffing.
FL–6	Legal Services of North Florida, Inc., AMICUS Staffing.
FL–7	Greater Orlando Area Legal Services, Inc., AMICUS Staffing.
FL–8	Bay Area Legal Services, Inc., AMICUS Staffing.
FL–9	Withlacoochee Area Legal Services, Inc., AMICUS Staffing.
FL–10	Three Rivers Legal Services, Inc., AMICUS Staffing.
FL–11	Northwest Florida Legal Services, Inc., AMICUS Staffing.
FL–12	Gulfcoast Legal Services, Inc., AMICUS Staffing.
MFL	Florida Rural Legal Services, Inc.
GA–1	Atlanta Legal Aid Society, Inc., Gwinnett County Administrative Office of the Courts, AMICUS Staffing.
GA–2	Georgia Legal Services Program, AMICUS Staffing.
MGA	Georgia Legal Services Program.
GU–1	Guam Legal Services Corporation.
HI–1	Legal Aid Society of Hawaii.
MHI	Legal Aid Society of Hawaii.
NHI–1	Native Hawaiian Legal Corporation.
ID–1	Idaho Legal Aid Services, Inc.
MID	Idaho Legal Aid Services, Inc.
NID–1	Idaho Legal Aid Services, Inc.
IL–1	Cook County Legal Assistance Foundation, Inc.
IL–2	Legal Assistance Foundation of Chicago, Robert Sharp, Jr.
IL–3	Land of Lincoln Legal Assistance Foundation, Inc.122.
IL–4	Prairie State Legal Services, Inc.
IL–5	West Central Illinois Legal Assistance.
MIL	Legal Assistance Foundation of Chicago.
IN–1	Legal Services of Maumee Valley, Inc.
IN–2	Legal Services of Northwest Indiana, Inc.
IN–3	Legal Services Organization of Indiana, Inc.
IN–4	Legal Services Program of Northern Indiana, Inc.
MIN	Legal Services Organization of Indiana, Inc.
IA–1	Legal Services Corporation of Iowa.

Service areas identified in LSC RFP (August 1996)	Name of organization
IA–2	Legal Aid Society of Polk County.
MIA	Legal Services Corporation of Iowa.
KS–1	Kansas Legal Services, Inc.
MKS	Kansas Legal Services, Inc.
KY–1	Northern Kentucky Legal Aid Society, Inc., AMICUS Staffing.
KY–2	Legal Aid Society, Inc., AMICUS Staffing.
KY–3	Central Kentucky Legal Services, Inc., Northeast Kentucky Legal Services, Inc., AMICUS Staffing.
KY–4	Northeast Kentucky Legal Services, Inc., AMICUS Staffing.
KY–5	Appalachian Research and Defense Fund of Kentucky, AMICUS Staffing.
KY–6	Cumberland Trace Legal Services, Inc., AMICUS Staffing.
KY–7	Western Kentucky Legal Services, Inc., AMICUS Staffing.
MKY	Appalachian Research and Defense Fund of Kentucky.
LA–1	Capital Area Legal Services Corporation, Dele A. Adebamiji & Associates, AMICUS Staffing.
LA–2	Southwest Louisiana Legal Services Society, Inc., AMICUS Staffing.
LA–3	North Louisiana Legal Assistance Corporation, AMICUS Staffing.
LA–4	New Orleans Legal Assistance Corporation, Mark S. Smith, AMICUS Staffing.
LA–5	Northwest Louisiana Legal Services, Inc., AMICUS Staffing.
LA–6	Acadiana Legal Service Corporation, AMICUS Staffing.
LA–7	Kisatchie Legal Services Corporation, AMICUS Staffing.
LA–8	Southeast Louisiana Legal Services Corporation, James R. Jenkins, AMICUS Staffing.
MLA	AMICUS Staffing, Acadiana Legal Service Corporation.
ME–1	Pine Tree Legal Assistance, Inc.
MME	Pine Tree Legal Assistance, Inc.
NME–1	Pine Tree Legal Assistance, Inc.
MD–1	Legal Aid Bureau, Inc., Gregory L. A. Thomas.
MMD	Legal Aid Bureau, Inc.
MA–1	Volunteer Lawyers Proj. of the Boston Bar Assoc., Inc.
MA–2	South Middlesex Legal Services, Inc.
MA–3	Legal Services for Cape Cod and Islands, Inc.
MA–4	Merrimack Valley Legal Services, Inc.
MA–5	New Center for Legal Advocacy.
MA–6	Massachusetts Justice Project, Inc.
MA–7	Massachusetts Justice Project, Inc.
MMA	Massachusetts Justice Project, Inc.
MI–1	Legal Services of Southeastern Michigan, Inc.
MI–2	LS Organization of Southcentral Michigan, Inc.
MI–3	Wayne County Neighborhood Legal Services, Inc.
MI–4	Legal Services of Eastern Michigan.
MI–5	Legal Aid of Central Michigan.
MI–6	Lakeshore Legal Services, Inc.
MI–7	Oakland Livingston Legal Aid.
MI–8	Berrien County Legal Services Bureau, Inc.
MI–9	Legal Services of Northern Michigan, Inc.
MI–10	Legal Aid of Western Michigan.
MI–11	Legal Aid Bureau of Southwestern Michigan, Inc.
MMI	Legal Services of Southeastern Michigan, Inc., Michigan Migrant Legal Assistance Project, Inc., Legal Services of Eastern Michigan.
NMI–1	Michigan Indian Legal Services, Inc.
MP–1	Micronesian Legal Services Corporation.
MMN	Southern Minnesota Regional Legal Services, Inc.
MN–1	Legal Aid Service of Northeastern Minnesota.
MN–2	Judicare of Anoka County, Inc.
MN–3	Central Minnesota Legal Services, Inc.
MN–4	Legal Services of Northwest Minnesota Corporation.
MN–5	Southern Minnesota Regional Legal Services, Inc.
NMN–1	Anishinabe Legal Services, Inc.
MMS	East Mississippi Legal Services Corporation, Central Mississippi Legal Services.
MMS	AMICUS Staffing.
MS–1	Central Mississippi Legal Services, AMICUS Staffing.
MS–2	North Mississippi Rural Legal Services, Inc., AMICUS Staffing.
MS–3	South Mississippi Legal Services Corporation, AMICUS Staffing.
MS–4	East Mississippi Legal Services Corporation, AMICUS Staffing.
MS–5	Southeast Mississippi Legal Services Corporation, AMICUS Staffing.
MS–6	Southwest Mississippi Legal Services Corporation, AMICUS Staffing.
NMS–1	Choctaw Legal Defense Office, AMICUS Staffing.
MMO	Legal Aid of Western Missouri.
MO–1	Southeast Missouri Legal Services, Inc.
MO–2	Meramec Area Legal Aid Corporation.
MO–3	Legal Aid of Western Missouri.
MO–4	Legal Services of Eastern Missouri, Inc.
MO–5	Mid-Missouri Legal Services Corporation.

Service areas identified in LSC RFP (August 1996)	Name of organization
MO–6	Legal Aid of Southwest Missouri.
MMT	Montana Supreme Court Administrator's Office, Montana Legal Services Association.
MT–1	Montana Supreme Court Administrator's Office, Montana Legal Services Association.
NMT–1	Montana Supreme Court Administrator's Office, Montana Legal Services Association.
MNE	Western Nebraska Legal Services, Inc.
NE–1	Legal Services of Southeast Nebraska.
NE–2	Legal Aid Society, Inc.
NE–3	Western Nebraska Legal Services, Inc.
NNE–1	Legal Aid Society, Inc.
MNV	Nevada Legal Services, Inc.
NNV–1	Nevada Legal Services, Inc.
NV–1	Nevada Legal Services, Inc.
MNH	Pine Tree Legal Assistance, Inc.
NH–1	New Hampshire Legal Services, Inc.
MNJ	Camden Regional Legal Services, Inc., Law Office of Lynn A. Kenneally, Peter S. Kollory, Esq.
NJ–1	Cape-Atlantic Legal Services, Inc.
NJ–2	Warren County Legal Services, Inc.
NJ–3	Camden Regional Legal Services, Inc.
NJ–4	Union County Legal Services Corporation, Peter S. Kollory, Esq.
NJ–5	Hunterdon County Legal Service Corporation.
NJ–6	Bergen County Legal Services.
NJ–7	Hudson County Legal Services Corporation.
NJ–8	Essex-Newark Legal Services Project, Inc., Peter S. Kollory, Esq.
NJ–9	Middlesex County Legal Services Corporation, Peter S. Kollory, Esq.
NJ–10	Passaic County Legal Aid Society.
NJ–11	Somerset-Sussex Legal Services Corporation.
NJ–12	Ocean-Monmouth Legal Services, Inc., Law Office of Lynn A Kenneally.
NJ–13	Legal Aid Society of Mercer County.
NJ–14	Legal Aid Society of Morris County.
MNM	Southern New Mexico Legal Services, Inc.
NM–1	DNA-People's Legal Services, Inc.
NM–2	Legal Aid Society of Albuquerque, Inc.
NM–3	Southern New Mexico Legal Services, Inc.
NM–4	Northern New Mexico Legal Services, Inc.
NNM–1	Southern New Mexico Legal Services, Inc.
NNM–2	DNA-People's Legal Services, Inc.
NNM–3	Indian Pueblo Legal Services, Inc.
MNY	Legal Aid Society of Mid-New York, Inc., Monroe County Legal Assistance Corporation.
NY–1	Legal Aid Society of Northeastern New York, Inc.
NY–2	Oak Orchard Legal Services, Inc., Monroe County Legal Assistance Corporation.
NY–3	Legal Aid for Broome and Chenango.
NY–4	Neighborhood Legal Services, Inc.
NY–5	Chautauqua County Legal Services, Inc.
NY–6	Chemung County Neighborhood Legal Services, Inc.
NY–7	Nassau/Suffolk Law Services Committee, Inc.
NY–8	Legal Aid Society of Rockland County, Inc.
NY–9	Legal Services for New York City.
NY–10	Niagara County Legal Aid Society, Inc.
NY–12	Monroe County Legal Assistance Corporation.
NY–13	Legal Services of Central New York, Inc.
NY–14	Legal Aid Society of Mid-New York, Inc.
NY–15	Westchester/Putnam Legal Services, Inc.
NY–16	North Country Legal Services, Inc.
NY–17	Southern Tier Legal Services.
MNC	Legal Services of North Carolina, Inc.
NC–1	Legal Services of North Carolina, Inc., AMICUS Staffing.
NC–2	Legal Services of Southern Piedmont, Inc., AMICUS Staffing.
NC–3	North Central Legal Assistance Program, Inc., AMICUS Staffing.
NC–4	Legal Aid Society of Northwest North Carolina, Inc., AMICUS Staffing.
NNC–1	Legal Services of North Carolina, Inc., AMICUS Staffing.
MND	Southern Minnesota Regional Legal Services, Inc.
ND–1	Legal Assistance of North Dakota, Inc.
ND–2	North Dakota Legal Services, Inc.
NND–1	Legal Assistance of North Dakota, Inc.
NND–2	North Dakota Legal Services, Inc.
MOH	Advocates for Basic Legal Equality, Inc.
OH–1	Western Reserve Legal Services.
OH–2	Stark County Legal Aid Society.
OH–3	Legal Aid Society of Cincinnati.
OH–4	The Legal Aid Society of Cleveland.
OH–5	The Legal Aid Society of Columbus, Student Legal Services, Inc.

Service areas identified in LSC RFP (August 1996)	Name of organization
OH–6	Ohio State Legal Services.
OH–7	Legal Aid Society of Dayton, Inc.
OH–8	Legal Aid Society of Lorain County, Inc.
OH–9	Butler-Warren Legal Assistance Association.
OH–10	Allen County-Blackhoof Area LS Association.
OH–11	Central Ohio Legal Aid Society, Inc.
OH–12	Advocates for Basic Legal Equality, Inc.
OH–13	The Toledo Legal Aid Society.
OH–14	Wooster-Wayne Legal Aid Society, Inc.
OH–15	Ashtabula County Legal Aid Corp., Northeast Ohio Legal Services.
OH–16	Rural Legal Aid Society of West Central Ohio.
MOK	Legal Aid of Western Oklahoma, Inc.
NOK–1	Oklahoma Indian Legal Services, Inc.
OK–1	Legal Aid of Western Oklahoma, Inc.
OK–2	Legal Services of Eastern Oklahoma, Inc.
MOR	Oregon Legal Services Corporation.
NOR–1	Oregon Legal Services Corporation.
OR–1	Oregon Legal Services Corporation.
OR–2	Lane County Legal Aid Service, Inc.
OR–3	Multnomah County Legal Aid Service, Inc.
OR–4	Marion-Polk Legal Aid Service, Inc.
MPA	Delaware Valley Legal Services, Philadelphia Legal Assistance Center.
PA–1	Delaware Valley Legal Services, Leslie Levi Payton, Philadelphia Legal Assistance Center.
PA–2	Legal Services, Inc.
PA–3	Delaware Valley Legal Services, Delaware County Legal Assistance Association, Inc.
PA–4	Delaware Valley Legal Services, Bucks County Legal Aid Society.
PA–5	Laurel Legal Services, Inc.
PA–6	Southern Alleghenys Legal Aid, Inc.
PA–7	Central Pennsylvania Legal Services.
PA–8	Neighborhood Legal Services Association.
PA–9	Northern Pennsylvania Legal Services, Inc.
PA–10	Keystone Legal Services, Inc.
PA–11	Southwestern Pennsylvania Legal Aid Society, Inc.
PA–12	Delaware Valley Legal Services, Legal Aid of Chester County, Inc.
PA–13	Legal Services of Northeastern Pennsylvania, Inc.
PA–14	Susquehanna Legal Services.
PA–15	Northwestern Legal Services.
PA–16	Blair County Legal Services Corporation.
PA–17	Lehigh Valley Legal Services, Inc.
PA–18	Montgomery County Legal Aid Service, Delaware Valley Legal Services.
PA–19	Schuylkill County Legal Services, Inc.
MPR	Puerto Rico Legal Services, Inc.
PR–1	Puerto Rico Legal Services, Inc.
PR–2	Community Law Office, Inc., Municipality of San Juan Family Services Department.
MRI	Rhode Island Legal Services, Inc.
RI–1	Rhode Island Legal Services, Inc.
MSC	Neighborhood Legal Assistance Program, Inc.
SC–1	Neighborhood Legal Assistance Program, Inc., AMICUS Staffing.
SC–2	Palmetto Legal Services, AMICUS Staffing.
SC–3	Carolina Regional Legal Services Corporation, AMICUS Staffing.
SC–4	Legal Services Agency of Western Carolina, Inc., AMICUS Staffing.
SC–5	Piedmont Legal Services, Inc., AMICUS Staffing.
SC–6	Piedmont Legal Services, Inc., AMICUS Staffing.
MSD	Black Hills Legal Services, Inc.
NSD–1	Dakota Plains Legal Services, Inc.
SD–1	Black Hills Legal Services, Inc.
SD–2	No Applicant.
SD–3	Dakota Plains Legal Services, Inc.
MTN	Legal Services of Upper East Tennessee, Inc.
TN–1	Southeast Tennessee Legal Services, Inc., AMICUS Staffing.
TN–2	Legal Services of Upper East Tennessee, Inc., AMICUS Staffing.
TN–3	Knoxville Legal Aid Society, Inc., AMICUS Staffing.
TN–4	Johnson & Settle, P.C., Memphis Area Legal Services, Inc., AMICUS Staffing.
TN–5	AMICUS Staffing.
TN–6	Rural Legal Services of Tennessee, Inc., AMICUS Staffing.
TN–7	West Tennessee Legal Services, Inc., AMICUS Staffing.
TN–8	Legal Services of South Central Tennessee, Inc., AMICUS Staffing.
MTX	Texas Rural Legal Aid, Inc.
NTX–1	Texas Rural Legal Aid, Inc., AMICUS Staffing.
TX–1	Legal Aid of Central Texas, AMICUS Staffing.
TX–2	Coastal Bend Legal Services, AMICUS Staffing.

Service areas identified in LSC RFP (August 1996)	Name of organization
TX–3	Legal Services of North Texas, AMICUS Staffing.
TX–4	El Paso Legal Assistance Society, AMICUS Staffing.
TX–5	West Texas Legal Services, Inc., Wariboko & Associates, P.C., AMICUS Staffing.
TX–6	Gulf Coast Legal Foundation, Wariboko & Associates, P.C., AMICUS Staffing.
TX–7	Laredo Legal Aid Society, Inc., AMICUS Staffing.
TX–8	Bexar County Legal Aid Association, Inc., AMICUS Staffing.
TX–9	Heart of Texas Legal Services Corporation, AMICUS Staffing.
TX–10	Texas Rural Legal Aid, Inc., AMICUS Staffing.
TX–11	East Texas Legal Services, Inc., AMICUS Staffing.
MUT	Utah Legal Services, Inc.
NUT–1	Utah Legal Services, Inc.
UT–1	DNA-People's Legal Services, Inc., Utah Legal Services, Inc.
VI–1	Legal Services of the Virgin Islands, Inc.
MVA	Peninsula Legal Aid Center, Inc.
VA–1	Legal Services of Northern Virginia, Inc.
VA–2	Charlottesville-Albemarle Legal Aid Society.
VA–3	Rappahannock Legal Services, Inc.
VA–4	Southwest Virginia Legal Aid Society, Inc.
VA–5	Peninsula Legal Aid Center, Inc.
VA–6	Central Virginia Legal Aid Society, Inc.
VA–7	Legal Aid Society of New River Valley, Inc.
VA–8	Legal Aid Society of Roanoke Valley.
VA–9	Tidewater Legal Aid Society.
VA–10	Virginia Legal Aid Society, Inc.
VA–11	Southside Virginia Legal Services, Inc.
VA–12	Blue Ridge Legal Services, Inc.
VA–13	Client Centered LS of Southwest Virginia, Inc.
VT–1	Legal Services Law Line of Vermont, Inc.
MVT	Legal Services Law Line of Vermont, Inc.
MWA	Northwest Justice Project.
NWA–1	Northwest Justice Project.
WA–1	Northwest Justice Project.
MWV	West Virginia Legal Services Plan, Inc.
WV–1	Appalachian Research and Defense Fund, Inc.
WV–2	Legal Aid Society of Charleston.
WV–3	West Virginia Legal Services Plan, Inc.
MWI	Legal Action of Wisconsin, Inc.
NWI–1	Wisconsin Judicare, Inc.
WI–1	Legal Action of Wisconsin, Inc.
WI–2	Wisconsin Judicare, Inc.
WI–3	Legal Services of Northeastern Wisconsin, Inc.
WI–4	Western Wisconsin Legal Services, Inc.
MWY	Legal Aid Services, Inc., Wind River Legal Services, Inc., Legal Services for Southeastern Wyoming, Inc.
NWY–1	Legal Aid Services, Inc., Wind River Legal Services, Inc., Legal Services for Southeastern Wyoming, Inc.
WY–1	Legal Aid Services, Inc., Wind River Legal Services, Inc., Univ. of WY College of Law LS & Defender Aid Prog., Legal Services for Southeastern Wyoming, Inc.
WY–2	Legal Aid Services, Inc., Wind River Legal Services, Inc., Legal Services for Southeastern Wyoming, Inc., Sheridan County.
WY–3	Legal Aid Services, Inc., Wind River Legal Services, Inc., Legal Services for Southeastern Wyoming, Inc.

Dated: August 14, 1996.

Merceria L. Ludgood,

Director, Office of Program Services.

[FR Doc. 96–21096 Filed 8–19–96; 8:45 am]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499]

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas; South Texas Project, Units 1 and 2; Notice of Partial Denial of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied, in part, a request by Houston Lighting & Power Company, an amendment to Facility Operating License Nos. NPF–76 and NPF–80, issued to the licensee for operation of the South Texas Project, Unit Nos. 1 and 2, located in Matagorda County, Texas. Notice of Consideration of Issuance of this amendment was published in the Federal Register on June 5, 1996 (61 FR 28616).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TSs) to implement 10 CFR Part 50, Appendix J, Option B, by referring to Regulatory Guide (RG) 1.163, ''Performance-Based Containment Leak-Test Program.'' Included in this request was a proposed change regarding the frequency of leakage rate testing the normal

containment purge valves and the supplementary containment purge valves (TSs 4.6.1.7.2 and 4.6.1.7.3).

The NRC staff has denied the portion of the proposed change regarding the frequency of leakage rate testing the normal containment purge valves and the supplementary containment purge valves. These valves use resilient seals. The licensee proposed to extend the present test intervals of 3 months for the supplementary purge valves and 6 months for the normal purge valves following the guidance of RG 1.163. RG 1.163 recommends testing of containment purge and vent valves at intervals not exceeding 30 months. However, the current test intervals are not based on Appendix J considerations and the licensee's proposal is therefore outside the scope of the proposed change to Option B. The current test intervals are based on the findings of Generic Issue B–20, ''Containment Leakage Due to Seal Degradation,'' that valves with resilient seals should be tested more frequently than required by Appendix J. The background for this conclusion is discussed in IE Circular 77–11, ''Leakage of Containment Isolation Valves With Resilient Seats,'' issued on September 6, 1977.

After some discussions with the staff, the licensee chose not to pursue this issue further. Since additional information would be required to continue this part of the review (for TSs 4.6.1.7.2 and 4.6.1.7.3), the staff denies this part of the proposed change.

The licensee was notified of the Commission's denial of the proposed change by a letter transmitting Amendment Nos. 84 and 71.

By September 19, 1996, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, D.C. 20036–5869, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated May 1, 1996, and (2) the Commission's letter to the licensee dated August 13, 1996, issued with Amendment Nos. 84 and 71 to NPF–76 and NPF–80.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Dated at Rockville, Maryland, this 13th day of August, 1996.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–21164 Filed 8–19–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–245, 50–336, and 50–423; License Nos. DPR–21, DPR–65, and NPF–49]

Northeast Nuclear Energy Company, (Millstone Nuclear Power Station Units 1, 2, and 3); Confirmatory Order Establishing Independent Corrective Action Verification Program (Effective Immediately)

I

Northeast Nuclear Energy Company (Licensee) is the holder of Facility Operating License Nos. DPR–21, DPR–65, and NPF–49 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50 on October 31, 1986,[1] September 26, 1975, and January 31, 1986 respectively. The licenses authorize the operation of Millstone Units 1, 2 and 3 in accordance with conditions specified therein. All three facilities are located on the Licensee's site in Waterford, Connecticut.

II

On August 21, 1995, as supplemented August 28, 1995, the NRC received a petition under 10 CFR 2.206 which requested that NRC shut down Millstone Unit 1 and take enforcement action based upon alleged violations of NRC requirements related to operation of the spent fuel pool cooling systems and refueling practices. On November 4, 1995, the Licensee shut down Millstone Unit 1 for a planned 50-day refueling outage. During the fall of 1995, an NRC investigation of licensed activities at Millstone Unit 1 identified potential violations regarding refueling practices and the operation of the spent fuel pool cooling systems of Millstone Unit 1. On December 13, 1995, the NRC issued a letter to the Licensee requiring that it inform the NRC, pursuant to Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f), with regard to Millstone Unit 1, of the actions it would be taking to ensure that future operation of that facility would be conducted in accordance with the terms and conditions of the plant's operating license, the Commission's regulations, including 10 CFR 50.59, and the plant's Updated Final Safety Analysis Report (UFSAR).

On February 20, 1996, the Licensee shut down Millstone Unit 2 when both trains of the high pressure safety injection (HPSI) system were declared inoperable due to the potential to clog the HPSI discharge throttle valves during the recirculation phase following a loss-of-coolant accident (LOCA). On February 22, 1996, the Licensee issued Adverse Condition Report (ACR) 7007—Event Response Team Report, which describes in detail the underlying causes for numerous inaccuracies contained in Millstone Unit 1's UFSAR. Those causes, as determined by the Licensee, include the following: (1) Errors and omissions in the original 1986/87 UFSAR; (2) failure of the administrative control programs to address fully NRC requirements; (3) failure of the Licensee to implement fully those administrative programs; (4) a pattern of failure of Licensee management to correct identified weaknesses and risks associated with the UFSAR and design bases; and (5) failure of Licensee oversight to identify this pattern to management, the significance of the pattern itself, or the ineffectiveness of corrective actions to prevent its recurrence. The report acknowledged that, due to the nature of these identified causes, the potential existed for the presence of similar configuration management problems at Connecticut Yankee and Millstone Units 2 and 3.

In response to the Licensee's ACR 7007 and the NRC's own ongoing inspections, evaluations and investigations, on March 7, 1996, the NRC issued a letter to the Licensee requiring that it inform the NRC, pursuant to Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f), with regard to Millstone Unit 2, of the actions it would be taking to ensure that future operation of that facility would be conducted in

[1] Millstone Unit 1 was issued its provisional operating license on October 7, 1970 and commenced operation on March 1, 1971. This unit received a full term operating license on October 31, 1986.

accordance with the terms and conditions of the plant's operating license, the Commission's regulations, including 10 CFR 50.59, and the plant's UFSAR. The letter stated that this information was to be submitted no later than 7 days prior to the Unit's restart (prior to criticality) from its current outage. The Millstone Unit 2 letter also described findings the NRC had made in recent inspections of that facility which suggested that significant operability and design concerns remained, including the HPSI issue identified above, as well as inadequate containment sump screen mesh and a flawed post-accident containment hydrogen monitor design.

On March 7, 1996, the NRC also issued a 50.54(f) letter to the Licensee regarding the Millstone Unit 3 plant, which was then operating at full power. In that letter, the NRC noted that it did not have an inspection history at Millstone Unit 3 that revealed design deficiencies similar in number and nature to that of Millstone Units 1 and 2. Nonetheless, the NRC concluded that it required additional information, within 30 days of the date of the letter, including the Licensee's plans and actions to address the implications of ACR 7007 for Millstone Unit 3, as well as the Licensee's plans and schedules to ensure that future operation of the unit would be conducted in accordance with the Commission's regulations, the terms and conditions of the operating license, and the facility UFSAR.

Following the March 7 letter, the NRC conducted a special inspection at Millstone Unit 3 that identified design and other deficiencies similar to those reported in ACR 7007 and by the NRC at the other Millstone units. On March 30, 1996, Unit 3 was shut down after it was determined that containment isolation valves for the auxiliary feedwater (AFW) turbine-driven pump were inoperable due to the valves' noncompliance with NRC requirements. Shortly thereafter, while still shut down, the Licensee discovered that the facility had been operating in a condition outside its design basis due to the Licensee's failure to adequately address design temperature conditions in the stress calculations for the Containment Recirculation Spray System (RSS) piping and supports. Both of these deficiencies had existed for over ten years, since initial operation of the facility. All three Millstone Units remain shut down.

On April 4, 1996, the NRC issued a second letter to the Licensee, pursuant to 10 CFR 50.54(f), with regard to Millstone Unit 3, similar to those issued for Millstone Units 1 and 2. The letter described programmatic issues and design deficiencies identified during the NRC's ongoing special inspection of the plant that were similar in nature to those present at Millstone Units 1 and 2. These included the inoperability of the turbine-driven AFW pump during startup and shutdown, the failure to remove plastic shipping plugs from Rosemount transmitters, the failure to correct a degraded non-safety battery, inadequate control of the modification of the service water system, and the potential for introduction of foreign material into the containment sump. In addition, the letter noted Licensee-identified design deficiencies in the AFW containment isolation valves and RSS that had existed for more than 10 years. As in the case of the Millstone Unit 1 and 2 letters, as described above, the Licensee was required to provide the NRC, no later than 7 days prior to the Unit's restart, with information necessary to assure the NRC that the plant will be operated in conformance with the terms and conditions of the plant's operating license, the Commission's regulations, including 10 CFR 50.59, and the plant's UFSAR.

On May 21, 1996, pursuant to 10 CFR 50.54(f), the NRC issued a letter to the Licensee requiring specific information regarding design and configuration deficiencies identified at each of the Millstone units as well as a detailed description of the Licensee's plans for completion of the work required to respond to the NRC's letters of December 13, 1995, March 7, 1996, and April 4, 1996. The NRC required this information to be submitted within 30 days of the date of the letter for the first unit that the Licensee proposed to restart and not later than 60 days prior to the Licensee's proposed restart for the remaining Millstone units.

Based upon the Licensee's assessment of the extent and scope of identified design control problems at Millstone Station, the Licensee decided to focus its near-term efforts on restart of Millstone Unit 3. In a letter dated June 20, 1996, the Licensee responded to the NRC's May 21, 1996, letter and informed NRC that Millstone Unit 3 would be the first Millstone unit the Licensee proposed to restart. In Attachment 1 to its June 20 response, the Licensee listed 881 design and configuration deficiencies identified since issuance of ACR 7007 and entered into the Licensee's Deficiency Review Team Report database as of June 13, 1996. The Licensee designated 378 items to be corrected prior to restart of Millstone Unit 3. The Licensee determined that the items it had designated for correction prior to restart, if not corrected, could impact upon operability of required equipment, raise unreviewed safety questions, or indicate discrepancies between the plant's UFSAR and the as-built plant or operating procedures.

In the June 20 letter, the Licensee also described its own Configuration Management Plan (CMP), intended to provide reasonable assurance that the future operation of Millstone Units 1, 2, and 3 will be conducted in accordance with the terms and conditions of their applicable operating licenses, UFSARs and NRC regulations. The CMP includes efforts to understand licensing and design basis issues which led to issuance of the 50.54(f) letters and actions to prevent those issues' recurrence. Additionally, the Licensee described its CMP objective to clearly document and meet the units' licensing and design basis requirements, and its intention to ensure that adequate programs and processes exist to maintain control of licensing and design basis requirements.

On July 2, 1996, the Licensee supplemented its June 20, 1996 response to NRC's May 21, 1996 50.54(f) letter. The Licensee provided additional information on Millstone Unit 3 deficiencies previously reported, identified revisions to its plans and committed to complete a review to identify and correct, as necessary, Millstone Unit 3 UFSAR deficiencies prior to restart. The Licensee reported a substantial increase in the total number of identified design and configuration management discrepancies (1187 items), and an increase in those proposed by the Licensee for corrective action prior to restart (597 items).

As the Licensee's own submissions and NRC inspections indicate, significant design control deficiencies and degraded and non-conforming conditions have been identified at Millstone Units 1, 2, and 3. The staff has identified three major types of design control problems which exist at all three Millstone plants. Specific examples of deficiencies at each plant in each of the categories are provided below.

1. Errors in Licensing/Design Basis Documentation

The NRC identified errors in the UFSARs for Millstone Units 1, 2, and 3. For example, at Millstone Unit 3, the protective relay settings and calculations for 4kv safety-related motor feeders were not set consistent with the UFSAR. At Millstone Unit 2, the UFSAR indicated that certain non-essential loads of the reactor building closed cooling water (RBCCW) system inside containment were automatically isolated during a sump recirculation actuation signal when in fact the associated isolation valves received no

automatic isolation signal. Additionally, the RBCCW flow rates assumed in the accident analyses were non-conservative with respect to the actual system flow rates.

In addition, the NRC found instances of modifications that were completed without implementing required revisions to the UFSAR. For example, the Licensee revised the Millstone Unit 3 Technical Specifications (TS) in January 1995 to change the testing frequency of the auxiliary feed pumps from monthly to quarterly, but did not update the UFSAR to reflect the change.

At Unit 1, the Licensee failed to perform and document a safety evaluation for an electrical separation deficiency associated with a feedwater regulating valve interlock. This deficiency was not corrected and constituted a change to the design of the facility as described in the UFSAR. Also, the Licensee's assessment of the need for upgrades to the intake structure ventilation system was inadequate. Specifically, insufficient heat removal capability existed under several postulated scenarios.

At Unit 2, the NRC found that the UFSAR had not been updated to reflect that the intake structure design temperature could not be met following a loss of non-vital exhaust fans.

Furthermore, while the Millstone Unit 3 UFSAR documented that the design bases for the containment heat removal systems had been established in accordance with specific general design and code criteria, portions of these systems were found to violate certain analytical stress considerations. Specifically, the recirculation spray system (RSS) pipe supports inside containment were not designed to withstand a single failure of a supporting service water train. Also, both the RSS and quench spray systems were found to contain pipe supports for which ASME Code stress allowables would be exceeded during design basis accident temperature conditions within the Unit 3 containment building.

2. Failure To Translate Design Bases to Procedures and Hardware

The NRC found instances where the Licensee did not adequately translate design basis information into procedures, practices, hardware and drawings. For example, at Millstone Unit 1, the reactor pressure assumed as an initial condition in the accident analyses was exceeded during reactor power operation. At Unit 3, a modification that installed the service water intake structure sump pump called for specific periodic testing, but such testing was never performed. In another case at Unit 3, prelubrication of the AFW pump was not performed every 40 days as required by the vendor.

As noted in the NRC's letter of December 13, 1995, at Millstone Unit 1, the Licensee's core offload practices were not consistent with the Unit's UFSAR. Specifically the heat load assumptions were not maintained as a result of full core offloads performed sooner than the required delay time after reactor shutdown.

Also at Unit 1, measures established to ensure that the design bases were satisfied for control room habitability were not adequate in that the means for maintaining viable self-contained breathing apparatus capability for each person in the control room were not translated into procedures. In addition, the Licensee failed to translate the design bases for the Unit 1 standby gas treatment system (SGTS) into design specifications, and failed to perform comprehensive pre-operational testing of the SGTS to ensure that it met its design specifications.

At Millstone Unit 2, the Licensee failed to adequately update the surveillance requirements to reflect modifications to contact positions in the anticipated transient without scram (ATWS) mitigating system actuating circuitry. Also at Unit 2, the procedure requirements for the time of initiation of hydrogen monitoring following a LOCA were not consistent with the licensing and design bases.

In addition, there were a number of instances where the original design basis was inadequate or the original installation was incorrect. For example, at Units 2 and 3, the Licensee failed to remove plastic shipping plugs from Rosemount transmitters prior to installation, notwithstanding the vendor's instructions which required those plugs' replacement with stainless steel plugs. At Unit 2, the NRC found that nuclear instrumentation and post-LOCA hydrogen monitors were not single-failure proof.

At Millstone Unit 2, the Licensee's inspection of the containment sump screen mesh revealed that debris larger than the size specified in the design basis could pass through with potential adverse consequences to the operability of the emergency core cooling systems. The NRC also identified that the post-accident containment hydrogen monitor design at Millstone Unit 2 was flawed in that insufficient sample flow would be available at low containment pressures when the monitor must be operable.

Also at Unit 2, when it was found that postulated failures of the non-vital intake structure ventilation systems could cause the intake structure ambient temperature to exceed the design basis, the Licensee did not perform appropriate evaluations relative to the design basis before concluding that no modifications to equipment or the design basis were needed.

3. Inadequate Engineering and Modifications

The NRC identified a number of instances in which a modification was not installed in accordance with the design, a modification was inadequate, or a modification was based on incorrect design assumptions. In one example at Millstone Unit 1, the Licensee failed to maintain the design bases for the loss of normal power (LNP) logic. Specifically, a modification resulted in a single failure vulnerability of the LNP logic that would have prevented both emergency power sources from properly starting and sequencing the required loads. The Licensee also revised the Unit 1 maximum spent fuel pool temperature through an amendment to the Technical Specifications but failed to evaluate the impact of the change on the SGTS.

At Millstone Unit 2, both trains of service water were rendered inoperable when the strainer backwash line froze due to an undocumented modification that extended the backwash line through an opening under the wall to a point just outside the intake structure.

Also at Millstone Unit 2, the NRC identified that both trains of the post-accident sampling system have been inoperable since the steam generator replacement modification because higher containment pressures would have delayed taking a containment sample for 24 hours.

At Millstone Unit 3, the Licensee prepared a modification package for the high pressure safety injection thermal relief valves which relied on incorrect design assumptions because a previous modification had revised the design. In addition, the Licensee had no approved calculation to demonstrate the adequacy of the station blackout diesel generator battery at Millstone Unit 3.

Although the Licensee's own programs, such as the CMP, are intended to correct existing and prevent future deficiencies at the facilities, I have concluded that these programs by themselves are not sufficient, given the Licensee's history of poor performance in ensuring complete implementation of corrective action for both known degraded and non-conforming conditions and past violations of NRC requirements. In addition, the magnitude and scope of the design and configuration deficiencies currently being identified indicate multiple significant failures to comply with NRC regulations (e.g., 50.59, 50.71(e), etc.) The Licensee's history of poor performance, coupled with the magnitude and scope of its failure to maintain and control conformance of Millstone Units 1, 2, and 3 to their design bases, require resolution prior to plant restarts.

The extent and duration of the deficiencies identified also indicate ineffective implementation of the Licensee's oversight programs, including the NRC-approved quality assurance (QA) program. Effective oversight activities should have identified and led to corrective measures for design control deficiencies. One conclusion of ACR 7007 was that the Licensee's oversight organizations (Review Boards, Quality Assessment Section (QAS), Independent Safety Engineering Group, and Operating Experience) did not identify the pattern of Millstone Unit 1 UFSAR discrepancies to management; nor did they identify the significance of the pattern, or the effectiveness of corrective actions to prevent recurrence. In a July 2, 1996 letter to the NRC, the Licensee provided the preliminary findings of an independent Root Cause Evaluation Team chartered to determine the causes for these oversight failures. The team

found that there was no history of escalating issues effectively and that QAS operated in an environment that did not lend itself to resolution of QAS-identified problems. Such findings of program weaknesses that represent poor oversight functions are not recent. It is apparent that the Licensee was aware of significant weaknesses in its oversight functions as early as 1991 and took no effective actions to correct those weaknesses. The Licensee's Performance Task Group Final Report, issued in September 1991, and Procedure Compliance Task Force Final Report, issued in October 1991, identified significant programmatic weaknesses affecting configuration management that either went unnoticed or were not corrected by the Licensee oversight functions.

It is necessary to ensure that the Licensee's programs to correct design control failures at Millstone Units 1, 2 and 3 are effective and that identification of degraded and non-conforming conditions and implementation of corrective actions are satisfactory and can effectively preclude repetition of these failures. For this reason, the NRC requires an independent verification of the adequacy of the results of the programs currently being implemented by the Licensee which are directed at resolving existing design and configuration management deficiencies. Accordingly, the Commission in this Order directs the Licensee to obtain the services of an organization, independent of the Licensee and its design contractors, to conduct a multi-disciplinary review of Millstone Units 1, 2, and 3. The review is to provide independent verification that, for the selected systems, the Licensee's CMP has identified and resolved existing problems, documented and utilized licensing and design bases, and established programs, processes and procedures for effective configuration management in the future. This review must be comprehensive, incorporating appropriate engineering disciplines, such that the NRC can be confident that the Licensee has been thorough in identification and resolution of problems.

III

On August 12, 1996, a transcribed meeting was conducted between the Licensee and the NRC staff regarding this matter. In response to the staff's concerns, the Licensee subsequently submitted a letter dated August 13, 1996, in which it agreed and committed to take a number of actions with respect to Millstone Units 1, 2, and 3. Specifically, the Licensee committed to have an independent team conduct an Independent Corrective Action Verification Program (ICAVP) at Millstone Units 1, 2, and 3. The Licensee committed that the corrective action verification program will include: (1) Conduct of an in-depth review of selected systems which will address control of the design and design basis since issuance of the operating license for each unit; (2) selection of systems for review based on risk/safety based criteria similar to those used in implementing the Maintenance Rule (10 CFR 50.65); (3) development and documentation of an audit plan that will provide assurance that the quality of results of the Licensee's problem identification and corrective action programs on the selected systems is representative of and consistent with that of other systems; (4) procedures and schedules for parallel reporting of findings and recommendations by the ICAVP team to both the NRC and the Licensee; and (5) procedures for the ICAVP team to comment on the Licensee's proposed resolution of the findings and recommendations. The Licensee also committed to the scope of the ICAVP review, encompassing modifications to the selected systems since initial licensing, including: (1) A review of engineering design and configuration control processes; (2) verification of current, as-modified plant conditions against design basis and licensing basis documentation; (3) verification that design and licensing bases requirements are translated into operating procedures, and maintenance and test procedures; (4) verification of system performance through review of specific test records and/or observation of selected testing of particular systems; and (5) review of proposed and implemented corrective actions for Licensee-identified design deficiencies.

I find that the Licensee's agreements and commitments as set forth in its letter of August 13, 1996 are acceptable and necessary.

In view of the foregoing, I have determined that public health and safety require that the Licensee's agreements and commitments in its August 13, 1996 letter be confirmed by this Order. The Licensee has agreed to this action. Pursuant to 10 CFR 2.202, I have also determined, based on the significance of the matters described above, as well as on the Licensee's consent, that the public health and safety require that this Order be immediately effective.

IV

Accordingly, pursuant to Sections 103, 104, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *It is hereby ordered, effective immediately*, That:

1. The Licensee shall implement an Independent Corrective Action Verification Program (ICAVP) for each Millstone Unit to confirm that the plant's physical and functional characteristics are in conformance with its licensing and design bases. The ICAVP review shall begin after the Licensee has completed the problem identification phase of the CMP, including the activities of the QA organization. The ICAVP shall be performed and completed for each Unit, to the satisfaction of the NRC, prior to the Unit's restart.

2. The ICAVP is to be conducted by an independent verification team whose selection must be approved by the NRC. The ICAVP team shall provide input on its findings on an ongoing basis concurrently to both the Licensee and the NRC. The ICAVP team shall also periodically provide to the NRC its comments on the Licensee's proposed resolution of the team's findings and recommendations.

3. The ICAVP team shall provide for NRC review and approval, prior to implementation, a plan for the conduct of the team's review. The plan must describe (a) the conduct of an in-depth review of selected systems' design and design bases since issuance of the facilities' operating licenses; (b) risk/safety based criteria for selection of systems for review; (c) a description of the audit plan to provide assurance that the quality of results of the Licensee's problem identification and corrective action programs on the selected systems is representative of and consistent with that of other systems; (d) procedures and schedules for parallel reporting of findings of the ICAVP team to both the NRC and the Licensee; and (e) procedures for the ICAVP team to comment on the Licensee's proposed resolution of the team's findings and recommendations. The scope of the ICAVP effort shall encompass all modifications made to the selected systems since initial licensing, and shall include: (1) Review of engineering design and configuration control processes, (2) verification of current, as-modified conditions against design and licensing basis documentation, (3) verification that the design and licensing bases requirements have been translated into operating procedures, and maintenance and test procedures, (4) verification of system performance through review of specific test records and/or observation of selected testing, and (5) review of proposed and

implemented corrective actions for licensee-identified design deficiencies.

4. The Licensee shall provide written replies to the Regional Administrator, Region I and the Director, Office of Nuclear Reactor Regulation, addressing ICAVP team findings and recommendations discussed in reports made pursuant to item 3(d) above. The Licensee's written replies to ICAVP team findings and recommendations shall include a statement of agreement or disagreement with reasons for each ICAVP finding or recommendation, and of the status of implementation of corrective actions. Subsequent written replies shall be made until all corrective actions are implemented.

The Director, Office of Nuclear Reactor Regulation, may, in writing, relax or rescind this order upon demonstration by the Licensee of good cause.

V

The Licensee has, as described above, consented to the issuance of this Order and waived its right to request a hearing. Thus, any person adversely affected by this Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406–1415, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland, this 14th day of August, 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–21162 Filed 8–19–96; 8:45 am]

BILLING CODE 7590–01–P

Training Requirements for Agreement State Personnel; Working Group

AGENCY: Nuclear Regulatory Commission.

ACTION: Establishment of Working Group on Training for Materials Licensing and Inspection.

SUMMARY: A working group consisting of representatives from Agreement States and from the Nuclear Regulatory Commission (NRC) has been formed to evaluate the ongoing evolution of training programs for Agreement State personnel, the criteria for evaluation of Agreement State programs in the area of training qualification, and the possible training options for Agreement State personnel.

FOR FURTHER INFORMATION CONTACT: Dennis M. Sollenberger, Office of State Programs (OSP), U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301–415–2819.

SUPPLEMENTARY INFORMATION: By letter dated November 14, 1995, Mr. Richard Ratliff, Chair, Organization of Agreement States (OAS), presented OAS concerns to the NRC including concerns in the area of training and requested that an operational committee or working group be established to consider identification of core courses, identification of additional training requirements for Agreement State personnel, and identification of acceptable alternate training options. The NRC responded to the letter on December 28, 1995, agreeing to the proposal to establish a working group to address the training issues of the OAS.

Over the last several years the training program conducted by NRC for Agreement State personnel has gone through an evolution in which the training developed and conducted for Agreement States has been merged with the training program for NRC staff. The overall coordination of this combined program is the responsibility of the Technical Training Division (TTD), Office for Analysis and Evaluation of Operational Data (AEOD). Other NRC offices and Regions provide input to the course content and training needs. The Office of State Programs (OSP) has collected and provided input on the Agreement State training needs.

The NRC has recently revised its training requirements for materials licensing and inspection staff. The requirements are now in one document, Inspection Manual Chapter 1246. The NRC has proposed that the Agreement State staff meet similar training requirements and that the Agreement State radiation control program directors formally establish staff qualification criteria and document that staff are qualified to independently perform work as they complete various training levels. The qualifications and training of Agreement State personnel have also been identified as one of the common performance indicators under the Integrated Materials Performance Evaluation Program (IMPEP) for evaluating Agreement State and NRC Regional materials regulatory programs. Specific criteria to benchmark this evaluation are needed to ensure uniformity for this program. This proposal was presented at the October 1995 All Agreement States meeting, which resulted in the above referenced letter from the OAS.

The Commission will discontinue the funding for Agreement State staff travel and contractor costs associated with Agreement State staff training beginning in fiscal year 1997. This action has prompted Agreement States to investigate alternate training methods to those made available by the NRC. The working group will not address the funding issue but will address possible alternate training methods.

Scope of Work

The NRC/OAS Training Working Group will address the Agreement State training issues as identified in the OAS letter of November 14, 1995 and other issues identified to the group by OAS or the NRC.

Tasks

In evaluating the potential training necessary for Agreement State personnel to have equivalent qualifications as NRC

materials licensing and inspection personnel, the Working Group will be performing the following tasks:

1. To evaluate the proposed training courses and training subject areas for the Agreement State staff that are necessary to assure equivalency with NRC requirements and forward a recommendation to the OAS and the NRC.

2. To evaluate the NRC policy for passing/failing courses and determine an acceptable policy and methods to implement a policy for the Agreement States.

3. To identify acceptable alternative training options, including the evaluation of technology and training methods that could be used to lower the cost of NRC training courses.

Working Group Organization and Operations

Initially the following personnel will be on the working group.

Nuclear Regulatory Commission

Dennis Sollenberger, Office of State Programs
Catherine Haney, Office of Nuclear Material Safety and Safeguards
John Ricci, Office for Analysis and Evaluation of Operational Data

Organization of Agreement States

Kathy Allen, Illinois Department of Nuclear Safety
Marilyn Kelso, Texas Department of Health
William Sinclair, Utah Department of Environmental Quality

The working group selected Dennis M. Sollenberger and Kathy Allen to be co-chairs for the working group.

Working Group Meetings

Working Group meetings will be announced in advance through the NRC Public Meeting Announcement System. Maximum use will be made of other appropriate media for facilitating interaction with the Working Group, e.g., conference calls, facsimiles, and electronic mail. Working Group meetings will be open to the public and will be held in the Washington, DC area, or other locations as agreed upon by the Working Group members. Persons attending Working Group meetings will be welcome to provide comments to the Working Group for its consideration in either written form or orally at times specified by the Working Group co-chairs.

A telephonic organizational meeting of the Working Group was held on Tuesday, July 23, 1996. All future meetings will also be announced through the NRC Public Meeting Announcement System. The Working group expects to meet at approximately monthly intervals. Information on future meetings will be available to the public:

- By telephone recording on toll-free NRC Public Meeting Announcement System, 1–800–952–9674;
- By electronic bulletin board on the toll-free NRC bulletin board, 1–800–952–9676;
- By posting in the NRC Public Document Room at the Gelman Building, 2120 L St., N.W. (Lower Level), Washington, D.C. 20037 and Local Public Document Rooms; and
- By internet on the toll-free NRC at FedWorld, 1–800–303–9672, access through the GATEWAY option.

Meeting minutes and draft and final documents produced by the Working Group will be publicly available from the NRC Public Document Room, Gelman Building, 2120 L St., N.W. (Lower Level), Washington, D.C. 20037.

Dated at Rockville, Maryland this 12th day of August, 1996.

For the Nuclear Regulatory Commission.

Richard L. Bangart,

Director, Office of State Programs.

[FR Doc. 96–21163 Filed 8–19–96; 8:45 am]

BILLING CODE 7590–01–P

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of August 19, 26, September 2, and 9, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 19

There are no meetings scheduled for the Week of August 19.

Week of August 26—Tentative

Monday, August 26

2:00 p.m.
Meeting with Chairman of Nuclear Safety Research Review Committee (NSRRC) (Public Meeting)
(Contact: Jose Cortez, 301–415–6596)

Tuesday, August 27

9:30 a.m.
Briefing on Design Certification Issues (Public Meeting)
(Contact: Jerry Wilson, 301–415–3145)
2:00 p.m.
Briefing on Annealing Demonstration Project (Public Meeting)
(Contact: Michael Mayfield, 301–415–6690)

Wednesday, August 28

10:00 a.m.
Briefing on Certification of USEC (Public Meeting)
(Contact: John Hickey, 301–415–7192)
11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

Week of September 2—Tentative

Thursday, September 5

10:30 a.m.
Briefing by DOE on Status of HLW Program (Public Meeting)
3:00 p.m.
Briefing by Executive Branch (Closed—Ex. 1)

Week of September 9—Tentative

There are no meetings scheduled for the week of September 9.

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.

ADDITIONAL INFORMATION: By a vote of 3–0 on July 31, the Commission determined pursuant to U.S.C. 552b(c)(1) and 10 CFR 9.104(a)(1) of the Commission's rules that ''Briefing by Executive Branch'' (Closed—Ex. 1) be held on August 1, and on less than one week's notice to the public.

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: August 16, 1996.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–21348 Filed 8–16–96; 2:15 pm]

BILLING CODE 7590–01–M

Updated Standard Review Plan and Related Documents: Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) has prepared an update to the Standard Review Plan for the review of safety analysis reports for light water reactor nuclear power plants (SRP) for review and comment. The updated SRP incorporates changes in

the regulation of the nuclear power industry that have occurred since the last major revision of the SRP in 1981.

The revisions were derived from three programmatic areas: NRC regulatory documents issued after the previous SRP revision; industry consensus codes and standards applicable to the SRP sections; and NRC staff positions related to evolutionary plant design reviews as presented in SECY–90–016, ''Evolutionary Light-Water Reactor (LWR) Certification Issues and Their Relationship to Current Regulatory Requirements;'' SECY–93–087, ''Policy, Technical, and Licensing Issues Pertaining to Evolutionary and Advanced Light-Water Reactor (LWR) Designs;'' and the design certification safety evaluation reports for the Advanced Boiling Water Reactor (ABWR) Design and the ABB–CE System 80+ (CE80+) Design. The updated SRP sections are currently under review by the NRC staff.

DATE: The comment period expires December 31, 1996. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Mail Stop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments may be hand-delivered to 11545 Rockville Pike, Maryland between 7:45 a.m. and 4:15 p.m. on Federal workdays. Comments may be submitted electronically as specified in the supplementary information section of this notice.

FOR FURTHER INFORMATION CONTACT: Armando Masciantonio, Office of Nuclear Reactor Regulation, Mail Stop 0–12E4, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone (301) 415–1290.

SUPPLEMENTARY INFORMATION: The proposed revised text to NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants—LWR Edition,'' is the work of contractors. Its acceptance is contingent upon full NRC staff review and concurrence. Further NRC staff review and evaluation, including resolution of public comments, will be needed before a final revision to NUREG–0800 can be published.

A significant number of the proposed revisions to the SRP are based on NRC staff positions developed during the design certification review of evolutionary plants and presented in the safety evaluation reports for the ABWR, and the CE80+. Final rulemaking for design certification is ongoing and may result in changes to these positions. The revised SRP will reflect the final NRC staff positions that result from design certification rulemaking for the ABWR and the CE80+ designs.

Because the document has not received the benefit of NRC staff review and concurrence, it is considered a ''work in progress'' that may be revised. The NRC is soliciting public comments in parallel with the NRC staff's review in order to minimize review time and obtain early public and industry input.

The documents available for public review consist of a redline/strikeout copy of the revised SRP sections that shows all changes resulting from the update program with each text revision identified by a unique superscript, and supporting documentation that provides a traceable path back to the regulation or NRC staff position that forms the basis for the change to the SRP. The updated SRP also contains several new sections to address issues that are supported by established NRC staff positions or have been fully addressed in the certification review of evolutionary designs.

The updated SRP is not a generic communication that proposes new NRC staff positions or seeks additional licensee commitments. It does not impose new or revised requirements but simply compiles and documents the requirements and NRC staff positions that have already been established elsewhere.

Work activities related to updating the SRP were performed in accordance with the guidance in NUREG–1447, ''Standard Review Plan Update and Development Program—Implementing Procedures Document,'' dated May 1992. NUREG–1447 documents the results of developing the major work assumptions and work processes for completing the SRP revision process. The document provides information on the background, objectives, and performance of work in the Standard Review Plan Update and Development Program (SRP–UDP).

The Implementing Procedures Document provides comprehensive guidance and procedures for SRP–UDP work activities, including identification and review of regulatory documents for new or changed NRC staff positions; revision of the SRP for future reactor license applications; review and approval of the revised SRP sections; and documentation requirements to ensure that program results are retrievable. The work procedures were also used in the development of a relational database to catalog and manage information used in revising each SRP section.

NUREG–1447 was also prepared in anticipation of the need to control the work of various organizations involved in the SRP revision process, including the Primary Review Branches (technical branches in the Office of Nuclear Reactor Regulation (NRR)), contractors to the Primary Review Branches, the NRC Inspection Program Branch, and contractors to the Inspection Program Branch.

Due to the priorities and work schedules within NRR, the large majority of the SRP–UDP work was performed by two contractor organizations (Pacific Northwest National Laboratories under JCN L–2013 and Idaho National Engineering Laboratory under JCN J–2055) with contract administration and technical oversight by the NRC Inspection Program Branch and technical review by the Primary Review Branches. Given the reduced number of actual participants in the development phase of the SRP–UDP, changes and deviations from the procedures in NUREG–1447 were controlled through technical oversight of contractor work activities instead of formal revisions to NUREG–1447.

Based on the above, the procedures in NUREG–1447 should be regarded as providing general guidance and direction for contractors in SRP revision activities, and as providing general information to industry and the public on work processes and assumptions used in the SRP–UDP. Significant departures from NUREG–1447 are:

Completion of the detailed analyses of new or changed regulatory positions and the preparation of a revised SRP section draft were combined into one step, instead of the two step process described in sections 3.7 and 3.8 of NUREG–1447. This change was made on experience with revision work for pilot SRP sections that showed the two step process was not cost effective. As part of this change, ''Option Paper'' documentation and outlines discussed in sections 3.7 and 3.8 were not developed in the revision of existing SRP sections.

The sample format presented in Appendix A of NUREG–1447 was not used as the template for revising SRP sections. The format and wording of the current SRP sections were preserved to the extent possible. This change allowed the NRC staff review to focus on substantive technical changes and not on editorial changes to existing text. Two changes to the format of the current SRP sections were determined to be cost effective: (1) The review interfaces

presented in the ''Areas of Review'' subsection of each SRP section were converted to a numbered paragraph format with reference to specific Primary Review Branches and (2) a ''Technical Rationale'' discussion was added to the ''Acceptance Criteria'' subsection of each SRP section. ''Technical Rationale'' discussions are addressed in sections 3.7 and 3.8 of NUREG–1447.

The treatment of NRC staff positions in the safety evaluation reports related to certification of evolutionary designs have been treated as Type I revisions as defined in section 3.7 of NUREG–1447. These positions have been approved and have undergone public review as part of rulemaking.

The new SRP sections developed in the SRP–UDP address NRC staff positions that are fully established and are, therefore, considered Type I revisions to the SRP as defined in section 3.7 of NUREG–1447.

Responsibility for updating each SRP section was maintained in the NRC Inspection Program Branch with technical review and concurrence by the Primary Review Branch.

Some of the activities and specific topics discussed in NUREG–1447, such as 60-year design life acceptance criteria, did not result in generic changes or additions to the SRP. These activities and topics are still under development or did not meet project criteria to be considered established regulatory positions. As these positions are finalized, they will be captured in future SRP revisions. Other activities discussed in NUREG–1447 determined to be of low priority in the current revision cycle, such as incorporation of Branch Technical Positions into the body of associated SRP sections, will be considered for future SRP revisions.

The purpose of this notice is to solicit specific public comment on whether the revised text accurately and fully reflects established NRC staff positions and existing regulations. The updated SRP and the supporting documentation that provides traceability back to the source of the change constitutes the SRP currently in effect. The SRP is made available to the public as part of the NRC's policy to inform the nuclear industry and the general public of regulatory procedures and policies. Standard review plans are not substitutes for regulatory guides or NRC regulations. Compliance with SRPs is not required. Published standard review plans will be revised periodically, as appropriate, to accommodate comments and to reflect new information and experience. The NRC encourages comment from all interested parties; however, public review is not intended to reopen a dialogue on the merits of the requirements themselves but should be focused on the purpose stated above.

Electronic Submission of Comments

The updated SRP can be downloaded in WordPerfect 5.1 format and comments can be submitted electronically, in either ASCII text or WordPerfect 5.1 format by calling toll free to the NRC Online Electronic Bulletin Board (BBS). The BBS may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via the Internet.

If using a personal computer and modem, the NRC Online BBS can be accessed directly by dialing the toll-free number: 1–800–303–9672. Communication parameters should be set as follows: parity to none, data bits to 8, stop bits to 1 and ANSI terminal emulation (N,8,1,ANSI). From the NRC Online Main Menu, select ''NRC Conferences'' then select ''NUREG–0800 April 1996 Revision'' option to access the updated SRP. For more information about options available for NRC Online BBS consult the ''Help/Information Center'' from the ''NRC Online Main Menu''. Callers will find the ''FEDWORLD Online User's Guides'' particularly helpful. Many NRC conferences also have a ''Help/Information Center'' option that is tailored to that particular area.

The NRC Online BBS can also be accessed by a direct dial phone number from the main FEDWORLD BBS: 703–321–3339; Telnet via Internet: fedworld.gov (192.239.92.3); File Transfer Protocol (FTP) via Internet: ftp.fedworld.gov (192.239.92.205); and the World Wide Web using: http://www.fedworld.gov (this is the Uniform Resource Locator (URL)).

When accessing FedWorld, the NRC Online BBS can be accessed from the main FEDWORLD menu by selecting the ''Regulatory, Government Administration and State Systems'', then selecting ''Regulatory Information Mall''. At that point, a menu will be displayed that has the option ''U.S. Nuclear Regulatory Commission'' that will take you to the NRC Online BBS. The NRC Online BBS can also be accessed directly by typing ''/go nrc'' at the FEDWORLD Main Menu command line. If you access the NRC from FEDWORLD's Main Menu, you may return to FEDWORLD by selecting the ''Goodbye'' option from the NRC Online Main Menu. However, if you access NRC Online BBS by using NRC's toll-free number, you will have full access to all NRC conferences but you will not have access to the main FEDWORLD system.

If you contact FEDWORLD using Telnet, you will see the NRC Online BBS Menus, including the Rules Menu. You will be able to download documents, upload files (comments) and prepare comments online. If you contact FEDWORLD using FTP, all files can be accessed, but uploads are not allowed; all you will see is a list of files without descriptions. An index file listing all files within a subdirectory, with descriptions, is available.

Although FEDWORLD can be accessed through the World Wide Web, like FTP, that mode provides access for downloading files and does not display the NRC Online BBS Menus. For more information on NRC Bulletin Boards contact Mr. Arthur Davis, Systems Development and Integration Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–5780; email AXD3@nrc.gov.

The updated SRP in printed paper, 3.5-inch disks and CD–ROM versions, and related supporting documents are available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington DC 20555.

A limited number of copies of the updated SRP in printed paper and CD–ROM versions are available free, to the extent of supply, upon written request to the Office of Information Resources Management, Distribution Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Please note that the compact disk (CD) version of the updated SRP uses a font and format that is slightly different from the WordPerfect and printed versions. As a result, specific text in the CD version may be located on a different page than the corresponding text in the WordPerfect and printed versions. To prevent any possible misunderstanding, comments which are submitted should reference the SRP section, not the page number.

Dated at Rockville, Maryland, this 8th day of August, 1996.

For the Nuclear Regulatory Commission.

R. W. Borchardt,

Chief, Inspection Program Branch, Division of Inspection and Support Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 96–21165 Filed 8–19–96; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Thermal Testing, Repository Advanced Conceptual Design, Viability Assessment, 1997 Activities, and the Proposed EPA Standards for Yucca Mountain (if Available); Board Meeting

Pursuant to its authority under section 5051 of Public Law 100–203, the Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board will hold its fall meeting on Wednesday and Thursday, October 9–10, 1996, in Arlington, Virginia. The meeting will be held at the Days Inn Crystal City, 2000 Jefferson Davis Highway, Arlington, VA 22202; Tel (703) 920–8600; Fax (703) 920–2840; the nearest METRO station is Crystal City on the Yellow/Blue Lines. To receive the preferred rate, reservations must be made by September 20, 1996. The meeting is open to the public and will begin at 8:30 a.m. both days.

On the first day, the Board will hear updates on the Yucca Mountain exploration and testing program, the Yucca Mountain viability assessment, and repository advanced conceptual design. Presentations on the exploration and testing program will place an emphasis on the effects of different thermal loads on underground geology and hydrology. In looking at the viability assessment, the Board has asked how the assessment will be affected by the scientific program, repository design, and total system performance assessment. Presentations on the advanced conceptual design will include supporting system studies. The Board also has asked about the Department of Energy's planned activities for fiscal year 1997.

The second day of the meeting is tentatively scheduled for a review of the proposed Environmental Protection Agency (EPA) standards (40 CFR Part 197) for the release of radionuclides from a potential repository at Yucca Mountain, Nevada, and their potential impact on the Yucca Mountain site-characterization program. If the proposed standards are not available by early September, the first day's agenda will be expanded into the second day. The meeting will conclude with a round-table discussion of issues raised during the two days.

The Board has invited representatives of the Department of Energy's (DOE) Office of Civilian Radioactive Waste Management and its contractors to make presentations on the issues. Representatives from the EPA and the Nuclear Regulatory Commission also have been invited to offer their views on the proposed EPA standards. Time has been set aside for public comment and questions on both days. To ensure that everyone wishing to speak is provided time to do so, the Board encourages those who have comments to sign the Public Comment Register, which will be located at the registration table. A time limit may have to be set on the length of individual remarks; however, written comments of any length may be submitted for the record.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987 to evaluate the technical and scientific validity of activities undertaken by the DOE in its program to manage the disposal of the nation's spent nuclear fuel and defense high-level waste. In the same legislation, Congress directed the DOE to characterize a site a Yucca Mountain, Nevada, for its suitability as a potential location for a permanent repository for the disposal of that waste.

Transcripts of this meeting will be available via e-mail, on computer disk, or on a library-loan basis in paper format from Davonya Barnes, Board staff, beginning November 6, 1996. For further information, contact Frank Randall, External Affairs, 1100 Wilson Boulevard, Suite 910, Arlington, Virginia 22209; (Tel) 703–235–4473; (Fax) 703–235–4495.

Dated: August 14, 1996.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 96–21145 Filed 8–19–96; 8:45 am]

BILLING CODE 6820–AM–M

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Statement of Authority to Act for Employee; OMB 3220–0034. Under Section 5(a) of the Railroad Unemployment Insurance Act (RUIA), claims for benefits are to be made in accordance with such regulations as the Railroad Retirement Board (RRB) shall prescribe. The provisions for claiming sickness benefits as provided by Section 2 of the RUIA are prescribed in 20 CFR 355.2. Included in these provisions is the RRB's acceptance of forms executed by someone else on behalf of an employee if the RRB is satisfied that the employee is sick or injured to the extent of being unable to sign forms.

The RRB utilizes Form SI–10, Statement of Authority to Act for Employee, to provide the means for an individual to apply for authority to act on behalf of an incapacitated employee and also to obtain the information necessary to determine that the delegation should be made. Part I of the form is completed by the applicant for the authority and Part II is completed by the employee's doctor. One response is requested of each respondent. Completion is required to obtain benefits.

The RRB proposes various minor editorial revisions to Form SI–10 which include the insertion of language required by the Paperwork Reduction Act of 1995.

The estimated annual respondent burden is as follows:

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form no.	Annual re-sponses	Time (min)	Burden (hrs)
SI–10	400	6	40

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments

should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–21188 Filed 8–19–96; 8:45 am]

BILLING CODE 7905–01–M

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Notice of Intent to Offset Federal Income Tax Refund; OMB 3220–0181.

Federal Law (Section 3720A of Title 31, United States Code) authorizes agencies of the U.S. Government to refer legally enforceable debts to the Internal Revenue Service (IRS) for collection. The debts referred must be at least 90 days past due. Under this authority, the IRS may collect a referred debt by offset against the Federal income tax refund due the debtor. The law provides that any Federal agency that is owed a past due legally enforceable debt is to notify the IRS of amount of the debt. Before notifying the IRS, however, the agency must (1) notify the taxpayer who is responsible for the debt that the agency plans to refer the taxpayer's debt to the IRS for offset against any Federal tax due; (2) determine that the debt is past due and legally enforceable after providing the taxpayer with at least 60 days to present evidence to the contrary; and (3) make reasonable efforts to collect the debt.

RRB procedures pertaining to the Collection of Debts by Federal Tax Refund Offset are prescribed in 20 CFR 366.

The RRB uses the Federal Income Tax Refund Offset Program to collect debts resulting from benefit overpayments under the Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act (RUIA). Before such debts are referred to the IRS for offset against any tax refund due a beneficiary, the RRB provides the overpaid beneficiary with at least 60 days notice that a debt is past due, and that the RRB intends to refer the debt to the IRS if it is not repaid. The overpaid beneficiary is also advised that any evidence that all or part of the debt is not past due or legally enforceable must be presented to the RRB within 60 days from the date of written notice.

The RRB currently utilizes Forms G–49a and G–49b, as the vehicles by which an overpaid RRA or RUIA beneficiary can either pay in full the amount of the debt owed or indicate reasons for not paying some or all of the debt. One response is requested of each respondent. Completion is voluntary. The RRB proposes to obsolete Form G–49a and modify G–49b to incorporate language required by the Paperwork Reduction Act of 1995.

The estimated annual respondent burdern is as follows:

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual re-sponses	Time (min)	Burde (hrs)
G–49b	350	10	58

ADDTIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–21189 Filed 8–19–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Request For Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Form N–17D–1, SEC File No. 270–231, OMB Control No. 3235–0229, Rule 18f–1, and Form N–18F–1, SEC File No. 270–187, OMB Control No. 3235–0211.

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'') is publishing for public comment the following summary of previously approved information collection requirements.

Form N–17D–1 is used by small business investment companies and banks affiliated therewith to report any loan or advance of credit to, or acquisition of securities or property of, a small business concern or any agreement to do any of the foregoing. The annual burden of filling out the form is approximately 5 hours per response.

Rule 18f–1 enables a registered open-end management investment company (''fund'') that may redeem its securities in kind, by making a one-time election, to commit to make cash redemptions pursuant to certain requirements without violating section 18(f) of the Investment Company Act of 1940. Form N–18F–1 provides the Securities and Exchange Commission notification of this election. A response takes approximately one hour. It is estimated that approximately 150 funds file the form annually.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study.

Written comments are requested on: (a) whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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 in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W. Washington, DC 20549.

Dated: August 13, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21108 Filed 8–19–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22140; 812–10214]

The Adivsors' Inner Circle Fund; Notice of Application

August 14, 1996.

AGENCY: Securities and Exchange Commission (the ''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: The Advisors' Inner Circle Fund (the ''Trust''), on behalf of A+P Large-Cap Value Fund (the ''Portfolio'').

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order to permit certain shareholders who are ''affiliated persons'' of its Portfolio series, solely by reason of owning more than 5% of the Portfolio's shares, to redeem Portfolio shares for payment in-kind.

FILING DATE: The application was filed on June 20, 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 September 9, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 2 Oliver Street, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 942–0581, 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. The Trust, an open-end management investment company established as a Massachusetts business trust, currently offers nine portfolios, including the Portfolio. Five of the Trust's seven trustees are not ''interested persons'' (as defined in section 2(a)(19) of the Act) (the ''Independent Trustees'') of the Trust. The investment objective of the Portfolio is to seek total return. It seeks to achieve this objective by investing primarily in common stocks of large capitalization companies.

2. Aronson & Partners (the ''Adviser'') has acted as the Portfolio's investment adviser since its date of inception pursuant to an advisory agreement dated October 15, 1993. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940.

3. As of June 17, 1996, Cooper Health Care Retirement Plan, Medlantic Health Care (Corporate), Medlantic Health Care (Retirement) and General Service Foundation (collectively, the ''Affiliated Shareholders'') owned beneficially and of record approximately 17%, 33.4%, 35.6%, 10.6%, respectively, of the Portfolio's outstanding shares. At such time, each Affiliated Shareholder was an ''affiliated person'' of the Portfolio as defined in section 2(a)(3)(A) of the Act because each owned more than 5% of the shares of the Portfolio. Each Affiliated Shareholder will continue to be an affiliated person of the Portfolio until the redemptions described below are effected.

4. Each Affiliated Shareholder has notified the Trust that it expects to redeem its shares of the Portfolio and place the proceeds in a separate investment advisory account to be managed by the Adviser. Shares of the Portfolio may be redeemed at the net asset value per share next determined after the Trust's transfer agency receives a proper redemption request. The Portfolio's prospectus and statement of additional information provide that, in limited circumstances, the Portfolio may satisfy all or part of a redemption request by delivering portfolio securities to a redeeming shareholder if the board of trustees of the Trust determines that it is appropriate in order to protect the best interests of the Portfolio and its shareholders. The board (including all of the Independent Trustees) has determined that it would be in the best interests of the Portfolio and its shareholders to pay to each Affiliated Shareholder the redemption price for its shares substantially in-kind.

5. The Trust, in accordance with its redemption policies,[1] proposes to pay the first $250,000 of each such redemption in cash and the remainder in the form of a proportionate distribution of each portfolio security held by the Portfolio (the ''Proposed In-Kind Redemptions'') after excluding: (a) securities which, if distributed, would be required to be registered under the Securities Act of 1933; (b) securities issued by entities in countries which (i) restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Portfolio, or (ii) permit transfers of ownership of securities to be effected only by transactions conducted on a local stock exchange; and (c) certain portfolio assets (such as forward foreign currency exchange contracts, futures and options contracts and repurchase agreements) that, although they may be liquid and marketable, must be traded through the marketplace or with the counterparty to the transaction in order to effect a change in beneficial ownership. Securities to be distributed pursuant to the Proposed In-Kind Redemptions will be further limited to securities which are traded on a public securities market or for which quoted bid prices are available. Cash will be paid for that portion of the Portfolio's assets represented by cash equivalents (such as certificates of deposit, commercial paper and repurchase agreements) and other assets which are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable). In addition, the Portfolio will distribute cash in lieu of securities held in its portfolio not amounting to round lots (or which would not amount to round lots if included in the Proposed In-Kind Redemptions), fractional shares, and accruals on such securities.

Applicant's Legal Analysis

1. Section 17(a)(2) of the Act prohibits affiliated persons of a registered investment company, acting as principal, to knowingly purchase from such registered investment company any security or other property (except securities of which the seller is the issuer). Section 2(a)(3)(A) of the Act defines ''affiliated person'' to include

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[1] The Trust, on behalf of the Portfolio, has elected to be governed by rule 18f–1 under the Act. This election commits the Portfolio, during any 90-day period for any one shareholder, to redeem its shares solely in cash up to the lesser of $250,000 or 1% of the Portfolio's net asset value at the beginning of such period.

any person owning 5% or more of the outstanding voting securities of such other person. Each Affiliated Shareholder owns beneficially and of record in excess of 5% of the Portfolio's shares and thus, is an affiliated person of the Portfolio. To the extent that a Proposed In-Kind Redemption would be considered to involve the purchase of portfolio securities (of which the Portfolio is not the issuer) by an Affiliated Shareholder, the Proposed In-Kind Redemption would be prohibited by section 17(a)(2).

2. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Applicant believes that the terms of each Proposed In-Kind Redemption meet the standards set forth in section 17(b). Because the board is responsible for making the determination and has decided to redeem shares in-kind, an Affiliated Shareholder has no choice as to the type of consideration to be received in connection with its redemption request and neither the Adviser nor the Affiliated Shareholder has any opportunity to select specific portfolio securities to be distributed to an Affiliated Shareholder. Instead, the Proposed In-Kind Redemptions will be effected through a *pro rata* distribution of all portfolio securities held by the Portfolio after excluding certain securities specified below. In addition, the Proposed In-Kind Redemptions are consistent with the investment policies of the Trust and the Portfolio, as set forth in the Portfolio's prospectus, which expressly discloses the Portfolio's ability to redeem shares in-kind. Finally, applicant believes that the Proposed In-Kind Redemptions are consistent with the general purposes of the Act to protect security holders of investment companies from discrimination among holders of securities issued by such companies, and from self-dealing on the part of investment company affiliates to the detriment of other security holders. The Affiliated Shareholders would not receive any advantage not available to any other shareholder requesting a comparable redemption.

Applicant's Conditions

Applicant agrees that any order granting the requested relief will be subject to the following conditions:

1. The portfolio securities of the Portfolio distributed to an Affiliated Shareholder pursuant to a redemption in-kind (the ''In-Kind Securities'') will be limited to securities that are traded on a public securities market or for which quoted bid prices are available.

2. The In-Kind Securities will be distributed by the Portfolio on a *pro rata* basis after excluding (a) securities which, if distributed, would be required to be registered under the Securities Act of 1933; (b) securities issued by entities in countries which (i) restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Portfolio, or (ii) permit transfers of ownership of a securities to be effected only by transactions conducted on a local stock exchange; and (c) certain portfolio assets (such as forward foreign currency exchange contracts, futures and options contracts and repurchase agreements) that, although they may be liquid and marketable, must be traded through the marketplace or with the counterparty to the transaction in order to effect a change in beneficial ownership. Cash will be paid for that portion of the Portfolio's assets represented by cash equivalents (such as certificates of deposit, commercial paper, and repurchase agreements) and other assets which are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable). In addition, the Portfolio will distribute cash in lieu of securities held in its portfolio not amounting to round lots (or which would not amount to round lots if included in the in-kind distribution), fractional shares, and accruals on such securities.

3. The In-Kind Securities distributed to an Affiliated Shareholder will be valued in the same manner as they would be valued for purposes of computing the Portfolio's net asset value, which, in the case of securities traded on a public securities market for which quotations are available, is their last reported trade price on the exchange on which the securities are principally traded, or, if there is no such reported price, is the last quoted bid price.

4. The Portfolio will maintain and preserve for a period of not less than six years from the end of the fiscal year in which a proposed in-kind redemption occurs, the first two years in an easily accessible place, a written record of such redemption setting forth a description of each security distributed, the terms of the distribution, and the information or materials upon which the valuation was made.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21159 Filed 8–19–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 22139; 812–10208]

The Target Portfolio Trust℠ and Prudential Mutual Fund Management, Inc.; Notice of Application

August 13, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (''Act'').

APPLICANTS: The Target Portfolio Trust℠ (the ''Trust'') and Prudential Mutual Fund Management, Inc. (the ''Manager'').

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) of the Act from the provisions of section 15(a) of the Act and rule 18f–2 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting the Manager, as investment adviser of the Trust, to enter into sub-advisory contracts on behalf of the Trust without receiving prior shareholder approval.

FILING DATES: The application was filed on June 14, 1996. Applicants agree to file an amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 9, 1996, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, One Seaport Plaza, New York, New York 10292.

FOR FURTHER INFORMATION CONTACT: Sarah A. Beuscher, Staff Attorney, at (202) 942–0573, or Mercer E. Bullard, Branch Chief, at (202) 942–0546

(Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is registered under the Act as an open-end management investment company and currently has ten separate investment portfolios (the ''Portfolios''). The Portfolios commenced operations on January 5, 1993, except for the International Bond Portfolio, which commenced operations on May 17, 1994. Applicants request relief with respect to any current series and series of the Trust organized in the future, and for any future open-end management investment company advised by the Manager or a person controlling, controlled by, or under common control with the Manager, provided that such investment company operates in substantially the same manner as the Trust and complies with the conditions to the requested order.

2. The Manager, an indirect wholly owned subsidiary of The Prudential Insurance Company of America, is an investment adviser registered under the Investment Advisers Act of 1940. The Trust has entered into an investment management agreement (the ''Management Agreement'') with the Manager who, in turn, has entered into an investment advisory agreement (the ''Advisory Agreement'') with one or more registered investment advisers (each an ''Adviser'') to the Portfolios. The Manager is responsible for selecting the Advisers, subject to the review and approval of the board of trustees of the Trust (the ''Board''). A Portfolio may be managed by a single Adviser or may be allocated by the Manager between or among two or more Advisers.

3. The Manager evaluates investment management for the Trust by performing an initial review on prospective Advisers, monitoring Adviser performance through quantitative and qualitative analysis, and through in-person consultations with the Advisers. The Manager is also responsible for communicating performance expectations and evaluations to Advisers and recommending to the Board whether Advisers' contracts should be renewed, modified, or terminated. In addition, the Manager is responsible for conducting all operations of the Trust except those operations contracted to the Advisers, custodian, and transfer agent. The Trust pays the Manager a fee based on the average daily net assets of each Portfolio. The Manager pays each Adviser a fee based on the average daily net assets of the portion of the Portfolio managed by that Adviser. The Trust pays no fees directly to any Adviser.

4. The Advisers serve in a sub-advisory capacity to the Portfolios. Each Adviser's responsibilities are limited to managing the securities held in a Portfolio, or portion thereof, it manages in accordance with the Portfolio's investment objectives and policies, making investment decisions for the Portfolio, and placing orders to purchase and sell securities on behalf of the Portfolio.

5. Purchases of shares of a Portfolio are currently made through a securities account maintained with Prudential Securities Incorporated (''Prudential Securities''). Portfolio shares are available to participants in The Prudential Securities Target Program℠ (the ''Target Program'') who pay a separate investment advisory or program fee, to banks, trust companies, and other investment advisory services that maintain securities accounts with Prudential Securities, and to certain asset allocation programs of investments in registered investment companies sponsored by Prudential Securities.

6. Prudential Securities, through the Target Program, provides advisory services in connection with investments among the Portfolios by identifying and recommending in writing an appropriate allocation of assets among the Portfolios that conforms to the investor's objectives, preferences, and risk tolerances, and providing a quarterly statement to the investor containing an analysis and evaluation of the investor's account. At times, Prudential Securities may recommend a modification in the allocation of assets among the Portfolios. Investors pay a quarterly fee to Prudential Securities for the Target Program services. Investors may terminate their participation in the Target Program at any time upon five business days' notice. If a Target Program account is terminated, all shares of the Portfolios held in that account will be redeemed. Portfolio shares may be redeemed at any time for cash at net asset value without the imposition of any sales charge, contingent deferred sales charge, or redemption fee. No Portfolio bears any distribution or shareholder servicing fee pursuant to rule 12b–1 under the Act.

7. Applicants request an exemption from section 15(a) and rule 18f–2 to permit the Manager to enter into new or amended Advisory Agreements without obtaining shareholder approval, including new Advisory Agreements necessitated because the prior Advisory Agreements were terminated as a result of an ''assignment'' (as defined in section 2(a)(4) of the Act). The Management Agreement in all cases would be subject to the shareholder voting requirements of section 15(a).

Applicants' Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as investment adviser to a registered investment company except pursuant to a written contract that has been approved by a majority of the investment company's outstanding voting securities. Rule 18f–2 provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Applicants assert that the ability to enter into Advisory Agreements without shareholder approval would permit the Manager more effectively to perform the functions that the Portfolios are paying it to perform, namely, selecting Advisers, monitoring their performance, and changing Advisers when appropriate. Applicants believe that to require shareholders to approve each new Adviser not only would result in unnecessary administrative expense to the Portfolios, but also could result in harmful delays in executing changes in Advisers that the Manager and the Board have determined are necessary. Eight changes in Advisers or material changes in Advisory Agreements have been submitted for shareholder approval since the Portfolios commenced operations. Applicants submit that these meetings would not have taken place and shareholders would have been spared the expense and burden of repeat proxy solicitations, while receiving all relevant information that would have been included in a proxy statement, had the order requested in the application been in place.

3. Applicants also assert that the primary responsibility for management of the Portfolios, in particular, the selection and supervision of the Advisers, is vested in the Manager, subject to oversight by the Board. Because of the unusual structure of the Trust, as well as the Manager's experience, applicants believe that it is consistent with the protection of investors to vest the selection and supervision of Advisers in the Manager. Applicants submit that, within this structure, the Manager is in a better position to make an informed selection of an Adviser than individual investors.

4. Applicants believe that investors in the Portfolios would be in a position to make a fully informed decision as to

purchasing, redeeming, or retaining Portfolio shares. Shareholders will receive an information statement that includes all the information about a new Adviser or Adviser Agreement that would be included in a proxy statement. In addition, applicants state that all fees payable by the Manager to the Adviser will be disclosed in the prospectus of the applicable Portfolio in accordance with the requirements of Form N–1A.

5. Applicants believe that investors who seek the investment advice of Prudential Securities typically have determined that they are unwilling to assume the burden of selecting an appropriate mix of investments to attain their investment objectives, or the appropriate money manager or managers to make specific investments in accord with those objectives. The Target Program is designed to create an asset allocation strategy to meet an investor's individual needs as well as selecting investments within each asset category.

6. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants believe that the requested relief meets this standard.

Applicants' Conditions

Applicants agree that the requested exemption will be subject to the following conditions:

1. The Manager will provide general management and administrative services to the Trust, including overall supervisory responsibility for the general management and investment of the Trust's securities portfolio, and, subject to review and approval by the Board, will (a) set the Portfolios' overall investment strategies; (b) select Advisers; (c) monitor and evaluate the performance of the Advisers; (d) allocate and, when appropriate, reallocate a Portfolio's assets among its Advisers in those cases where a Portfolio has more than one Adviser; and (e) implement procedures reasonably designed to ensure that the Advisers comply with the Trust's investment objectives, policies, and restrictions.

2. Before a Portfolio may rely on the order requested hereby, the operation of the Portfolio in the manner described in the application will be approved by a majority of its outstanding voting securities, as defined in the Act, or, in the case of a new Portfolio whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 4 below, by the sole shareholder before offering of shares of such Portfolio to the public.

3. The Trust will furnish to shareholders all information about a new Adviser or Advisory Agreement that would be included in a proxy statement. Such information will include any change in such disclosure caused by the addition of a new Adviser or any proposed material change in a Portfolio's Advisory Agreement. The Trust will meet this condition by providing shareholders with an informal information statement complying with the provisions of Regulation 14C under the Securities Exchange Act of 1934, as amended, and Schedule 14C thereunder. With respect to a newly retained Adviser, or a change in an Advisory Agreement, this information statement will be provided to shareholders of the Portfolio a maximum of ninety (90) days after the addition of the new Adviser or the implementation of any change in an Advisory Agreement. The information statement will also meet the requirements of Schedule 14A under the Exchange Act.

4. The Trust will disclose in its prospectus the existence, substance, and effect of the order granted pursuant to this application.

5. No trustee or officer of the Trust or director or officer of the Manager will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such director, trustee, or officer) any interest in any Adviser except for (a) ownership of interests in the Manager or any entity that controls, is controlled by, or is under common control with the Manager; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either an Adviser or any entity that controls, is controlled by or is under common control with an Adviser.

6. The Manager will not enter into an Advisory Agreement with any Adviser that is an ''affiliated person,'' as defined in section 2(a)(3) of the Act, of the Trust or the Manager other than by reason of serving as an Adviser to one or more Portfolios (an ''Affiliated Adviser'') without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Portfolio.

7. At all times, a majority of the members of the Board will be persons each of whom is not an ''interested person'' of the Trust as defined in section 2(a)(19) of the Act (the ''Independent Trustees''), and the nomination of new or additional Independent Trustees will be placed within the discretion of the then existing Independent Trustees.

8. When an Adviser change is proposed for a Portfolio with an Affiliated Adviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board's minutes, that such change is in the best interests of the Portfolio and its shareholders and does not involve a conflict of interest from which the Manager or the Affiliated Adviser derives an inappropriate advantage.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21107 Filed 8–19–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22134; 812–10076]

Transamerica Investors, Inc. and Transamerica Investment Services, Inc.; Notice of Application

August 13, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption Under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Transamerica Investors, Inc. and Transamerica Investment Services, Inc.

RELEVANT ACT SECTION: Order requested under section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order to permit certain investment companies to deposit their uninvested cash balances in one or more joint accounts to be used to enter into repurchase agreements.

FILING DATE: The application was filed on April 5, 1996 and amended on July 17, 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 September 9, 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. Applicants, Transamerica Center, 1150 South Olive, Los Angeles, CA 90015–2211.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Staff Attorney, at (202) 942–0553, or Mercer E. Bullard, 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. Transamerica Investors, Inc. (''TII''), a Maryland corporation, is registered under the Act as an open-end management investment company of the series type. TII currently consists of six series. Transamerica Investment Services, Inc. (''TIS''), the investment adviser to each series of TII, is a Delaware corporation and is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940. TIS is a wholly-owned subsidiary of Transamerica Corporation. State Street Bank & Trust Company provides custodial services for TII, and Transamerica Occidental Life Insurance Company acts as TII's administrator.

2. Applicants request that any relief granted pursuant to the application apply to any existing or future series of TII, and any other registered investment companies or series thereof that now or in the future are advised or subadvised by TIS or any entity controlling, controlled by, or under common control with TIS (collectively with TII, the ''Funds''). All Funds that currently intend to rely upon the requested order are named as applicants. Three additional registered investment companies, Transamerica Income Shares, Inc. and Transamerica Occidental's Separate Account Funds B and C, that currently do not intend to rely upon the requested relief, in the future, may rely upon the order in accordance with the terms and conditions contained in the application.

3. At the end of each trading day, applicants expect that some or all of the Funds will have uninvested cash balances in their respective custodian banks that would not otherwise be invested in portfolio securities by TIS. Currently, such cash balances may be invested in repurchase agreements separately on behalf of each Fund.

4. Applicants propose to deposit some or all of the uninvested cash balances of the Funds remaining at the end of each trading day into one or more joint accounts (''Joint Accounts'') and to invest the daily balance of the Joint Accounts in repurchase agreements having maturities of 7 days or less that are collateralized fully as defined in rule 2a–7 under the Act (''Short-Term Repurchase Agreements''), as authorized by the investment policies of the Funds.

5. A Fund's decision to use a Joint Account will be based upon the same factors as its decision to make any other short-term liquid investment. The Joint Accounts would only be used to aggregate what otherwise would be one or more daily individual transactions necessary for the management of each of the Funds' daily uninvested cash balance.

6. TIS will not participate as an investor in the Joint Account. TIS will be responsible for investing funds held by the Joint Accounts, establishing accounting and control procedures, and ensuring the fair and equitable treatment of the Funds.

7. Any repurchase agreements entered into through the Joint Accounts will comply with the terms of Investment Company Act Release No. 13005 (February 2, 1983) and any other existing and future positions taken by the Commission or its staff by rule, release, letter, or otherwise, relating to repurchase agreement transactions. Applicants acknowledge that they have a continuing obligation to monitor the SEC's published statements on repurchase agreements, and represent that repurchase agreement transactions will comply with future positions of the SEC to the extent that such positions set forth different or additional requirements regarding repurchase agreements.

Applicants' Legal Analysis

1. Section 17(d) of the Act makes it unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which the registered investment company is a joint or a joint and several participant with such person in contravention of rules and regulations proscribed by the SEC. Rule 17d–1(a) under the Act provides that an affiliated person of a registered investment company, acting as principal, shall not participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which the registered investment company is a participant unless the SEC has issued an order approving the arrangement.

2. The Funds, by participating in the Joint Accounts, and TIS, by managing the Joint Accounts, could be deemed to be ''joint participants'' in a transaction within the meaning of section 17(d). In addition, the proposed Joint Accounts could be deemed to be a ''joint enterprise or other joint arrangement'' within the meaning of rule 17d–1.

3. Applicants believe that no Fund will be in a less favorable position as a result of the Joint Accounts. Applicants believe that a Fund's investment in the Joint Account will not be subject to the claims of creditors, whether brought in bankruptcy, insolvency or other legal proceedings, or of any other participant Fund in the Joint Account. Applicants further believe that each Fund's liability on any Short-Term Repurchase Agreement will be limited to its interest in such investment; no Fund will be jointly liable for the investments of any other Fund.

4. Applicants believe that the Joint Accounts could result in certain benefits to the Funds. For example, the Funds may earn a higher rate of return on investments through the Joint Accounts relative to the returns they could earn individually. Under most market conditions, it is possible to negotiate a rate of return on larger repurchase agreements that is higher than the rate on smaller repurchase agreements.

5. The Joint Accounts also may reduce the potential for errors by reducing the number of trade tickets and cash wires that must be processed by the sellers of Short-Term Repurchase Agreements and by the Funds' custodians and accountants.

6. For the reasons set forth above, applicants believe that granting the requested order is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act and the finding required by rule 17d–1.

Applicants' Conditions

Applicants will comply with the following procedures as conditions to any SEC order:

1. The Joint Accounts would consist of one or more separate cash accounts established at a custodian bank. A Joint Account may be established at more than one custodian bank and more than one Joint Account may be established at any custodian bank. A Fund may transfer a portion of its daily cash balances to more than one Joint Account. After the calculation of its daily cash balance and at the direction of TIS, each Fund would transfer into one or more Joint Accounts the cash it

intends to invest through the Joint Accounts. Each Fund whose regular custodian is a custodian other than the bank at which a proposed Joint Account would be maintained and that wishes to participate in the Joint Account would appoint the latter bank as a sub-custodian for the limited purposes of: (1) receiving and disbursing cash; (2) holding any Short-Term Repurchase Agreements; and (3) holding any collateral received from a transaction effected through the Joint Account. All Funds that appoint such sub-custodians will have taken all necessary actions to authorize such bank as their legal custodian, including all actions required under the Act.

2. The Joint Accounts will not be distinguishable from any other accounts maintained by the Funds at their custodians except that monies from the Funds will be deposited in the Joint Account on a commingled basis. The Joint Accounts will not have a separate existence and will not have any indicia of a separate legal entity. The Joint Accounts will only be used to aggregate individual transactions necessary for the management of each Fund's daily uninvested cash balance.

3. Cash in the Joint Accounts will be invested in one or more repurchase agreements with maturities of 7 days or less that are collateralized fully as defined in rule 2a–7 under the Act, and that satisfy the uniform standards set by the Funds for such investments. The securities subject to the repurchase agreement will be transferred to a Joint Account and they will not be held by the Fund's repurchase counterparty or by an affiliated person of that counterparty.

4. Each Fund would participate in a Joint Account on the same basis as every other Fund in conformity with its respective fundamental investment objectives, policies, and restrictions. Any future Funds that participate in the Joint Account would be required to do so on the same terms and conditions as the existing Funds.

5. Each Fund's investment in a Joint Account will be documented daily on the books of each Fund and the books of its custodian. Each Fund, through its investment adviser and/or custodian, will maintain records (in conformity with Section 31 of the Act and rules thereunder) documenting for any given day, the Fund's aggregate investment in a Joint Account and its pro rata share of each Short-Term Repurchase Agreement made through such Joint Account.

6. All assets held by a Joint Account would be valued on an amortized cost basis to the extent permitted by applicable Commission releases, rules, letters, or orders.

7. Each Fund valuing its net assets based on amortized cost in reliance upon rule 2a–7 under the Act will use the average maturity of the instrument(s) in the Joint Accounts in which such Fund has an interest (determined on a dollar-weighted basis) for the purpose of computing its average portfolio maturity with respect to the portion of its assets held in a Joint Account on that day.

8. Not every Fund participating in the Joint Accounts will necessarily have its cash invested in every Short-Term Repurchase Agreement. However, to the extent a Fund's cash is applied to a particular Short-Term Repurchase Agreement, the Fund will participate in and own its proportionate share of such Short-Term Repurchase Agreement, and any income earned or accrued thereon, based upon the percentage of such investment purchased with amounts contributed by such Fund.

9. To assure that there will be no opportunity for one Fund to use any part of a balance of a Joint Account credited to another Fund, no Fund will be allowed to create a negative balance in any Joint Account for any reason. Each Fund would be permitted to draw down its entire balance at any time, provided TIS determines that such draw down would have no significant adverse impact on any other Fund participating in the Joint Account. Each Fund's decision to invest in a Joint Account would be solely at its option, and no Fund will be obligated either to invest in the Joint Accounts or to maintain any minimum balance in the Joint Accounts. In addition, each Fund will retain the sole rights of ownership of any of its assets, including interest payable on such assets, invested in the Joint Accounts.

10. TIS will administer, manage, and invest the cash balance in the Joint Accounts in accordance with and as part of its duties under existing, or any future, investment advisory contracts or subadvisory contracts with each Fund. TIS will not collect any additional or separate fee for advising or managing any Joint Account.

11. The administration of the Joint Accounts will be within the fidelity bond coverage maintained for the Funds as required by section 17(g) of the Act and rule 17g–1 thereunder.

12. The Board of Directors of the Funds participating in the Joint Account will adopt procedures pursuant to which the Joint Accounts will operate and which will be reasonably designed to provide that the requirements set forth in the application are met. The Board will make and approve such changes that they deem necessary to ensure that such procedures are followed. In addition, the Board will determine, no less frequently than annually, that the Joint Accounts have been operated in accordance with the proposed procedures, and will permit a Fund to continue to participate therein only if it determines that there is a reasonable likelihood that the Fund and its shareholders will benefit from the Fund's continued participation.

13. Investments held in a Joint Account generally will not be sold prior to maturity except: (a) if the adviser believes that the investment no longer presents minimal credit risk; (b) if, as a result of a credit downgrading or otherwise, the investment no longer satisfies the investment criteria of all Funds participating in the investment; or (c) if the counterparty defaults. A fund may, however, sell its fractional portion of an investment in a Joint Account prior to the maturity of the investment in such Joint Account if the cost of such transaction will be borne solely by the selling Fund and the transaction would not adversely affect the other Funds participating in that Joint Account. In no case would an early termination by less than all participating Funds be permitted if it would reduce the principal amount or yield received by other Funds participating in a particular Joint Account or otherwise adversely affect the other participating Funds. Each Fund participating in such Joint Account will be deemed to have consented to such sale and partition of the investment in such Joint Account.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21111 Filed 8–19–96; 8:45 am]

BILLING CODE 8010–01–M

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of August 19, 1996.

A closed meeting will be held on Thursday, August 22, 1996, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Wallman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, August 22, 1996, at 10:00 a.m., will be:

Institution of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: August 16, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–21326 Filed 8–16–96; 2:18 pm]

BILLING CODE 8010–01–M

[Release No. 34–37565; File No. SR–GSCC–96–07]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Proposed Rule Change Modifying the Rights and Responsibilities of Interdealer Broker Netting Members

August 14, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 2, 1996, the Government Securities Clearing Corporation (''GSCC'') 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 GSCC. On July 22, 1996, GSCC amended the filing.[2] 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

GSCC proposes to modify its rules governing the rights and responsibilities of interdealer broker (''IDB'') netting members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC 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. GSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

At the time of the implementation of GSCC's netting system in 1989, IDBs were given distinct rights and obligations with regard to loss allocation, clearing fund margin, and funds-only settlement as a result of their status as agents for partially disclosed principals that do not take positions for their own accounts. Since 1989, the volume and types of transactions submitted by IDBs to GSCC have increased significantly.

As a result of the continuing changes in the government securities marketplace, various revisions have been proposed or have been made regarding the status of IDBs under GSCC's rules. These changes include: (i) The creation of a second category of IDB membership designed to allow IDBs with higher levels of net worth and excess net or liquid capital to do a limited amount of business away from GSCC members,[4] (ii) the establishment of a $10 million minimum net/liquid capital requirement for Category 1 IDB's,[5] (iii) the imposition of strict limitations on Category 1 IDB's scope of business allowing them to do business in eligible securities with other netting members and grandfathered firms, and (iv) in conjunction with the next planned phase of repo netting, which will include repos done on a blind brokered basis, the determination to allow IDBs to submit to GSCC eligible repo business but only with netting members on both sides of the transaction.[6] GSCC has reviewed its rules governing loss allocation and clearing fund requirements for IDBs in relation to the risks posed by IDBs to determine what amendments are appropriate.

1. Loss Allocation

Currently, if a loss or liability is incurred due to the failure of a GSCC netting member to meet its obligations, GSCC looks first to the clearing fund and forward margin collateral that the failed member maintains with GSCC. If the collateral is insufficient to cover the entire loss, GSCC looks back the number of days needed to capture an amount of trading that is equal to the amount of the liquidated positions of the failed member.[7] The loss is then allocated based on the counterparties to the trading activity captured.

To the extent that the defaulting member's trading activity represents direct transactions with other netting members (*i.e.*, the counterparties to the trade are netting members trading directly with each other without using the services of a broker), a portion of the loss equivalent to such trading activity is allocated on a pro rata basis based on the dollar value of the trading activity of each non-IDB netting member with the defaulting member netted and novated on the day of default as defined in GSCC Rule 4, Section 8(a)(v).[8]

To the extent that the defaulting member's trading activity represents member brokered transactions (*i.e.*, a brokered transaction where both the buyside and sellside counterparties to

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[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letter from Karen Walraven, Vice President and Associate Counsel, GSCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (July 18, 1996).

[3] The Commission has modified the text of the summaries prepared by GSCC.

[4] Securities Exchange Act Release No. 32722 (August 1, 1993), 58 FR 42993 [SR–GSCC–93–01] (order approving proposed rule change modifying participation standards). Unless otherwise indicated, the term IDB refers to both Category 1 and Category 2 IDBs. Under current rules, Category 1 IDBs act exclusively as brokers and trade with GSCC netting members and certain grandfathered nonmember firms and must maintain $10 million in net or liquid capital. Category 2 IDBs may transact up to 10% of their trading volume with nonmembers and must maintain $25 million in net worth and $10 million in excess net or liquid capital.

[5] Securities Exchange Act Release No. 37343 (June 20, 1996), 61 FR 33564 [SR–GSCC–96–02] (order approving rule change modifying minimum financial criteria for Category 1 IDB netting membership).

[6] Securities Exchange Act Release No. 37482 (July 25, 1996), 61 FR 40275 [SR–GSCC–96–04] (order approving proposed rule change relating to IDB netting members participating in the netting and settlement services for repos).

[7] Recently, GSCC proposed modifying the loss allocation procedure to capture a level of trading activity that is at least five times the dollar value amount of the securities of the defaulting member that are liquidated. Securities Exchange Act Release No. 37548 (August 9, 1996) [File No. SR–GSCC–96–05].

[8] *Supra* note 7.

the IDB are netting members), such loss is allocated as follows: (i) Ten percent of the loss is allocated to the IDBs on an equal basis, up to $1.6 million per calendar year for each IDB, regardless of the level of trading activity each IDB had with the defaulting member and (ii) the other ninety percent of the loss is allocated among all other netting members pro rata based on the dollar value of each netting member's trading activity with the defaulting member channeled through IDBs.

To the extent that the defaulting member's trading activity represents nonmember brokered transactions (*i.e.*, a brokered transaction where either the buyside or sellside counterparty to the IDB is a nonmember), such loss is allocated as follows: (i) Ten percent of the loss is allocated to the IDBs on an equal basis, up to $1.6 million per calendar year for each IDB, regardless of the level of trading activity each IDB had with the defaulting member and (ii) the other ninety percent of the loss is allocated among Category 2 IDBs pro rata based on the dollar value of each Category 2 IDB's trading activity with the defaulting member.

GSCC is proposing to raise the percentage of a loss arising from member or nonmember brokered transactions allocated collectively to the IDBs to fifty percent with a dollar cap on each IDB's potential liability as discussed below. GSCC believes this change is appropriate because the volume of transactions submitted by IDBs for netting and guaranteed settlement has increased significantly since the netting system became operational in 1989 and is expected to rise significantly with the introduction of netting services for brokered repos. Brokered transactions represent a potential risk to GSCC because the IDBs are principals vis-à-vis GSCC and may have settlement obligations to GSCC as the result of uncompared trades and trades with nonmembers. GSCC also believes that this proposed change will result in a fairer loss allocation methodology because the IDBs will share on a collective basis equally with the dealers any loss allocation arising from brokered transactions. By placing a dollar cap on each IDB's share of a loss, the IDBs will continue to be protected from unusually large loss allocations.

Furthermore, GSCC proposes that each IDB's individual share of the collective broker allocation should be allocated pro rata based on the dollar value of its trading activity with the defaulting member instead of an equal allocation. GSCC believes that the practice of mutualizing losses among the IDBs should be discontinued. By implementing this change, an IDB will no longer be subject to an allocation of a portion of a loss arising from the default of a firm with which the IDB never traded. This manner of loss allocation provides IDBs with greater incentive to assess the creditworthiness of their counterparties.

Currently, the loss amount allocated to each IDB is capped at $1.6 million per calendar year for losses attributable to member or nonmember brokered transactions.[9] The use of a per calendar year cap ignores the possibility that there may be multiple lost events in a calendar year and, thus, may not protect sufficiently GSCC and its members from loss. GSCC proposes that the maximum amount of loss that should be allocated to each IDB should be based on a per loss allocation event as opposed to a calendar year maximum. Although it is unlikely, there is potential for more than one loss event to occur during a calendar year, and a loss allocation cap based on a calendar year maximum would allow an IDB that has hit its calendar year cap to use GSCC's netting system for the remainder of the year on a risk-free basis. A per loss allocation event standard creates a more appropriate economic incentive to IDBs to manage counterparty credit risk.

In order to protect sufficiently GSCC and its members from loss, it is necessary that any loss allocation cap sufficiently reflect the exposure posed to GSCC by an IDB and provide an adequate incentive for IDBs to manage effectively their counterparty credit risk. GSCC proposes that the maximum amount of loss that should be allocated to an individual IDB should be raised to $5 million per loss allocation event. GSCC believes that an increase in the maximum loss that can be allocated to an IDB is reasonable in that IDBs pose an increased risk to the netting system. However, a balance should be maintained between protecting GSCC and its members from a loss and applying a loss allocation methodology that may be so onerous as to disenable an IDB from meeting GSCC's standards. A cap of $5 million per loss allocation event would seem to strike that appropriate balance. Furthermore, the $4.2 million excess net/liquid capital requirement that was applied for many years to Category 1 IDBs was linked to the $1.6 million maximum loss allocation figure. With the recent increase in the excess capital requirements to $10 million, an increase in the maximum amount of loss that can be allocated to an IDB seems reasonable. The proposed increase will protect more effectively GSCC and its members from lossess, while setting the maximum amount of loss that could be allocated to each IDB at less than the IDB's full capital requirement will ensure that the IDB's excess capital would not be depleted entirely in one loss allocation event.

2. Clearing Fund and Funds Settlement

Currently, Category 1 IDBs have a fixed clearing fund obligation of $1.6 million. Category 2 IDBs must maintain a clearing fund deposit of at least $1.6 million. Category 1 and Category 2 IDBs also have different clearing fund deposit composition requirements. For Category 1 IDBs, $100,000 of the deposit must be in cash (while other netting members must maintain ten percent of the total deposit required in cash), and the remaining portion of the deposit can be made up of eligible letters of credit or eligible securities. Category 2 IDBs must maintain at least $100,000 of their clearing fund in cash or ten percent if their clearing fund deposit exceeds $1.6 million, and no more than seventy percent of the deposit can consist of eligible letters of credit.

GSCC believes that if the maximum loss allocation for the IDBs is raised to $5 million per loss allocation event, the required clearing fund deposit should also be raised. GSCC proposes that Category 1 IDBs should have a fixed $5 million clearing fund requirement while Category 2 IDBs should have a minimum $5 million clearing fund requirement. The cash component of the clearing fund requirements for Category 1 IDBs should remain at a fixed $100,000 amount, and they should continue to be permitted to meet the remainder of their clearing fund requirement (now $4.9 million) all or in part by the pledge of letters of credit. Category 1 IDBs will be subject to all of the surveillance requirements of Section 3 of GSCC Rule 4, with GSCC having the authority to increase the amount of clearing fund deposit for any IDB on surveillance status. Category 2 IDBs will be subject to the same clearing fund deposit composition requirements as other non-Category 1 IDB netting members: ten percent of their required fund deposit ($500,000) must be in cash, and no more than seventy percent of the remaining total can consist of eligible letters of credit.

By aligning an IDB's required clearing fund deposit with the maximum per loss allocation event, GSCC will have access to the funds necessary to cover a member's default. Continuing to waive

[9] As noted above, Category 2 IDBs are subject to an unlimited loss allocation, based on trading volume, for losses related to nonmember brokered transactions. GSCC is not proposing any changes to this postion of the loss allocation provisions.

the general limitations placed on netting members posting cash and letters of credit collateral for Category 1 IDBs should reduce the hardship of raising the clearing fund deposit requirement. However, because Category 2 IDBs represent a higher risk of loss for GSCC, they should be subject to the more stringent standards applied to non-Category 1 IDB netting members.

Category 1 IDBs are not required under GSCC's current rules to participate in the daily funds-only settlement process.[10] GSCC believes that requiring all IDBs to participate in the morning funds-only settlement process is necessary at this time because of the required pass-through of forward margin credits, which became effective with the 1995 implementation of the first phase of netting services for repurchase agreements (''repos'').[11] If the forward margin debits are not submitted to GSCC in the morning funds-only settlement, GSCC will be unable to pass through the forward margin credits. Thus, all netting members must participate in the morning funds-only settlement process. This rule change should not result in any major changes for the IDBs, as the single Category 1 IDB and all Category 2 IDBs already participate in the funds-only settlement process as a matter of practice.

In addition, the proposed rule change will eliminate the exception in Section 3 of GSCC Rule 11 that permits IDBs to exclude trades from GSCC's netting system if the inclusion of such trade will result in the IDB having a net settlement position other than zero. GSCC Rule 11, Section 3 will continue to permit netting members to exclude repo transactions from the netting system in accordance with GSCC Rule 18.

GSCC believes the proposed rule changes are consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder, because they will result in a more fair and appropriate loss allocation methodology and a higher level of margin protection for GSCC and thereby will promote the safeguarding of securities and funds in GSCC's custody or control or for which GSCC is responsible.

[10] Until recently, Tullett & Tokyo Securities was the only Category 1 IDB, and they participate in the morning funds-only settlement.

[11] Securities Exchange Act Release No. 36941 (November 17, 1995), 60 FR 61577 [SR–GSCC–95–02] (order approving a proposed rule change relating to the netting and risk management services for non-same-day-settling aspects of next-day and forward-settling repo transactions).

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change have not yet been solicited or received. Members will be notified of the rule filing, and comments will be solicited by an important notice. GSCC will notify the Commission of any written comments received by GSCC.

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 the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested 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 will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR–GSCC–96–07 and should be submitted by September 10, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21157 Filed 8–19–96; 8:45 am]

BILLING CODE 8010–01–M

[12] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–37555; File Nos. SR–MCC–96–04; SR–MSTC–96–04]

Self-Regulatory Organizations; Midwest Clearing Corporation; Midwest Securities Trust Company; Notice of Filing of Proposed Rule Changes Relating to Nominations for Board Membership, the Risk Assessment Committee, the Appeals Process, Audits and Financial Reports, and Temporary Sponsored Participants and Accounts

August 9, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that the Midwest Clearing Corporation (''MCC'') and Midwest Securities Trust Company (''MSTC'') filed with the Securities and Exchange Commission (''Commission'') on June 26, 1996, the proposed rule changes as described in Items I and II below, which items have been prepared primarily by MCC and MSTC, respectively. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

MCC and MSTC respectively propose to (i) eliminate the sections of their by-laws that require the corporate secretary to mail copies of the list of nominees for the respective boards of directors to each participant of MSTC and MCC;[2] (ii) amend their respective rules to remove any reference to their risk assessment committees;[3] (iii) adjust some of the appeal time periods, the composition of the appeal panels, and eliminate a second level of internal appeals;[4] (iv) eliminate their respective

[1] 15 U.S.C. 78s(b)(1) (1995).

[2] MSTC proposes to amend Article III, Section 2 of its By-Laws and MCC proposes to amend Article 3, Section 3.2 of its By-Laws. The specific proposed amendments to MSTC's and MCC's respective rules are attached as exhibit A to MSTC's and MCC's respective proposed rule changes, which are available for inspection at the places specified in Item IV below.

[3] MSTC proposes to delete Article I, Rule 4 and to amend Article V, Rule 2. MCC proposes to delete Article I, Rule 4 and to amend Article VIII, Rule 2.

Risk Assessment Committees;[5] (v) delete their respective rules relating to audits and financial reports;[6] and (vi) delete their respective rules relating to Temporary Sponsored Accounts.[7]

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, MSTC and MCC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. MSTC and MCC have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[8]

(A) Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

On December 26, 1995, MSTC and MCC filed proposed rule changes relating to MSTC's withdrawal from the securities depository business and MCC's withdrawal from the securities clearance and settlement business.[9] Subsequent to the Commission's approval of the filings, MSTC commenced an orderly wind-down of its operations and a transition of all of its participants, including Temporary Sponsored Participants, to other service providers, and MCC ceased operations for all of its participants except its Sponsored Participants.

Because MSTC no longer has any active participants, it is no longer appropriate to require MSTC to provide participants with information relating to the nomination and election of board members. Membership in the Chicago Stock Exchange (''CHX'') is a prerequisite to being accepted by MCC as a Sponsored Participant, and thus all of MCC's Sponsored Participants are CHX members. As CHX members, MCC's Sponsored Participants receive information relating to the nomination and election of the CHX board of governors pursuant to CHX rules. As a result, one purpose of the proposed rule changes is to amend MSTC's and MCC's By-Laws to eliminate the requirement that participants receive the list of nominations and to eliminate the provisions that give participants an opportunity to nominate additional persons.

Another purpose of the proposed rule changes is to delete the provisions relating to MSTC's and MCC's respective Risk Assessment Committees from their rules. Again, because of MSTC's withdrawal from the securities depository business and MCC's withdrawal from the securities clearance and settlement business, MSTC and MCC believe that it is no longer necessary to maintain a Risk Assessment Committee that serves as an appellate review board and independent consultant to management. Because of the elimination of the Risk Assessment Committees, the rule changes also propose to (i) eliminate the requirement that MSTC and MCC consult with the Risk Assessment Committee before ceasing to act for a participant, (ii) amend MSTC's rules and MCC's rules to allow their respective boards to appoint a panel of board members to hear appeals, and (iii) replace subsequent references to the Risk Assessment Committee with references to a panel of board members.

The proposed rule changes also amend MSTC's and MCC's appeal processes. These changes will conform MSTC's and MCC's appeal procedures to similar procedures currently used by the CHX for emergency suspensions. Because all MCC participants are also required to be CHX floor members, MCC desires to coordinate the CHX emergency suspension provision and the MCC ceasing to act provision. Specifically, the proposed rule changes will eliminate a second level of internal appeals and will adjust some of the time periods set forth in the rules.

An additional purpose of the proposed rule changes is to delete MSTC's rules and MCC's rules relating to audits and financial reports of MSTC and MCC. Because MSTC and MCC have withdrawn from the securities depository business, and the securities clearance and settlement business, MSTC and MCC believe that it is no longer necessary to produce independent financial statements or maintain internal accounting controls. Currently, there are no internal operations at MSTC, and MCC no longer maintains independent positions of securities. MCC merely acts as a conduit for Sponsored Participants to enable them to hold their positions at NSCC. As a result, MCC believes that it is no longer necessary to produce independent financial statements or maintain internal accounting controls. However, MSTC's and MCC's financial statements will be reflected as part of the consolidated annual audited financials of their parent, the CHX.

Finally, the proposed rule changes will delete in their entirety MSTC's and MCC's rules relating to Temporary Sponsored Participants and Accounts. As a result of MCC's withdrawal from the Securities clearance and settlement business and MSTC's winding-down of business activities and transition of participants, including Temporary Sponsored Participants, to other service providers, it is no longer necessary to sponsor Temporary Sponsored Participants or maintain Temporary Sponsored Accounts.

MSTC and MCC believe that the proposed rule changes are consistent with Section 17A[10] of the Act because the proposed changes will facilitate the prompt and accurate clearance and settlement of securities transactions and are designed to assure the safeguarding of securities and funds which are in their control or for which they are responsible.

(B) Self-Regulatory Organizations' Statement on Burden on Competition

MSTC and MCC believe that the proposed rule changes will not impose a burden on competition.

(C) Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

MSTC and MCC have neither solicited nor receive any comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes 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 MSTC and MCC consent, the Commission will:

(A) By order approve such proposed rule changes or

[4] MSTC proposes to amend Article VII, Rule 8, Section 3 and to delete Section 5, and MCC proposes to amend Article X, Rule 8, Section 3 and to delete Section 5.

[5] MSTC proposes to delete Article I, Rule 4, and MCC proposes to delete Article I, Rule 4.

[6] MSTC proposes to delete Article VII, Rule 5, and MCC proposes to delete Article X, Rule 5.

[7] MSTC proposes to delete Article VIII, Rules 1 through 5, and MCC proposes to amend Article XI, Rules 1, 2(a), 2(b), 2(c), 3(a), 3(b), 3(c), 5(d), 7(a) through 7(e), 7(g), 7(i), 10(a), 11(a), 11(d)(3) through 11(d)(6), 11(e) through 11(i), and delete Rules 5(c), 7(f), and 7(h).

[8] The Commission has modified the language in these sections.

[9] For a complete discussion of MCC's and MSTC's withdrawal from the clearing and depository businesses, refer to Securities Exchange Act Release No. 36684 (January 5, 1996), 61 FR 1195 (File Nos. SR–CHX–95–27, SR–DTC–95–22, SR–MCC–95–4, and SR–MSTC–95–10) (order approving MCC's and MSTC's withdrawal from the clearance and settlement and securities depository businesses).

[10] 15 U.S.C. § 78q–1 (1988).

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal offices of MSTC and MCC. All submissions should refer to file numbers SR–MSTC–96–04 and SR–MCC–96–04 and should be submitted by September 10, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21158 Filed 8–19–96; 8:45 am]

BILLING CODE 8010–01–M

[11] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–37561; File No. SR–NASD–96–14]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Requirement That Members Provide Information to Other Regulators for Regulatory Purposes

August 13, 1996.

I. Introduction

On April 4, 1996, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') 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 amend NASD Rules 8210 and 8220.[3] The proposed rule change was published for comment in the Federal Register on May 6, 1996.[4] The Commission received two comment letters opposing the proposal.[5] The NASD submitted two letters supporting its proposal and responding to the Banc One Letter and the SCG Letter.[6]

II. Background

Currently, Rule 8210 of the NASD's Procedural Rules provides that the NASD's District Business Conduct Committees (''DBCC''), Board of Governors (''Board''), or any duly authorized members or agents of the Committees or Board may require members and associated persons to provide information, and may investigate a member's books and records, in connection with investigations or proceedings conducted by the NASD. The NASD periodically receives requests from other regulatory organizations with whom the NASD has entered into agreements to share regulatory information, including self-regulatory organizations (''SROs'') who participate in the Intermarket Surveillance Group (''ISG''),[7] for information from NASD members in connection with investigations being conducted by these regulators. Rule 8210, however, does not expressly permit the NASD to require members to provide information in connection with investigations being conducted by other regulatory organizations, or to bring disciplinary action against a member that refuses to cooperate.

III. Description of Proposal

The NASD proposes to amend NASD Rules 8210 and 8220. The NASD is proposing to amend Rule 8210 to require that members or persons associated with a member[8] provide information and access to their books, records, and accounts to any DBCC, the Market Surveillance Committee (''MSC''), or the Board, or any duly authorized members or agents of the Committees or Board for certain purposes. Specifically, the proposal would require the member or persons associated with a member to provide information to the above-mentioned Committees, Board, and members and agents thereof for the purpose of any investigation, or determination as to filing of a complaint or any hearing of any complaint against any member of the Association or any person associated with a member made or held by another domestic or foreign SRO, association, securities or contract market or regulator of these markets, with whom the Association has entered into an agreement providing for the exchange of information and other forms of material assistance for market surveillance, investigative, enforcement or other regulatory purposes. By amending Rule 8210, the NASD also will have a clear basis to discipline members and associated persons who fail to provide information to other domestic or foreign SROs, associations, securities or contract markets or regulators of such markets with whom the NASD has information sharing agreements. The NASD also proposes to amend Rule 8220 to authorize any Market Surveillance Committee to require any

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On April 19, 1996, the NASD filed Amendment No. 1 to the proposed rule change. Letter from Suzanne E. Rothwell, Associate General Counsel, NASD, to Mark P. Barracca, Special Counsel, Division of Market Regulation, SEC, dated April 19, 1996.

[4] *See* Securities Exchange Act Release No. 37150 (Apr. 29, 1996), 61 FR 20299 (May 6, 1996) (notice of File No. SR–NASD–96–14).

[5] *See* Letter from Steven Alan Bennett, Senior Vice President and General Counsel, Banc One Corporation, to Jonathan G. Katz, Secretary, SEC, dated May 28, 1996 (''Banc One Letter''), and Letter from Joseph W. Mays, Jr., President, Securities Consulting Group, Inc. (''SCG'') to Jonathan G. Katz, Secretary, SEC, dated June 27, 1996 (''SCG Letter'').

[6] *See* Letter from John Ramsay, Deputy General Counsel, NASD Regulation, Inc. (''NASDR''), to Katherine England, Assistant Director, Division of Market Regulation, SEC, dated July 2, 1996, and Letter from John Ramsay, Deputy General Counsel, NASDR, to Katherine England, Assistant Director, Division of Market Regulation, SEC, dated July 19, 1996.

[7] The ISG is an organization of securities industry self-regulatory organizations (''ISG/SROs'') formed in 1983 to coordinate and develop intermarket surveillance programs designed to identify and combat fraudulent and manipulative acts and practices. In order to promote its purposes, members agree to exchange such information as is necessary for ISG members to perform their self-regulatory and market surveillance functions. The NASD has been a member of the ISG since its formation.

The ISG's self-regulatory organization members (ISG/SROs) include all of the registered securities exchanges and associations: American Stock Exchange (AMEX), Boston Stock Exchange (BSE), Chicago Board Options Exchange (CBOE), Chicago Stock Exchange (CHX), Cincinnati Stock Exchange (CSE), National Association of Securities Dealers, Inc. (NASD), New York Stock Exchange (NYSE), Pacific Stock Exchange (PSE), and Philadelphia Stock Exchange (PHLX). In addition, other domestic contract markets and foreign SROs have been granted ''affiliate'' membership in the ISG: Alberta Stock Exchange (ASE), Amsterdam Stock Exchange (AMSE), Australian Stock Exchange (ASX), Chicago Board of Trade (CBOT), Chicago Mercantile Exchange (CME), London International Financial Futures and Options Exchange (LIFFE), London Stock Exchange (LSE), Montreal Exchange (ME), New York Futures Exchange (NYFE), Securities and Futures Authority (SFA), Toronto Stock Exchange (TSE), and the Vancouver Stock Exchange (VSE). ISG/SROs and ISG affiliates are referred to herein as ''ISG participants.''

[8] The term ''persons associated with a member'' includes persons no longer associated with a member when the persons are subject to the Association's jurisdiction to report information.

member to submit a report in writing with regard to any matter connected with such member's business or business practices, and to inspect the books, records and accounts of any member.[9]

IV. Summary of Comments

The Commission received two negative comment letters regarding the proposal to amend Rules 8210 and 8220.[10] The issues raised therein, together with responses by the NASD are discussed below.

In the Banc One Letter, Banc One objects to the proposed rule change as being overly broad and as subjecting members to jurisdictions that might not otherwise have authority over such members. Banc One states that while the NASD has the authority to require its members to produce books, records and other information, it has the responsibility to protect its members from unwarranted investigations that are costly and time consuming and should be undertaken through the proper authorities at the NASD. Banc One states that the NASD already has examination, surveillance, and enforcement authority over its members and that to extend this authority to other self-regulatory organizations or governmental agencies is unnecessary. Banc One also objects to the proposed rule as being potentially costly and stated that the proposed rule seems to tip the balance between the efficient operation of broker-dealers without regulatory interference and the fight against manipulative and fraudulent activities in favor of the latter and to the detriment of the former. Lastly, Banc One states that the proposed rule has no provision to protect confidential or proprietary information provided to other regulators and that members should not be required to provide the information without receiving the protections provided by the NASD.

In response to the Banc One Letter, the NASD states that the NASD is not subjecting, and does not have the authority to subject, members and their associated persons to the jurisdictions of regulatory authorities beyond the limits that currently apply under existing legal standards. The NASD states that it is making explicit that under its own jurisdiction the NASD has the authority, through the Board, the MSC or any DBCC, to require members to respond orally or in writing and to investigate the books and records of the member with regard to investigations and other regulatory actions by other regulators with whom the NASD has entered into information sharing agreements. According to the NASD, these entities would direct their requests to the NASD, which will serve as the intermediary between the member and the requesting entity. Moreover, the NASD states that all requests by these entities would be subject to the NASD's rules and regulations. Therefore, members or associated persons required to provide information under the proposed rule would continue to have the same rights and procedural protections that they would have if the NASD had initiated the request for information.

The NASD states that it recognizes that the imposition of any rule or regulation may result in certain administrative, compliance or enforcement costs, however, the NASD does not believe that the proposed rule will impose excessive regulatory interference at the expense of broker-dealer efficiency. Moreover, the NASD states that the authority provided under the proposed rule is discretionary, and, therefore, it may refuse another entity's request for information if, for example, the purpose of the request falls outside the purposes of the proposed rule.

Finally, the NASD states that, as a member of the ISG, it is bound by certain restrictions on information obtained under the ISG agreement. Among these restrictions, is the requirement that a recipient of the information obtain written consent of the party furnishing the information prior to making the information available to its non-regulatory departments or any subsidiary or affiliated entity.

In the SCG Letter, the SCG objects to the NASD's proposal as being unconstitutional. The SCG argues that the proposed rule violates NASD members' right of due process and the right of privacy as it does not require clients of members to give their permission for their confidential files to be released. The SCG also inquires whether a client of a NASD member could have a meritorious claim against the NASD or the NASD member if a NASD member released private and confidential information.

In response to the SCG Letter, the NASD states that constitutional safeguards against the deprivation of certain rights do not apply to the NASD because the NASD is not a governmental entity. Nevertheless, the NASD states that any information provided under the proposed rule may be used only for legitimate regulatory and enforcement purposes. The NASD states that ISG participants are bound by certain restrictions on information obtained from other ISG participants for regulatory and enforcement purposes. Under the ISG agreement, information obtained by ISG participants may not be made available by the recipient to its non-regulatory departments or any subsidiary or affiliated entity without the written consent of the party furnishing the information, and may only be provided to the SEC or Commodity Futures Trading Commission (''CFTC''), or pursuant to an order of the court or other lawful process, or as is necessary for conducting any investigation or disciplinary proceeding.

V. Discussion

After careful consideration of the comments and the NASD's responses thereto, the Commission has determined to approve the proposed rule change. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Association, and, in particular, with the requirements of Section 15A(b)(6) of the Act,[11] which require, among other things, that the rules of the Association be designed to foster cooperation and coordination with persons engaged in regulating securities transactions. The proposed rule change is consistent with these objectives in that it clarifies the Association's authority to require members and persons associated with a member to provide information to any DBCC, the MSC, or the Board, or any duly authorized members or agents of the Committees or Board for regulatory purposes and to discipline those members or persons associated with members who fail or refuse to provide such information. The Commission notes that most of the other ISG participants have amended their rules to clarify their investigatory and information sharing authority.[12]

[9] *See* Amendment No. 1, *supra* note 3.

[10] *See supra* note 5.

[11] 15 U.S.C. § 78o–3.

[12] The CBOE recently amended Rule 15.9(b) to require its members and associated persons, at the request of the CBOE, to furnish testimony, documentary evidence or other information in connection with any inquiry by a domestic or foreign self-regulatory organization, association, contract market, or regulator of such market with whom the CBOE has entered into an agreement providing for the exchange of information and other forms of mutual assistance for market surveillance, investigative, enforcement and regulatory purposes. Securities Exchange Act Release No. 35403 (Feb. 22, 1995), 60 FR 10884 (Feb. 28, 1995) (order approving File No. SR–CBOE–94–39). The PSE recently amended Rule 10.2(d) to require PSE members, member organizations, persons associated with a member or member organization, and other persons or entities over whom the PSE has jurisdiction pursuant to Rule 10.1(b) to testify before another

The Commission believes that the amendment to Rule 8210, requiring members and associated persons to provide information to the NASD for the purpose of investigations made by another domestic or foreign SRO, association, securities or contract market or regulator of the markets, for market surveillance, investigative, enforcement or other regulatory purposes is appropriate. As previously in effect, Rule 8210 may have limited the NASD by not clearly providing the NASD's Committees and Board with the authority to require members to provide such information. Moreover, Rule 8210 did not provide the MSC with any authority to require members and associated persons to provide information. By adding the MSC to the list of entities, which may require members and associated persons to provide information and expanding the circumstances under which these entities may require information, the amendment furthers the interest of the public and provides for the protection of investors by allowing the Association to assist other regulators to conduct prompt inquiries into possible trading violations and other possible misconduct.

The Commission also believes that the amendment to Rule 8210 provides the Association with a basis on which to initiate a disciplinary proceeding when those under its jurisdiction fail to cooperate with requests for information, and, therefore, furthers the interest of the public and provides for the protection of investors by allowing the Association to appropriately discipline those members that engaged in misconduct.

The Commission also believes that the amendment to Rule 8220, expanding the NASD's authority to require a member or persons associated with a member to comply with any requests to report, orally or in writing, submit books, records, or accounts, for the purpose of any investigation initiated by the NASD or another entity will further the interest of the public and provides for the protection of investors by allowing certain organizations and associations to acquire information necessary to ensure that NASD members are conducting business in conformance with applicable laws and regulations.

Finally, the Commission believes that the proposed rule change achieves a reasonable balance between the need for regulatory cooperation and protection of the procedural rights of NASD members and others from who information or testimony is requested. The rule provides the Association with the authority to seek cooperation by certain persons with respect to inquiries and investigations resulting from regulatory agreements between the Association and other SROs and associations while providing any person or entity required to furnish information or testimony pursuant to the rule with the same procedural rights that they would have as if the request were pursuant to an NASD initiated inquiry or investigation.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–NASD–96–14) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21110 Filed 8–19–96; 8:45 am]

BILLING CODE 8010–01–M

SRO and to furnish information in connection with a regulatory inquiry, investigation, examination, or disciplinary proceeding resulting from an agreement entered into by the PSE pursuant to Rule 14.1. Securities Exchange Act Release No. 35646 (Apr. 25, 1995), 60 FR 21227 (May 1, 1995) (order approving File No. SR–PSE–95–02). The NYSE recently amended Rules 27, 476(a)(11), and 477 to require persons under Exchange jurisdiction to comply with information requests from domestic commodities markets and associations and foreign self-regulatory organizations and associations as well as from domestic securities markets. Securities Exchange Act Release No. 37476 (July 24, 1996) (order approving File No. SR–NYSE–95–43). Currently, Art. V, Sec. 4(a) of the AMEX Rules facilitates examinations being conducted by another exchange.

[13] 15 U.S.C. § 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[Release No. 34–37560; File No. SR–NYSE–96–24]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to the Exchange's Weekly Bulletin

August 13, 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 August 8, 1996, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend Paragraphs 702.02, ''Timetable for Original Listing of Securities Other than Debt Securities,'' and 703.01, ''General Information,'' of the NYSE's Listed Company Manual (''Manual'') to eliminate the requirement that the Exchange publish a notice of receipt of a listing application in the Exchange's Weekly Bulletin prior to authorizing the listing application.

The text of the proposed rule change is available at the Office of the Secretary, NYSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The purpose of this proposed rule change is to eliminate the requirement that the Exchange publish a notice of receipt of a listing application in the Exchange's Weekly Bulletin—and seek comment on that application—prior to authorizing the application. The Exchange will continue to acknowledge receipt of a company's application in either the regular Weekly Bulletin or through some other comparable method of publication. The Exchange also will continue its practice of providing notice of a security's trade date in advance of an original listing. Where practical, the Exchange seeks to provide two days' notice of such trade date.

According to the NYSE, publication of a notice of a listing application, and the solicitation of comments on that application, is no longer necessary. The Exchange began publishing notices of listing applications in its Weekly Bulletin in 1923, prior to the adoption of the Securities Act of 1933 and the Act. At that time, there was little, if any,

public disclosure regarding the issuance of securities. Thus, the publication in the NYSE's Weekly Bulletin provided useful public information. Now, however, the Exchange and investors have access to disclosure documents containing relevant information. Moreover, the Exchange rarely, if ever, receives any comments on a listing application.

The NYSE believes that eliminating the pre-approval publication requirement will provide listed companies with greater flexibility in the timing of their transactions. For example, the NYSE believes that the elimination of the pre-approval publication requirement will facilitate the listing of securities that are sold pursuant to a ''shelf registration'' under Commission Rule 415, ''Delayed or continuous offering and sale of securities.'' In addition, eliminating this requirement will reduce Exchange costs and streamline the handling of listing applications at the Exchange.

(b) Basis

The NYSE believes that the proposal is consistent with Section 6(b) of the Act, in general, and, in particular, with Section 6(b)(5), in that it is designed to prevent fraudulent and manipulative acts and practices, 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.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will impose any inappropriate 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 NYSE has not solicited, and does not intend to solicit, comments on this proposed rule change. The NYSE has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five business days prior to the filing date; and (4) does not become operative for 30 days after August 8, 1996, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes that the proposal does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 10, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21109 Filed 8–19–96; 8:45 am]

BILLING CODE 8010–01–M

[1] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–37558; File No. SR–PHILADEP–96–13]

Self-Regulatory Organizations, Philadelphia Depository Trust Company; Notice of Filing of Proposed Rule Change Relating to Modifications of Procedures To Implement Rule 17Ad–16

August 12, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 2, 1996, Philadelphia Depository Trust Company (''Philadep'') 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 Philadep. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Philadep proposes to comply with the Commission's Rule 17Ad–16[2] by (i) making the material information available from the transfer agent notices available to Philadep participants over Philanet for Philadep-eligible securities and (ii) transmitting broadcast messages over Philanet to Philadep-only participants for securities not eligible for deposit at Philadep.

II. Self-Regulatory Organization's Statements Regarding the Proposed Rule Change

In its filing with the Commission, Philadep included statements concerning the purpose of and the 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. Philadep has prepared summaries, as set forth in sections A, B, and C, below, of the most significant aspects of these statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

On December 1, 1994, the Commission adopted Rule 17Ad–16 which requires a registered transfer agent to provide written notice to the ''appropriate qualified registered

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.17Ad–16.

[3] The Commission has modified parts of these statements.

securities depository'' [4] when terminating or assuming transfer agent services on behalf of an issuer or when changing its name or address.[5] Rule 17Ad-16 also requires (1) the appropriate qualified registered securities depository that receives such a notice from a transfer agent to deliver within twenty-four hours a copy of such notice to all ''qualified registered securities depositories'' [6] and (2) each qualified registered securities depository that receives such a notice to notify its participants of such transfer agent change within twenty-four hours. The purpose of Rule 17Ad–16 is to facilitate the prompt and accurate clearance and settlement of securities transactions by assuring that clearing agencies have the most recent information regarding the respective transfer agents.

DTC, as the appropriate qualified registered securities depository, will inform Philadep of all transfer agent changes within twenty-four hours regardless of whether the issue is eligible at Philadep. For issues that are eligible at Philadep, Philadep will update its security masterfile to reflect the changes in transfer agents for affected issues. Philadep participants may access this information via Philanet.[7] In addition, many Philadep participants are also DTC members and therefore have access to DTC's Participants Terminal System (''PTS''), whereby this information also is disclosed. For issues that are eligible at DTC but not at Philadep, dually affiliated participants may access this information through PTS. In order to comply with Rule 17Ad–16 for issues that are DTC eligible but are not Philadep eligible, Philadep will make transfer agent information available to its participants in the form of a Philanet broadcast message. The Philanet broadcast messages will print at the participants' offices. Furthermore, if participants want to call Philadep for transfer agent information for securities that are not Philadep eligible, they may contact Philadep Operations.

Whether eligible or not eligible at Philadep, Philadep will serve to inform its participants of the status of the current transfer agent. Philadep anticipates that few, if any, Philadep only participants will deal directly with transfer agents. Assuming that any such participants do deal with directly transfer agents, Philadep further anticipates that these participants will conduct de minimus activity in issues that are not Philadep-eligible. Moreover, all Philadep participants may request that Philadep review a security not eligible at Philadep with respect to making the issue eligible at Philadep on the same day of the request.

Philadep will keep the broadcast messages and its ''transfer agent changes notification manifest'' at its offices in accordance with the record retention requirement contemplated in Rule 17Ad–16.

The proposed change complies with Section 17A of the Act insofar as it fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

This modification will not impose a burden on competition not contemplated under the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Changes 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 Philadep 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 such 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 provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section in Washington D.C. Copies of such filings will also be available for inspection and copying at the principal office of Philadep. All submissions should refer to file number SR–PHILADEP–96–13 and should be submitted by September 10, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21156 Filed 8–19–96; 8:45 am]

BILLING CODE 8010–01–M

[4] Rule 17Ad–16 defines ''appropriate qualified registered securities depository'' to mean the qualified registered securities depository that the Commission so designates by order or in the absence of such designation the qualified securities depository that is the largest holder of record of all qualified registered depositories as of the most recent record date. The Commission designated The Depository Trust Company (''DTC'') as the appropriate qualified registered securities depository for Philadep. Securities Exchange Act Release No. 35378 (February 15, 1995), 60 FR 9875.

[5] Securities Exchange Act Release No. 35039 (December 1, 1994), 59 FR 63656.

[6] Rule 17Ad–16 defines ''qualified registered securities depository'' to mean a clearing agency registered under Section 17A of the Act that performs clearing agency functions and that has rules and procedures concerning its responsibility for maintaining, updating, and providing appropriate access to the information it receives pursuant to Rule 17Ad–16.

[7] Philanet is an on-line terminal network system. Philanet allows Participants to access information affecting their accounts through an on-site terminal located at the Participants' offices.

In order to specifically access the transfer agent information, Participants must access the ''RQST,'' must enter the account and CUSIP number, and then access the SPOL screen. This screen will reveal the current transfer agent and its address.

DEPARTMENT OF STATE

[Public Notice No. 2424]

Advisory Committee on International Communications and Information Policy, Public Meeting

The Department of State is holding the fifth meeting of its Advisory Committee on International Communications and Information Policy. The Committee was reestablished on August 30, 1994, in order to continue to provide a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communication services, providers of such services, technology research and development, foreign industrial and regulatory policy,

the activities of international organizations with regard to communications and information, and developing country interests.

The 24-person committee was appointed by Ambassador Vonya B. McCann, United States Coordinator for International Communications and Information Policy, U.S. Department of State, and serves under the Chairmanship of Ed Black, President, Computer & Communications Industry Association.

The purpose of this meeting will be to hear reports from the working groups on various issues that chart the future direction and work plan of the committee. The members will look at the substantive issues on which the committee should focus, as well as specific countries and regions of interest to the committee.

The committee will follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will be open to the public unless a determination is made in accordance with the FACA Section 10(d), 5 U.S.C.(c) (1) and (4) that a meeting or a portion of the meeting should be closed to the public.

This meeting will be held on Thursday, September 12, 1996, from 9:30 a.m. to 12:30 p.m. in Room 1107 of the Main Building of the U.S. Department of State, located at 2201 ''C'' Street, N.W., Washington, D.C. 20520. While the meeting is open to the public, admittance to the State Department Building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, date of birth, and citizenship to Shirlett Brewer at (202) 647–5233 or by fax at (202) 647–5957. All attendees must use the ''C'' Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

For further information, contact Timothy Finton, Executive Secretary of the committee, at (202) 647–5385.

Dated: August 8, 1996.

Timothy C. Finton,

Executive Secretary, Advisory Committee for International Communications and Information Policy.

[FR Doc. 96–21192 Filed 8–19–96; 8:45 am]

BILLING CODE 4710–45–M

[Public Notice No. 2427]

Shipping Coordinating Committee International Maritime Organization (IMO) Legal Committee; Notice of Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open meeting at 10:00 a.m., on Thursday, September 19, 1996, in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. The purpose of this meeting is to prepare for the 74th Session of the Legal Committee to be held from October 14–18, 1996. At that session, the Legal Committee will consider the issue of compensation for pollution from ships' bunkers, a draft convention on wreck removal, and the issue of compulsory insurance. Before addressing those matters, however, the representatives will solicit public comment on whether the United States should sign or ratify the Convention on Liability and Compensation in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention) and the 1996 Protocol to amend the International Convention on Limitation of Liability for Maritime Claims (76 LLMC), both of which agreements were reported at the last meeting of the SHC.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room. For further information, for copies of the conference drafts of these instruments or other conference documents, or to submit views concerning the subjects of discussion, contact either Captain David J. Kantor or Lieutenant Commander Bruce P. Dalcher, U.S. Coast Guard (G–LMI), 2100 Second Street, S.W., Washington, D.C. 20593, telephone (202) 267–1527, telefax (202) 267–4496.

Dated: August 9, 1996.

Russell A. LaMantia,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–21190 Filed 8–19–96; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice No. 2426]

Shipping Coordinating Committee Subcommittee on Safety of Life at Sea Working Group on Bulk Liquids and Gases; Notice of Meeting

The Working Group on Bulk Liquids and Gases (BLG) of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 AM on Thursday, September 19, 1996, in Room 6103, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593–0001. The purpose of the meeting is to review the results of the First Session of the BLG Subcommittee of the International Maritime Organization (IMO) which was held on March 4–8, 1996, at the IMO Headquarters in London. In addition, items listed on the BLG work program will be discussed in preparation for the Second Session of the BLG Subcommittee which will be held in April 1997.

The agenda items of particular interest:

a. Evaluation of safety and pollution hazards of chemicals.

b. Additional safety measures for tankers.

c. Tanker pump-room safety.

d. Shipboard pollution emergency plans.

e. Review of Annexes I and II of the International Convention of Pollution from Ships, 1973 and of the Protocol of 1978 (MARPOL 73/78).

f. Review of hypothetical oil outflow parameters.

g. Safety aspects of the alternative tanker designs under MARPOL 73/78 regulation I/13F.

h. Decisions of other IMO bodies.

i. BLG Work Program.

The mailing list of those interested in the activities of the BLG SOLAS Working Group is being updated. The chairman has sent out solicitations to over two hundred potentially interested persons identified from other mailing lists related to oil, chemical and liquefied gas tanker technical issues. Members of the public, in addition to those specifically solicited, may also attend the SOLAS Working Group meeting and/or have their names added to the mailing list by contacting: Commander K. S. Cook, U.S. Coast Guard (G–MSO–3), 2100 Second Street, S.W., Washington, DC 20593–0001 or by calling (202) 267–1217.

Dated: August 9, 1996.

Russell A. LaMantia,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–21191 Filed 8–19–96; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST–96–1075]

Application of Pro Air, Inc., for Issuance of Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 96–8–20).

SUMMARY: The Department of Transportation is directing all interested

persons to show cause why it should not issue an order (1) finding Pro Air, Inc., fit, willing, and able, and (2) awarding it a certificate of public convenience and necessity to engage in scheduled interstate passenger air transportation, subject to conditions.

DATES: Persons wishing to file objections should do so no later than August 29, 1996.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–96–1075 and addressed to the Documentary Services Division (C–55, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Lawyer, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590, (202) 366–9721.

Dated: August 14, 1996.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–21142 Filed 8–19–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

[Docket No. 28661]

Procedures for Processing Petitions for Interim Compliance Waivers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: This document presents a review of the procedures and information necessary for an operator of a Stage 2 noise level airplane subject to the phaseout regulations, resulting from the Airport Noise and Capacity Act of 1990, to submit a request for a compliance waiver. As a result of its experience preceding the first interim Stage 2 phaseout compliance date, December 31, 1994, the Federal Aviation Administration (FAA) reminds all affected operators of the procedures for applying for interim compliance waivers. This document also serves as a reminder to operators that as of March 14, 1995, new compliance arrangements that rely on sharing Stage 3 airplanes for noise compliance purposes by placing them on the operators specifications of more than one operator are prohibited, and that existing share arrangements may not be used for compliance with the December 31, 1996, requirements.

FOR FURTHER INFORMATION CONTACT: Mr. William W. Albee, Policy and Regulatory Division (AEE–300), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3553, facsimile (202) 267–5594.

SUPPLEMENTARY INFORMATION:

Background

Sections 91.865 and 91.867 of 14 CFR each require that as of December 31, 1996, an operator of Stage 2 airplanes either reduce the number of Stage 2 airplanes it operates by 50% from its base level, achieve a fleet mix of airplanes that is 65% Stage 3 airplanes, or in the case of a new entrant, achieve a fleet mix that is 50% Stage 3 airplanes. Section 91.871 allows operators to request waivers from interim compliance dates in limited circumstances. In order to facilitate compliance with the December 31, 1996, requirement, the FAA is summarizing the regulatory requirements for waiver requests from the Stage 3 transition regulations.

Filing Requests

As stated in § 91.871, applications for waivers must be filed at least 120 days prior to the compliance date from which the waiver is requested. This means that applications must be filed no later than Tuesday, September 3, 1996, to ensure that they will be considered before the December 31, 1996, compliance date.

Each petition for an interim compliance waiver will be reviewed to determine whether it meets the basic criteria listed 14 CFR 91.871. If the criteria are not met, the petitioner will receive a letter indicating that all of the required information has not been submitted. Petitioners will have an opportunity to submit missing information before any disposition is final.

Criteria (14 CFR 91.871)

All applications for a waiver must contain all of the following:

1. The operator's plan to achieve interim and final compliance;
2. An explanation of the operator's efforts to date to achieve compliance; and
3. Evidence or other information showing that a grant of the requested waiver is in the public interest.

In addition to the three criteria listed above, each petitioner must also explain why compliance with the December 31, 1996, requirement would be at least one of the following:

1. Financially onerous;
2. Physically impossible;
3. Technologically infeasible; or
4. Have an adverse effect either on competition or service to small communities.

Scope of Request

Each waiver will be considered only for the airplanes operated by he petitioner on the date the petition was submitted to the FAA. Operators are expected to have submitted viable compliance plans and abided by them. The FAA's analysis of any petition will take into account the total circumstances of the operator, including all actions taken up to the date of the petition.

Publication

Upon completion of the review and determination that the petition is complete in accordance with the criteria described above, a summary of the petition will be published in the Federal Register for public comment for a minimum of 14 days. A docket will be opened that contains the petition, any other pertinent information, and any comments received.

Response

After the close of the comment period, the Office of Environment and Energy (AEE) will analyze each request and draft a response that contains a narrative analysis of each required element. If the results of the analysis show that the petitioner has met the criteria, AEE will prepare documentation to grant the petition for waiver. If the analysis shows that the petitioner has failed to meet the criteria, AEE will prepare documentation to deny the petition. Part of a request may also be granted at the agency's discretion, depending on the circumstances. A copy of the approval or denial document will be placed in the docket, and it will be made available for public inspection.

Length of Waiver

Any waiver granted will be for the shortest possible time as required by the circumstances presented by the petitioner and the findings of the FAA. If the petitioner cannot achieve compliance within the time frame provided in a waiver, the petitioner must submit a new petition that will be evaluated under the same criteria as the original petition. New petitions that fail to provide more information than the original will be denied.

Summary of 1994 Interim Waiver Denials

Ten operators petitioned the FAA for interim compliance waivers in 1994; seven petitions were denied and three were withdrawn. For operators that may

be contemplating applying for a waiver from the 1996 compliance date, the following summaries of the 1994 denials are provided to illustrate the FAA's analysis of such requests for compliance with the Stage 3 transition regulations.

No. 1 petitioner: By petition dated August 29, 1994, Docket No. 27894, the petitioner petitioned the FAA for a waiver that would allow it to import Stage 2 airplanes from foreign markets, and begin and continue operation with an all-Stage 2 fleet beyond the interim compliance date of December 31, 1994. At the time of the waiver petition, it did not own or operate any airplanes.

Denial of Waiver: It is FAA policy to consider for the possibility of waiver only those airplanes in operation by an operator on the date of the petition. In this instance, the petitioner did not have any airplanes in operation. It is also FAA policy that no prospective relief be granted. Since the petitioner had not yet achieved FAA certification to operate, it was not yet operating under the provisions of § 91.867 to be considered a new entrant or to ask relief from that regulation.

No. 2 petitioner: By petition dated September 1, 1994, Docket No. 27899, the petitioner petitioned the FAA for a waiver that would allow it to operate an all-Stage 2 fleet until June 30, 1995.

The petitioner began service in June 1994 flying passenger charters; it began scheduled passenger service in early October 1994. At the time it petitioned, the petitioner was operating two leased Stage 2 Boeing 737–200 airplanes. It planned to acquire two more Stage 2 737–200 airplanes in late 1994, and one more in the spring of 1995. Under § 91.867, the addition of the two airplanes in late 1994 would require one of the resulting total of four airplanes in its fleet to be a Stage 3 airplane after December 31, 1994. The petitioner's plans to acquire the described Stage 2 airplanes led to its waiver request.

Denial of Waiver: It is FAA policy to consider for the possibility of waiver only those airplanes in operation by an operator on the date of the petition. In this instance, the petitioner had not yet leased the airplanes for which it requested a waiver. Also, the petitioner submitted no information as to why its current business plan did not take into account the upcoming compliance date without needing a waiver. An operator must plan to achieve compliance without reliance on a waiver in order for FAA to consider that a viable plan was made but could not be adhered to.

No. 3 petitioner: By letter dated August 30, 1994, Docket No. 27888, the petitioner petitioned the FAA for a waiver that would allow it to operate a fleet of six Stage 2 airplanes until December 31, 1996.

The petitioner is a foreign operator of the Stage 2 AN–124 airplane, and at the same time the waiver was submitted, the petitioner was operating a fleet of six of these airplanes on its U.S. operations specifications, conducting 25 to 50 charter flights per year to the U.S. The petitioner is a new entrant that received its authority to operate in the U.S. on May 28, 1993. The petitioner would have been eligible to operate three AN–124 airplanes past the December 31, 1994, compliance date without a waiver. If the petitioner wanted to continue operating all six of its AN–124 airplanes past the December 31, 1994, compliance date, it needed to add one Stage 3 airplane to its U.S. operations specifications to obtain the proper fleet mix for a new entrant under § 91.867. The petitioner otherwise had to remove three of the Stage 2 AN–124 airplanes from its U.S. operations specifications.

Denial of Waiver: The petitioner stated that a waiver was in the public interest because of the unique cargo capability of the AN–124 airplane and its operation as an ad hoc charter rather than regularly scheduled service. The FAA determined that a grant of the petitioner's request for a waiver would not be in the public interest. The FAA found that since the petitioner did not show that, given its record of use, specialized shipping needs could not be met with three rather than six airplanes, and since they had the ability to change the individual airplanes that appeared on the operations specifications at any given time, there was no public benefit to be gained by granting a waiver to an operator for the purpose of making its operations scheduling easier. Further, the petitioner did not show that it ever had a plan to meet the December 1994 compliance date, or that it made any effort to do so. Evidence of a viable compliance plan and a good faith effort to achieve compliance are considered critical elements of any request for a waiver, as indicated by the presence of these criteria in § 91.871(c), the criteria that all applicants must meet. Since the FAA had no compliance plan information on file and the petitioner did not submit any with its application for waiver, the FAA concluded that the petitioner had never developed any plan to comply with the December 1994 compliance date.

No. 4 petitioner: By petition dated September 1, 1994, Docket No. 27898, counsel for the petitioner petitioned the FAA on behalf of the petitioner for a waiver that would allow the petitioner to operate an all-Stage 2 fleet until it obtained an installed hushkits that were under development at the time of the petition.

The petitioner operates scheduled and charter interstate and foreign air cargo operations. It began operating on November 11, 1992, under a temporary DOT certificate and obtained permanent DOT authority in April 1994. As of July 22, 1994, the petitioner's fleet consisted of 10 DC–8 series airplanes, all of which were Stage 2. To comply with the December 31, 1994, interim compliance requirement, the petitioner needed to retrofit or ground seven of its airplanes, or to add three Stage 3 airplanes to continue operating all 10 of its Stage 2 DC–8's.

Denial of Waiver: In its first required filing, the petitioner reported that, as a new entrant, it would comply with § 91.967. In a subsequent report (for 1993), the petitioner stated that it ''intends to apply for an exemption or waiver from the requirements for compliance for the December 31, 1994, compliance date.'' At the time of its petition, the petitioner reported a fleet of 10 Stage 2 DC–8's with a plan to add two more before the end of 1994, and that it had no plans to acquire any other type of airplane. It is FAA policy to consider for the possibility of waiver only those airplanes in operation by an operator on the date of the petition. Further, the FAA could not find to be viable a plan that relied solely on the grant of a waiver. The petitioner also stated that its principles had contracted for hushkit development and that ''the expected date of certification for this Stage 3 project is early 1995.'' While the FAA found a public benefit in the development of a hushkit for the subject DC–8 airplanes, that benefit had no logical connection to the waiver requested by an individual operator that knew the hushkit would not be available before the compliance date but chose to take no other action.

No. 5 operator: By petition dated September 1, 1994, Docket No. 27906, the petitioner petitioned the FAA for a waiver that would allow it to operate a fleet of five Stage 2 airplanes until December 31, 1995.

The petitioner began scheduled service in July 1994. From August to October 1994, the petitioner expanded its service. The petitioner began operating with three Stage 2 Boeing 737–200 airplanes. The petitioner took delivery of two more airplanes of the same model in September and October 1994. Under § 91.867, the fourth airplane in the petitioner's fleet would be required to be Stage 3 after December 31, 1994; the planned acquisition of the

fourth and fifth airplanes led to this request for a waiver.

Denial of Waiver: It is FAA policy to consider for the possibility of waiver only those airplanes in operation by an operator on the date of the petition. In this instance, the petitioner was operating three Boeing 737–200 airplanes, but it had already committed to leasing two more that were scheduled for delivery in September and October 1994. As early as March 1994, before its airplane leases began, the petitioner was investigating bringing the airplanes it planned to operate into compliance. However, since the petitioner elected to lease a Stage 2 airplane as its fourth airplane and take delivery of it in September, as well as a fifth airplane in October, the FAA found that the petitioner was apparently unwilling to adapt its business plans to achieve compliance with a regulation that predates the existence of the airline. During this time, the petitioner also began discussions regarding the lease of a Stage 3 airplane, and indicated to the FAA that even if such a lease were negotiated, it could not bring the airplane into service in time to meet the compliance date. The FAA found that commencing such complex actions so close to the compliance date was not a viable compliance plan nor did it demonstrate a good faith effort to comply. Also, the FAA was unable to conclude that the public interest claimed by the petitioner in its providing service outweighed the larger public interest in compliance and the integrity of the phased transition to an all Stage 3 fleet by the year 2000.

No. 6 petitioner: By petition dated August 3, 1994, Docket No. 27869, counsel for the petitioner petitioned the FAA on behalf of the petitioner for a waiver that would allow the petitioner to operate all of its Stage 2 airplanes beyond the interim compliance date of December 31, 1994.

The petitioner operates an all-cargo service on a charter basis worldwide and by scheduled service between the United States and Central and South America. The petitioner operated a fleet of four Stage 2 airplanes, three Boeing 707's and one McDonnell Douglas DC–8. To comply with the December 31, 1994, interim compliance date in § 91.865, the petitioner needed to retrofit or ground one of its four airplanes or replace it with a Stage 3 airplane.

Denial of Waiver: The petitioner initially reported to the FAA that it planned to meet the compliance requirements by ''retirement of Stage 2 or addition of Stage 3 aircraft.'' In two subsequent reports, the petitioner indicated that it planned to comply in 1994 by phasing out 25% of its Stage 2 airplanes without further detail. The petitioner's petition did not contain any information as to changed circumstances or why the retirement of one airplane was no longer feasible. The FAA cannot accept the nonexistence of retrofit equipment as the basis for a waiver. If it did, the agency would be obligated to grant a waiver to every operator of such equipment, ostensibly for the entire interim compliance period. In this case, the FAA determined that no good faith effort had been demonstrated, since the petitioner did not show a willingness to adhere to its own compliance plan, but appeared to be relying on the existence of the waiver provision to continue the same level of operations after the December 31, 1994, compliance date.

No. 7 petitioner: By petition dated December 7, 1994, Docket No. 27994, the petitioner petitioned the FAA for a waiver that would allow it to operate a fleet of four all Stage 2 airplanes until January 31, 1995.

The petitioner is a new entrant air carrier that began service on December 4, 1994. At the time the petitioner petitioned for a waiver on December 7, 1994, it operated a fleet of two Stage 2 airplanes. The petitioner exercised an option to add two additional Stage 2 airplanes to its fleet and was awaiting delivery of another airplane currently undergoing installation of Stage 3 hushkits. Since this Stage 3 airplane was not to be delivered to the petitioner until January 16, 1995, to comply with the December 31, 1994, interim compliance date in § 91.867, the petitioner would have had to ground one of its four Stage 2 airplanes.

Denial of Waiver: After the petitioner knew that there was a possibility that its hushkitted airplane would be delayed until after the compliance date, it chose to apply for a waiver for airplanes it had not yet exercised its option to lease. The petitioner then exercised the lease option, apparently doing so knowing that the possibility of delay existed for the delivery of its Stage 3 airplane. Accordingly, the FAA cannot accept the argument that the petitioner made a good faith effort to comply or conclude that a waiver was even necessary when the application was submitted. When the petitioner exercised its option to lease the airplanes, it made a business decision to possibly put itself out of compliance, and knew that on the compliance date it might possibly possess a fleet of airplanes that required a waiver to operate fully. If the petitioner had committed to leasing the two additional Stage 2 airplanes and *later* been informed that the delivery of its Stage 3 airplane would be delayed until after the compliance date, the FAA might have been able to look at the circumstances more favorably given the petitioner's efforts to secure the timely delivery of a Stage 3 airplane. But the statement in the petitioner's petition that it knew there might be a problem *before* it exercised its lease option denies that this was the case. The FAA is unable to conclude that the petitioner's statements reflect a net public benefit in the grant of a waiver. The possibility that the petitioner would have had to ground one of its airplanes for a short time, partially because of its own actions taken after it was told of a possible problem with the delivery of its Stage 3 airplane, does not outweigh the significant public interest inherent in full compliance with the rule.

Use of Interchange Agreements for Noise Compliance

The FAA reminds all operators of Stage 2 noise level airplanes subject to the phaseout under §§ 91.865 or 91.867 that, as of March 14, 1995, new compliance arrangements that rely on sharing Stage 3 airplanes by placing them on the operators specifications of more than one operator are prohibited, and that existing arrangements cannot be used to comply with December 31, 1996, and subsequent requirements. This prohibition applies to U.S. and non-U.S. operators of Stage 2 airplanes covered by the Stage 3 transition rules. A full statement of this policy and the reasons for its adoption were published in the Federal Register on March 14, 1995, at 60 FR 13627.

Issued in Washington, DC on August 9, 1996.

James D. Erickson,

Director of Environment and Energy.

[FR Doc. 96–20834 Filed 8–19–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Transit Administration

Charter Services Demonstration Program; Public Meeting

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting, open to all interested parties, to discuss and comment on the Federal Transit Administration's (FTA) draft final report to Congress on the charter services demonstration program mandated by section 3040 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Under

the current charter regulations, a recipient of FTA assistance may not provide charter service except under certain limited exceptions.

DATES: The meeting will take place on September 12, 1996, from 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held in room 10234–10238 at the Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Walter Kulyk, Office of Mobility Innovation, Federal Transit Administration (TRI–10), at 202–366–4991.

SUPPLEMENTARY INFORMATION:

Background

Section 3040 of ISTEA directed FTA to issue regulation to implement a charter service demonstration in not more than four states. During the demonstration, public transit operators would be permitted to provide charter service to meet the charter needs of government, civic, charitable, and other community organizations that would not otherwise be served in a cost effective or efficient manner. Section 3040 required FTA to submit a report to Congress evaluating the effectiveness of the charter demonstration program and providing recommendations for improving the current service regulations.

In conformance with section 3040, FTA established in eight sites nationwide a demonstration program aimed at determining whether FTA's charter regulations should be amended to allow public transit agencies to provide charter service to government, charitable, civic, and community groups that would otherwise not be served in a cost effective and efficient manner. The report provides detailed information about the type and amount of service provided during the demonstration, as well as the impact of the demonstration on customers served and on private charter operators.

FTA Charter Demonstration

FTA established a Federal Advisory Committee (FAC), comprised of individuals equally representing public and private operators, to assist FTA in implementing regulations establishing the charter demonstration. FTA issued a Notice of Proposed Rulemaking (NPRM) in the Federal Register on October 28, 1992, soliciting proposals from transit agencies to participate in the demonstration. FTA received six proposals and, after consulting with the FAC, selected the following public operators to participate in the demonstration:

* Monterey-Salinas Transit, Monterey, California.
* Central Oklahoma Transportation and Parking Authority, Oklahoma City, Oklahoma.
* Bi-State Development Agency, St. Louis, Missouri.
* Michigan Department of Transportation on behalf of four unnamed transit agencies within the State of Michigan.
* Yolo County Transit Authority, Yolo County, California.

MDOT subsequently selected the following public transit operators to participate in the demonstration in Michigan:

* Isabella County Transportation Commission, Isabella County, Michigan.
* Capital Area Transit Authority, Lansing, Michigan.
* Marquette County Area Transportation Authority, Marquette County, Michigan.
* Muskegon Area Transit System, Muskegon, Michigan.

FTA issued the Final Rule on July 9, 1993 implementing the charter demonstration for a one-year period from August 9, 1993 through August 9, 1994. FTA subsequently extended the demonstration to October 31, 1994, and again to October 31, 1995, to address public operators' concerns that the demonstration did not provide adequate time for full implementation.

Local Implementation of the Charter Demonstration

The Charter Bus Demonstration Regulations emphasized the need for a local decision making process. The final rule provided for the selection of a local advisory committee, appointed by the Board, composed of equal representation of public and private operators. The local advisory committees in each site developed a local charter policy, and the Board approved it. The Board automatically approved the local charter policy if the Committee unanimously approved it. The Committee provided a means for both the public and private sectors to express their opinions and encouraged cooperation among the groups.

In each demonstration site, the local committees agreed to broad categories of customers that the public operator could serve during the demonstration. Several of the committees debated in the initial meetings whether to permit broad categories or to review exceptions on a case-by-case basis. Generally, committee members agreed that the process of reviewing each charter request to determine whether the public operator could provide the service was cumbersome and did not serve the customer well.

Although each local advisory committee developed its own policy for the demonstration, the local charter policies focused on the following groups and types of charter:

* Member governments.
* Economic development groups and chambers of commerce.
* Convention-related charters.
* Community organizations and events.
* Charters with unique equipment.
* Charters for private individuals and organizations through a referral process.

The Draft Final Report

In conformance with section 3040 of ISTEA, FTA has prepared a draft final report that sets out the findings of the demonstration program and makes proposals for improving the current charter regulations. The report provides detailed data on the amount and type of service provided by public operators during the demonstration, the categories of groups served, and the impact of this service on both customers and private charter operators.

Prior to finalizing this report and its proposals for modifying the current charter regulations, FTA wishes to convene a public meeting to discuss the demonstration findings and conclusions.

This meeting will be open to all interested parties. FTA will submit a final report to Congress after the meeting.

Issued on: August 14, 1996.

Gordon J. Linton,

Administrator.

[FR Doc. 96–21112 Filed 8–19–96; 8:45 am]

BILLING CODE 4910–57–M

Maritime Administration

[Docket No. M–022]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before October 21, 1996.

FOR FURTHER INFORMATION CONTACT: John M. Pisani, Director, Office of Ports and

Domestic Shipping, Maritime Administration, MAR–830, Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–4357 or fax 202–366–6988. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Port Facilities Inventory.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0023.

Form Number: MA–400.

Expiration Date of Approval: October 31, 1996.

Summary of Collection of Information: The collection of port facility data from terminal owners will permit the Maritime Administration to maintain information on those essential port facilities that are required for emergency use at the proper level of accuracy and currency. These surveys would be used only in the event the data contained on these facilities fell below a level of currency deemed adequate for emergency planning purposes.

Need and Use of the Information: Executive Order 12656, as amended, assigns emergency preparedness functions to the Secretary of Transportation and 49 CFR 1.45 further delegates such authority to the department's Administrators. This requires the Maritime Administration to guarantee that individual port facilities and services are available for use by federal agencies prior to and during national defense emergencies.

Description of Respondents: Port terminal owners.

Annual Responses: 50.

Annual Burden: 1 hour.

Comments: Send all comments regarding this information collection to Joel C. Richard, Department of Transportation, Maritime Administration, MAR–120, Room 7210, 400 Seventh Street, SW., Washington, DC 20590. Send comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Dated: August 14, 1996.

Joel C. Richard,

Secretary.

[FR Doc. 96–21139 Filed 8–19–96; 8:45 am]

BILLING CODE 4910–81–P

Surface Transportation Board [1]

[STB Docket No. AB–397 (Sub-No. 4X)]

Tulare Valley Railroad Company—Abandonment Exemption—in Tulare County, CA

Tulare Valley Railroad Company (TVR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 5 miles of railroad from milepost 15.1 at Tulare to milepost 20+1191.3 at Loma, in Tulare County, CA.[2]

TVR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 19, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29[5] must be filed by August 30, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 9, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Paul C. Oakley, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Ave., NW., Suite 800, Washington, DC 10005–4797.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

TVR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by August 23, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: August 14, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–21160 Filed 8–19–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to the Board's jurisdiction pursuant to 49 U.S.C. 10903.

[2] The City of Tulare (City) filed a request for an issuance of a notice of interim trail use (NITU) for the line pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). The Board will address the City's trail use request, and any others that may be filed, in a subsequent decision.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[5] The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 14, 1996.

The Department of the Treasury has submitted the following public information collection requirement(s) to

OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

U.S. Customs Service (CUS)

OMB Number: 1515–0151.

Form Number: N/A.

Type of Review: Extension.

Title: Foreign Trade Zone Annual Reconciliation Certification and Recordkeeping Requirements.

Description: Each Foreign Trade Zone Operator will be responsible for maintaining its inventory control in compliance with statute and regulations. The operator will furnish Customs annual certification of their compliance.

Respondents: Business or other for-profit, Not-for-profit Institutions.

Estimated Number of Respondents/Recordkeepers: 260.

Estimated Burden Hours Per Respondent/Recordkeeper: 45 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 199 hours.

Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Room 6216, 1301 Constitution Avenue, N.W., Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–21200 Filed 8–19–96; 8:45 am]

BILLING CODE 4820–02–M

Submission to OMB for Review; Comment Request

August 8, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1295.

Regulation ID Number: CO–111–90 Final and Temporary.

Type of Review: Extension.

Title: Revision of Section 338 Consistency Regulations.

Description: The regulations require corporations that make elections under section 338 to provide certain information. The information is used to determine tax liability that results when elections are made and to facilitate collections of the tax.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 45.

Estimated Burden Hours Per Respondent: 34 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 25 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–21201 Filed 8–19–96; 8:45 am]

BILLING CODE 4830–01–M

Corrections

Federal Register
Vol. 61, No. 162
Tuesday, August 20, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

48 CFR Part 253

[Defense Acquisition Circular (DAC) 91–9]

Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

Correction

In rule document 95–29187 beginning on page 61586 in the issue of Thursday, November 30, 1995, make the following corrections:

253.204–70 [Corrected]

1. On page 61610, in the third column, in section 253.204–70, in paragraph (d)(5)(iv)(C), ''*Code C*'' should read ''*(3) Code C*''.

253.204–71 [Corrected]

2. On page 61614, in the second column, in section 253.204–71, the second paragraph ''(f)'' should read ''(1)''.

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 91N-100H]

RIN 0910-AA19

Food Labeling: Health Claims and Label Statements; Folate and Neural Tube Defects

Correction

In rule document 96–5013 beginning on page 8752 in the issue of Tuesday, March 5, 1996, make the following correction:

§101.79 [Corrected]

On page 8780, in the first column, in §101.79(b)(3), in the fifth line, ''(≤0.4 mg)'' should read ''(>0.4 mg)''.

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

28 CFR Part 42

[A.G. Order No. 2037-96]

Equal Employment Opportunity

Correction

In rule document 96–16888 beginning on page 34729 in the issue of Wednesday, July 3, 1996, make the following correction:

§42.1 [Corrected]

On page 34730, in the first column, in §42.1(b), in the second line, ''practical'' should read ''practice''.

BILLING CODE 1505–01–D

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards

Correction

In rule document 96–1348 beginning on page 3280 in the issue of January 31, 1996 make the following correction:

§121.201 [Corrected]

On page 3289, in §121.201, in the table ''Size Standards by SIC Industry'', under the heading ''Size standards in number of employees or millions of dollars'', the entries corresponding to ''0211 Beef Cattle Feedlots (Custom)'' and ''0252 Chicken Eggs'' should read respectively ''$1.5'' and ''$9.0''

BILLING CODE 1505–01–D

federal register

Tuesday
August 20, 1996

Part II

Department of Education

Title I Migrant Education Coordination Program; Notice

DEPARTMENT OF EDUCATION

Title I Migrant Education Coordination Program

AGENCY: Department of Education.

ACTION: Notice of proposed priority for fiscal year 1996.

SUMMARY: Under the authority of section 1308(a) of Part C of Title I of the Elementary and Secondary Education Act (ESEA), as amended, the Secretary proposes an absolute priority for Fiscal Year 1996. Under the proposed priority, the Secretary would support projects that use electronic technologies to strengthen the academic achievement of migrant students who move between school districts.

DATES: Comments must be received on or before October 4, 1996.

ADDRESSES: All comments concerning this proposed priority should be addressed to Kristin Gilbert, Office of Migrant Education, U.S. Department of Education, room 4100 Portals Building, 600 Independence Avenue, SW, Washington, DC 20202–6140. Comments may also be sent by e-mail to kristin—gilbert@ed.gov or by FAX at (202) 260–1357.

FOR FURTHER INFORMATION CONTACT: Kristin Gilbert, Office of Migrant Education, U.S. Department of Education, 4100 Portals Building, 600 Independence Avenue, SW, Washington, DC 20202–6140. Telephone: (202)260–1357. 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.

SUPPLEMENTARY INFORMATION: This notice contains a proposed absolute priority for applications that propose to use innovative technologies to improve teaching and learning for migrant students who move from one school district to another. Electronic technologies include, but are not limited to, digital audio, video and imaging, hypertext and hypermedia, video-conferencing, speech processing, the Internet, and World Wide Web sites. These technologies must be used in such a way as to enable teachers to draw on newly accessible resources to engage migrant students in enriched active learning environments, while at the same time promoting continuity in the education programs of migrant students as they move within and between States.

The MEP is authorized in Title I, Part C, of the ESEA. Under this program, the Secretary makes grants to SEAs to help ensure that migrant children have the opportunity to meet the same challenging State content and student performance standards that all children are expected to meet. Migrant children may be served from birth through age 21, or through high school graduation, whichever comes first. A range of services are provided through the MEP, including those that address educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of children to do well in school and prepare them to make successful transitions to postsecondary education or employment.

Section 1308 of the ESEA authorizes the Secretary to reserve a portion of each year's MEP appropriation and, in consultation with the States, make grants for programs to improve the coordination of services to migrant students when they move within and between States.

While under 1308(a) of ESEA any public or private nonprofit entity is eligible to apply, the Secretary will specifically invite the following entities to submit applications: State educational agencies (SEAs) that administer Migrant Education Programs (MEP); local educational agencies (LEAs) that have a high percentage or high number of migrant students; and non-profit community-based organizations that work with migrant families. In order to help ensure coordination between school districts, applicants would need to apply as part of a consortium made up of at least two entities described in the preceding sentence. The consortium must also include entities such as businesses, academic content experts or software designers to help ensure broad community and technical support.

The Secretary expects that approximately $3 million will be available under the MEP for this competition. Grants will range from $200,000 to $600,000 per year and may be funded for up to 5 years.

In February 1995, the Office of Migrant Education (OME) sponsored a forum for all State Directors of Migrant Education to showcase and discuss how electronic technologies are being used in the migrant program. At the February meeting and in subsequent communications, State Directors expressed support for using funds reserved by the Secretary for interstate coordination activities to fund the development and innovative use of technology within the migrant community, particularly for those students and their families who experience educational disruption as a result of repeated moves.

Many State Directors and other educators of migrant youth are actively incorporating electronic technologies into the designs of programs that provide services to migrant youth. For example,

- The Summer Migrant Access Resources through Technology project (Project SMART), initiated by the Texas Education Agency in 1992, uses television to offer instructional continuity when migrant students move within Texas and to other States. Approximately 20 States participate in this program.
- The Migrant Instructional Network for Telecommunications Project, initiated in 1994 by the Kern County, California Superintendent of Schools, develops and produces live interactive instructional broadcasts for migrant students, teachers, and parents. Students interact via satellite with instructors in a distant studio, and programs are broadcasted using a bilingual format.

These examples illustrate a few innovative ways that technologies are being employed in migrant communities to improve teaching and learning. They can inform subsequent efforts to successfully utilize technologies in programs that build educational continuity for highly mobile students.

The Secretary believes that technology, if applied thoughtfully, can be the catalyst that reinforces and extends migrant students' learning opportunities, motivation, and achievement. Technology can remove the barriers of time and place for migrant students moving across the country, and provide affordable access to high-quality learning. Technology may stimulate creative ways to construct rich, cohesive education programs that counter the adverse impact of frequent moves on the education of migrant students. Technology may help to forge stronger ties between home and school, particularly when ''home'' is not found in a single geographic locale, but in many.

This proposed priority is intended to stimulate creative thinking about how to integrate technology more effectively to provide high-quality education that meets the special needs of the migrant community. The competition is intended to encourage change by helping communities of educators, parents, industry partners and others to work together to utilize technologies to improve the learning opportunities and the curriculum available to migrant students. It is intended to stimulate new

partnerships between educators and software developers, telecommunications firms and hardware manufacturers, entertainment producers, and others who are in the process of creating exciting new possibilities for extending learning communities beyond the traditional classroom boundaries.

Goals 2000: Education America Act

The Goals 2000: Education America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expand the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve these Goals.

This proposed priority and these proposed selection criteria would address the National Education Goals that all students will leave grades 4, 8, and 12 having demonstrated competency over challenging subject matter, and that by the year 2000 the high school graduation rate will increase to at least 90 percent. The proposed priority and selection criteria would further the objectives of these Goals by focusing available funds on projects that will provide students, while they migrate between school districts, a richer learning environment and continuity of education through the use of innovative technologies.

The Secretary will announce the final priority in a notice in the Federal Register. The final priority will be determined by responses to this notice and available funds. Funding of particular projects depends on the availability of funds, the nature of the final priority and the quality of the applications received. The publication of this proposed priority and proposed selection criteria does not preclude the Secretary from proposing additional priorities and selection criteria, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. A notice inviting applications under this competition will be published in the Federal Register concurrent with or following publication of the final PRIORITY.

Priority: Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this priority:

Technology Applications for Teaching and Learning in the Migrant Community

Under this priority, an eligible entity would compete for a grant, on behalf of a consortium, to cover the costs of developing, adapting or expanding existing and new applications of technology to improve the coordination of teaching and learning for migrant students who move within and between States. Consortium efforts should be carefully designed to encourage—wherever possible—the ongoing involvement of educators and parents, business and civic leaders, community organizations and others committed to providing enhanced educational opportunity for highly mobile migrant students.

Partners in a consortium would be expected to make monetary or in-kind contributions for equipment, technical support, and/or any other costs that may be associated with the project. Funds awarded through these grants would augment those investments by supporting, for example, the development of new curriculum content, professional development, or the evaluation of educational effectiveness.

In addition to the contributions of its consortium partners, applicants are encouraged to consider a range of other sources of technical or financial support. Possibilities include programs administered by the Department, such as: the Goals 2000: Educate America Act; Title I, Part A of the Elementary and Secondary Education Act; the Eisenhower Professional Development program; Bilingual Education programs; School-to-Work Opportunities; the Star Schools program; the Challenge Grants for Technology in Education; the Office of Special Education and Rehabilitative Services technology programs; the recently created Regional Technology Consortia; the regional Educational Laboratories; and the Migrant Education Program itself.

Additional sources of support might also include Foundation grants, philanthropic contributions, and services provided through grants or contracts from other government agencies. For example, the U.S. Department of Commerce has provided grants to help develop the telecommunications and information infrastructure. The National Science Foundation (NSF) conducts several programs to support the use of technology in mathematics and science education. The National Aeronautics and Space Administration (NASA) supports programs to improve the use of space science data in the classroom. The U.S. Department of Housing and Urban Development (HUD) is providing funding to support ''Communities of Learners'' in public housing. The Department of Health and Human Services (HHS) is interested in carefully conceived demonstrations of new technologies in Head Start and pre-school settings. Some of these programs may be able to contribute to or enhance interstate or intrastate coordination projects that apply technology to teaching and learning for migrant students.

Application Contents

Objectives: Applicants would be required to show how they would use innovative technologies to achieve the following objectives: (a) to promote greater continuity of instruction when migrant students move within or between States; and (b) to help migrant students achieve to high academic standards.

Required Elements: At a minimum, each project would have to provide the following—

1. Adequate access to technology for all participating migrant students and staff (including their families, when appropriate);
2. Sufficient time and opportunity for teachers (and other educational support staff) to learn to use technology and to incorporate it into their own curricular goals;
3. Easily accessible technical support, such as on-site assistance; and
4. An evaluation of the project that includes a strategy for disseminating a successful project to other migrant programs.

Selection Criteria

The Secretary would use two criteria to select applications for funding: significance and feasibility; i.e., is it important, and can it be done?

Significance would be determined by the extent to which the project: 1. Offers a creative vision for using technology to help migrant students who move within or between States learn challenging academic content and to improve the coordination of their teaching and learning when they move.

2. Is likely to achieve far-reaching impact through results, products, or benefits that can be readily achieved, exported or adapted to other migrant communities or to settings of other mobile populations.

3. Will enhance interstate or intrastate coordination of teaching and learning (that takes into consideration the cultural and language characteristics of the migrant population) by integrating

acquired technologies into the curriculum.

4. Will ensure ongoing, intensive professional development for teachers (and other personnel) working with the migrant population to further the learning of migrant students through the use of technology in the classroom, library, home, or other learning environment.

5. Is designed to serve highly mobile migrant populations that are likely to benefit the most from educational technology applications.

6. Is designed to create new learning communities, and expanded markets for high-quality educational technology applications and services for migrant and other similar populations.

Feasibility would be determined by the extent to which—

1. The project will ensure successful, effective, and efficient uses of technologies for interstate and intrastate coordination of teaching and learning for migrant students and staff that will be sustainable beyond the period of the grant;

2. The members of the consortium or other appropriate entities will contribute substantial financial or other resources or both to achieve the goals of the project; and

3. The applicant is capable of carrying out the project, as evidenced by the extent to which the project is likely to meet the needs that have been identified; the quality of the project design, including objectives, approaches, evaluation plan, and dissemination plan; the adequacy of resources, including money, personnel, facilities, equipment, and supplies; the qualifications of key personnel who would conduct the project; and the applicant's prior experience relevant to the objectives of the project.

Selection Procedures

The Secretary would consider only applications that establish the likelihood that the proposed projects will meet the objectives and include the required elements that are described within the section, ''application contents.'' The Secretary proposes to evaluate applications using unweighted selection criteria. In determining whether applicants have met these criteria, the Secretary believes that the use of unweighted criteria is most appropriate because they will allow the reviewers maximum flexibility to apply their professional judgments in identifying the particular strengths and weaknesses in individual applications. Therefore, the Secretary proposes not to apply the selection procedures in EDGAR, 34 CFR 75.217, which require a rank order to be established based on weighted selection criteria.

In accordance with 34 CFR 75.109(b), an applicant is permitted to make changes to an application on or before the deadline date for submission of applications. Also, in accordance with 34 CFR 75.231 the Secretary may request an applicant to submit additional information after the application has been selected for funding. Given the technical nature of the proposals, the Secretary expects that it might be necessary to obtain clarifications and additional information from applicants during the selection process. Therefore, for the purpose of this grant competition, the Secretary proposes also to permit an applicant to submit additional information in response to a request from the Secretary, during the application selection process, before applicants have been selected for funding.

The Secretary proposes to use the following selection procedures for the fiscal year 1996 competition:

In applying the selection criteria, the first peer review panel or panels of experts would analyze each application in terms of the two selection criteria: significance and feasibility. A reviewer would assign to each application two separate qualitative ratings based on the extent to which the application has met each of the two criteria, taking into consideration whether the application has met the required elements. The two ratings (which are of equal importance) taken together would yield a composite rating, representing each reviewer's total rating of each application. These reviewer ratings for each application would then be combined across the reviewers in a panel to yield an overall rating for each application. Each panel would also identify inconsistencies, points in need of clarification, and other concerns, if any, pertaining to each application.

The Secretary would then assign each application to one of three or four groups based on the panel's composite rating of each applicant. Starting with the highest quality group and moving down to the lowest, the Secretary would then identify the groups of applications of sufficiently high quality to be considered for funding. For applications in the group of sufficiently high quality applications, the Secretary might request an applicant to submit additional information or materials to address the concerns and questions, if any, identified by the peer review panels. These requests would be strictly limited to clarifications of a conceptual or technical nature, and would not be meant to fill major gaps in information that reviewers identify in applications.

Depending upon the number of proposals received, a second panel might be convened to reevaluate each application identified by the first panel as being of sufficiently high quality, taking into account any additional information or materials, to determine the extent to which each application addresses the selection criteria. The Secretary would then reassign each reevaluated application to one of the several quality groups.

In the final stage of the selection process, the Secretary would select for funding those applications of highest quality, based on the results of the second review panel and only if the Secretary is satisfied that it is of high quality with regard to both significance and feasibility. If in this final stage, the Secretary determines that the highest quality group or groups include more applications than can be funded, panelists may be asked to differentiate further between the applications on the basis of quality. Awards may be continued in subsequent years, subject to the availability of appropriations and subject to the quality of the emerging designs.

The Secretary might modify the two-tiered procedures, depending upon the number of applications received.

Intergovernmental Review: This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 4100 Portals, 1250 Maryland Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Paperwork Reduction Act of 1995

This proposed priority and these proposed selection criteria contain information collection requirements. As required by the Paperwork Reduction

Act of 1995 (44 U.S.C. 3507(d), the Department of Education has submitted a copy of this notice to the Office of Management and Budget (OMB) for its review.

Collection of Information: Title I Migrant Education Coordination Program.

SEAs that administer the MEP, LEAs that have a high percentage or high number of migrant students, and non-profit community-based organizations that work with migrant families are eligible to apply for grants under this priority as part of a consortium that also includes entities such as businesses, academic content experts, or software designers. The information to be collected includes a description of each proposed project, including specific information on the access to technology for participating migrant students and their families; the professional development that teachers and other educational support staff will receive in the use of technologies; accessible technical support and on-site assistance; and project evaluation including a dissemination strategy. The Department will use the information to select, on the basis on project significance and feasibility, the highest-quality applications.

All information is to be collected and reported once, as part of the application for assistance. Annual reporting and recordkeeping burden for this collection of information is estimated to average 80 hours for each response for 45 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total annual reporting and recordkeeping burden for this collection is estimated to be 3600 hours.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Desk Officer for the U.S. Department of Education. Interested persons are also invited to comment on the implications for public reporting in connection with the use of the selection criteria proposed under this notice.

The Department considers comments by the public on these collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Applicable Program Regulations 34 CFR 200.49.

Program Authority: 20 U.S.C. 6391(a).

Dated: August 13, 1996.

Gerald N. Tirozzi

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 96–21154 Filed 8–19–96; 8:45 am]

BILLING CODE 4000–01–P

federal register

Tuesday
August 20, 1996

Part III

Department of Education

Office of Postsecondary Education; Direct Grant Program and Fellowship Programs; Notice

DEPARTMENT OF EDUCATION

Office of Postsecondary Education: Direct Grant Programs and Fellowship Programs

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1997.

SUMMARY: The Assistant Secretary for Postsecondary Education invites applications for new awards for fiscal year (FY) 1997 under a number of the Department's direct grant and fellowship programs and announces deadline dates for the transmittal of applications under these programs. This combined notice also lists other FY 1997 programs and competitions of the Office of Postsecondary Education (OPE) previously announced in the Federal Register, as well as FY 1997 programs and competitions to be announced at a later date.

DATES: For each program and competition announced in this notice, the chart includes the following dates: The date on which applications will be available, the deadline for submission of applications, and—for programs subject to Executive Order (EO) 12372 (Intergovernmental Review of Federal Programs)—the deadline date for transmittal of State Process Recommendations by State Single Points of Contact (SPOCs) and comments by other interested parties.

ADDRESSES: *For Applications or Further Information:* The address and telephone number for obtaining applications for, or further information about, an individual program are in the application notice for that program.

For Users of TDD or FIRS: Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number, if any, listed in the individual application notices. If a TDD number is not listed for a given program, individuals who use a 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.

For Intergovernmental Review: The address for transmitting recommendations and comments under Executive Order 12372 is in the appendix to this notice. The appendix also contains the addresses of individual SPOCs.

For Electronic Access to Information: Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov/); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

SUPPLEMENTARY INFORMATION: This combined application notice contains those application announcements that the Assistant Secretary for Postsecondary Education is able to publish at this time and references an announcement previously published.

Later the Assistant Secretary intends to announce additional programs and competitions of the Office of Postsecondary Education under which the Department plans to make new awards for FY 1997. These include the following:

- CFDA No. 84.015. Higher Education Programs in Modern Foreign Language Training and Area Studies—National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies and Foreign Language and Area Studies Fellowships Program.
- CFDA No. 84.031H. Designation as an Eligible Institution for the Strengthening Institutions and Endowment Challenge Grant Programs.
- CFDA No. 84.200. Graduate Assistance in Areas of National Need Program.

Program Previously Announced

- CFDA No. 84.042. Student Support Services Program. Published in the Federal Register on August 14, 1996 (61 FR 42368).

Available Funds

The Congress has not yet enacted a fiscal year 1997 appropriation for the Department of Education. The Assistant Secretary for Postsecondary Education is publishing this notice in order to give potential applicants adequate time to prepare applications. The estimates of the amounts of funds that will be available for these programs are based in part on the President's 1997 budget request and in part on the level of funding available for fiscal year 1996.

Potential applicants should note, however, that the Congress is considering proposals to eliminate or reduce funding in 1997 for some of the discretionary grant programs administered by the Department. Final action on the 1997 appropriation may require the Department to cancel some of the competitions announced in this notice, as well as some of those the notice indicates will be announced at a later date.

The Department of Education is not bound by any of the estimates in this notice.

Programs To Be Announced at a Future Date

For FY 1997 some direct grant or fellowship programs of OPE will be governed by new regulations. Application notices for these programs will be published when final regulations are completed. For further information regarding some of these programs, readers are referred to the following notices of proposed rulemaking that have been published in the Federal Register:

Higher Education Programs in Modern Foreign Language Training and Area Studies—National Resource Centers Program for Foreign Language and International Studies—Notice of Proposed Rulemaking, 61 FR 13996 (3/28/96)

Higher Education Programs in Modern Foreign Language Training and Area Studies—Foreign Language and Area Studies Fellowships Program—Notice of Proposed Rulemaking, 61 FR 14006 (3/28/96)

National Education Goals

In developing this combined application notice the Assistant Secretary for Postsecondary Education has sought to ensure that programs awarding grants during FY 1997 will further achievement of the National Education Goals, as found in Pub.L. 103–227 (the Goals 2000: Educate America Act, enacted March 31, 1994). The Secretary encourages applicants under these programs to consider the National Education Goals in developing their applications.

The National Education Goals for the year 2000 are as follows:

- All children in America will start school ready to learn.
- The high school graduation rate will increase to at least 90 percent.
- All students will leave grades 4, 8, and 12 having demonstrated competency in challenging subject matter, including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our Nation's modern economy.
- United States students will be first in the world in mathematics and science achievement.
- Every adult American will be literate and will possess the knowledge

and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

• Every school in the United States will be free of drugs, violence, and the unauthorized presence of firearms and alcohol and will offer a disciplined environment conducive to learning.

• The Nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century.

• Every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional, and academic growth of children.

Applicability of Section 5301 of the Anti-Drug Abuse Act of 1988

A number of programs listed in this announcement provide that a grant, fellowship, traineeship, or other monetary benefit may be awarded to an individual. This award may be made to the individual either directly by the Department or by a grantee that receives Federal funds for the purpose of providing, for example, fellowships, traineeships, or other awards to individuals.

Section 5301 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690; 21 U.S.C. 862) provides that a sentencing court may deny eligibility for certain Federal benefits to an individual convicted of drug trafficking or possession. Thus, an individual who applies for a grant, fellowship, or other monetary benefit under a program covered by this notice should understand that, if convicted of drug trafficking or possession, he or she is subject to denial of eligibility for that benefit if the sentencing court imposes such a sanction. This denial applies whether the Federal benefit is provided to the individual directly by the Department or is provided through a grant, fellowship, traineeship, or other award made available with Federal funds by a grantee.

Any persons determined to be ineligible for Federal benefits under the provisions of section 5301 are listed in the General Services Administration's ''Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.''

Applicability of the Federal Debt Collection Procedures Act of 1990

The programs listed in the chart make discretionary awards subject to the eligibility requirements of the Federal Debt Collection Procedures Act of 1990 (Pub. L. 101–647; 28 U.S.C. 3201). The Act provides that if there is a judgment lien against a debtor's property for a debt to the United States, the debtor is not eligible to receive a Federal grant or loan, except direct payments to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

Intergovernmental Review of Federal Programs

Certain programs in this notice are subject to the requirements of EO 12372 and the regulations in 34 CFR part 79. These programs are identified in the chart by a date in the column headed ''Deadline for intergovernmental review.'' For further information, an applicant under a program subject to the Executive order—and other parties interested in that program—are directed to the appendix to this notice.

CHART 5.—OFFICE OF POSTSECONDARY EDUCATION

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated average size of awards	Estimated number of awards
84.016A Undergraduate International Studies and Foreign Language Program.	8/30/96	11/4/96	1/3/97	$40,000–90,000	$68,000	26.
84.017A International Research and Studies Program.	8/30/96	11/4/96	N/A	30,000–110,000	94,031	19.
84.019A Fulbright-Hays Faculty Research Abroad Program.	9/16/96	11/8/96	N/A	23,000–65,000	36,309 (per fellow)	23 (indiv. fellowships).
84.021A Fulbright-Hays Group Projects Abroad Program.	8/26/96	10/21/96	N/A	35,000–65,000	58,000	27.
84.022A Fulbright-Hays Doctoral Dissertation Research Abroad Program.	9/16/96	11/8/96	N/A	14,000–72,000	28,573 (per fellow)	63 (indiv. fellowships).
84.031G Endowment Challenge Grant Program.	4/15/97	6/16/97	N/A	50,000–500,000	350,000	6.
84.120A Minority Science Improvement Program—Institutional, Design, Special, and Cooperative Projects.	9/13/96	11/22/96	1/31/97	Institutional Projects: 100,000–300,000.	120,000	15.
			xl	Design Projects: 16,000–20,000.	18,000	2.

CHART 5.—OFFICE OF POSTSECONDARY EDUCATION—Continued

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated average size of awards	Estimated number of awards
		.....	xl	Special Projects: 20,000–150,000.	25,000	10.
		.....	xl	Cooperative Projects: 200,000–500,000.	293,000	2.
84.153A Business and International Education Program.	8/30/96	11/8/96	1/7/97	50,000–90,000	77,000	18.
84.274A American Overseas Research Centers Program.	8/30/96	11/1/96	1/2/97	35,000–75,000	50,000	10.
Fund for the Improvement of Postsecondary Education (FIPSE)						
84.116A and B Comprehensive Program.	8/20/96	10/18/96 (Preapplications). 3/15/97 (Final applications)	5/15/97	15,000–150,000	75,000	73.

84.016A Undergraduate International Studies and Foreign Language Program

Purpose of Program: To provide grants to strengthen and improve undergraduate instruction in international studies and foreign languages in the United States.

Eligible Applicants: Institutions of higher education; combinations of institutions of higher education; and public and nonprofit private agencies and organizations, including professional and scholarly associations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 655 and 658.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority: Under 34 CFR 75.105(c)(2)(i), 34 CFR 658.35, and section 604(a)(4) of title VI of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1992, the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards five points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program:

Applications from institutions of higher education or combinations of institutions that—

(a) Require entering students to have successfully completed at least two years of secondary school foreign language instruction;

(b) Require each graduating student to earn two years of postsecondary credit in a foreign language or have demonstrated equivalent competence in the foreign language;

(c) In the case of a two-year degree granting institution, offer two years of postsecondary credit in a foreign language.

Supplementary Information: An institutional grantee shall pay a minimum of 50 percent of the cost of the project for each fiscal year.

Project Period: 24 to 36 months.

For Applications or Information Contact: Christine Corey, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202–5332. Telephone: (202) 401–9783.

Program Authority: 20 U.S.C. 1124.

84.017A International Research and Studies Program

Purpose of Program: To provide grants to conduct research and studies to improve and strengthen instruction in modern foreign languages, area studies, and other international fields to provide full understanding of the places in which the foreign languages are commonly used.

Eligible Applicants: Public and private agencies, organizations, and institutions; and individuals.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 655 and 660.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priorities: Under 34 CFR 75.105(c)(2)(i), and 34 CFR 660.34(a)(1) and 660.10(f), the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards five points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program:

Studies and surveys to assess the use of graduates of programs supported under title VI of the Higher Education Act, as amended, by governmental, educational, and private sector organizations; and other studies assessing the outcomes and effectiveness of programs supported under title VI.

Project Period: 12 to 36 months.

For Applications or Information Contact: Jose L. Martinez, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202–5331. Telephone: (202) 401–9784.

Program Authority: 20 U.S.C. 1125.

84.019A Fulbright-Hays Faculty Research Abroad Program

84.022A Fulbright-Hays Doctoral Dissertation Research Abroad Program

Purpose of Programs: (a) The Faculty Research Abroad Program offers opportunities to faculty members of higher education for research and study in modern foreign languages and area studies. (b) The Doctoral Dissertation Research Abroad Fellowship Program provides opportunities for graduate students to engage in full-time dissertation research abroad in modern foreign languages and area studies.

Eligible Applicants: Institutions of higher education.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 85, and 86; and (b) The regulations for these programs in 34 CFR parts 662 and 663.

Priorities: Under 34 CFR 75.105(c)(3), 34 CFR 663.32(c) (Higher Education Programs in Modern Foreign Language Training and Area Studies—Faculty Research Abroad Fellowship Program), and 34 CFR 662.32(c) (Higher Education Programs in Modern Foreign Language Training and Area Studies—Doctoral Dissertation Research Abroad Fellowship Program) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds only applications that meet this absolute priority:

Research projects that focus on one or more of the following: Africa, East Asia, Southeast Asia and the Pacific, South Asia, the Near East, Central and Eastern Europe and Eurasia, and the Western Hemisphere (Central and South America, Canada, Mexico, and the Caribbean).

Note: Applications that propose projects focused on Western Europe will not be funded.

Project Period: Three to 12 months for Faculty Research Abroad; and 6 to 12 months for Doctoral Dissertation Research Abroad.

For Applications or Information Contact:

For Faculty Research Abroad Program: Eliza Washington, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202–5331. Telephone: (202) 401–9777.

For Doctoral Dissertation Research Abroad Program: Karla Ver Bryck Block, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202–5331. Telephone: (202) 401–9774.

Program Authority: 22 U.S.C. 2452(b)(6).

84.021A Fulbright-Hays Group Projects Abroad Program

Purpose of Program: To provide grants to support overseas projects in training, research, and curriculum development in modern foreign languages and area studies by teachers, students, and faculty engaged in a common endeavor. Projects may include short-term seminars, curriculum development, group research or study, or advanced intensive language projects.

Eligible Applicants: Institutions of higher education; State departments of education; nonprofit private educational organizations; and consortia of these types of institutions, departments, and organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 664.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 664.32 the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds only applications that meet this absolute priority:

Group projects that focus on one or more of the following: Africa, East Asia, the Western Hemisphere (Central and South America, Mexico, and the Caribbean), Southeast Asia and the Pacific, Central and Eastern Europe and Eurasia, the Near East, and South Asia.

Note: Applications that propose projects focused on Western Europe or Canada will not be funded.

Competitive Priority: Within the absolute priority specified in this notice, the Secretary, under 34 CFR 75.105(c)(2)(i) and 34 CFR 664.32, gives preference to applications that meet the following competitive priority. The Secretary awards up to five points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program:

Short-term seminars that develop and improve foreign language and area studies at elementary and secondary schools.

Project Period: four to six weeks.

For Applications or Information Contact: Dr. Lungching Chiao, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202–5332. Telephone: (202) 401–9772.

Program Authority: 22 U.S.C. 2452(b)(6).

84.031G Endowment Challenge Grant Program

Purpose of Program: To provide matching grants to eligible institutions of higher education to establish or increase their endowment funds.

Eligible Applicants: Institutions of higher education that are designated as eligible. The Secretary publishes separately in the Federal Register a notice informing interested parties how to be designated as eligible to apply for Endowment Challenge Grant funds.

Note: In the fiscal year 1997 budget request, the President has proposed to limit eligibility. If the President's proposal is enacted, only historically black colleges and universities that meet the eligibility requirements of this program would be eligible to apply for support.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR 74.61(h) or 34 CFR 80.26 and the appendix to 34 CFR part 80, as applicable; 74.80, 74.84 and 74.85; 75.100 through 75.102 and 75.217; and in 34 CFR parts 82, 85, and 86; and (b) the regulations for this program in 34 CFR part 628.

Project Period: 240 months (20 years).

For Applications or Information Contact: Dr. Louis Venuto, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202–5337. Telephone: (202) 708–8839. Applications will be sent to those institutions designated as eligible.

Program Authority: 20 U.S.C. 1065.

84.120A Minority Science Improvement Program—Institutional, Design, Special, and Cooperative Projects

Purpose of Program: To effect long-range improvement in science education at predominantly minority institutions and to increase the flow of underrepresented ethnic minorities, particularly minority women, into scientific careers.

Eligible Applicants

(a) *For institutional, design, and special projects described in 34 CFR 637.14 (a), (b) and (c):* Public and nonprofit private minority institutions.

Note: A minority institution is defined in 34 CFR 637.4(b) as an accredited college or university whose enrollment of a single minority group or combination of minority groups, as defined in 34 CFR 637.4(b), exceeds 50 percent of the total enrollment.

(b) *For special projects described in 34 CFR 637.14 (b) and (c):* Non-profit science-oriented organizations; professional scientific societies; and nonprofit accredited colleges and universities that render a needed service to a group of eligible minority institutions, as defined in 34 CFR 637.4(b), or that provide inservice training of project directors, scientists, and engineers from eligible minority institutions.

(c) *For cooperative projects:* Groups of nonprofit accredited colleges and universities whose primary fiscal agent is an eligible minority institution, as defined in 34 CFR 637.4(b).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 637.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Project Period: Up to 36 months.

For Applications or Information Contact: Dr. Argelia Velez-Rodriguez, U.S. Department of Education, 600 Independence Avenue, SW., Courtyard Suite C–80, Portals Building, Washington, DC 20202–5329. Telephone: (202) 260–3261 or by internet to (argelia__velez__rodriguez@ED.GOV). The Department encourages applicants to FAX requests for applications to: (202) 260–7615.

Program Authority: 20 U.S.C. 1135b–1135b–3, 1135d–1135d–6.

84.153A Business and International Education Program

Purpose of Program: To provide grants both to enhance international business education programs and expand the capacity of the business community to engage in international economic activities.

Eligible Applicants: Institutions of higher education that have entered into agreements with business enterprises, trade organizations, or associations engaged in international economic activity.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 655 and 661.

Supplementary Information: A grantee shall pay a minimum of 50 percent of the cost of the project for each fiscal year.

Project Period: 24 months.

For Applications or Information Contact: Sarah T. Beaton, U.S. Department of Education, 600 Independence Avenue SW., Washington, DC 20202–5332. Telephone: (202) 401–9778.

Program Authority: 20 U.S.C. 1130–1130b.

84.274 American Overseas Research Centers Program

Purpose of Program: To provide assistance to eligible consortia to establish or operate overseas research centers that promote postgraduate research, exchanges, and area studies.

Eligible Applicants: Consortia of U.S. institutions of higher education.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) Because there are no program-specific regulations for this program, applicants are directed to the authorizing statute for the American Overseas Research Centers, section 610 of part A, title VI, of the Higher Education Act of 1965, as amended (20 U.S.C. 1130–1).

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the EDGAR selection criteria in 34 CFR 75.210. The selection criteria and the points assigned to each criteria are included in the application package.

Project Period: 36 months.

For Applications or Information Contact: Cheryl E. Gibbs, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202–5331. Telephone: (202) 401–9782.

Program Authority: 20 U.S.C. 1127.

84.116A; 84.116B Fund for the Improvement of Postsecondary Education—Comprehensive Program (Preapplications and Applications)

Purpose of Program: To provide grants or enter into cooperative agreements to improve postsecondary education opportunities.

Eligible Applicants: Institutions of higher education (IHEs); combinations of IHEs; and nonprofit private educational institutions and agencies.

Note: All applicants must submit a preapplication to be eligible to submit a final application.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 82, 85, and 86, with the exceptions noted in 34 CFR 630.4a(2); and (b) The regulations for this program in 34 CFR Part 630.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3), 34 CFR 630.12 and 34 CFR 630.11(a), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects that respond to immediate problems or issues and that seek to improve postsecondary educational opportunities.

Invitational Priorities: Within the absolute priority specified in this notice, the Secretary, under 34 CFR 75.105(c)(1) and 34 CFR 630.12, is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Projects to support new ways of ensuring equal access to postsecondary education, and to improve rates of retention and program completion, especially for low income and underrepresented minority students, whose retention and completion rates continue to lag disturbingly behind those of other groups.

Invitational Priority 2—Projects to create programs that (1) prepare students for entering the workforce and (2) serve the continuing education and retraining needs of workers.

Invitational Priority 3—Projects to improve the campus climate by creating an environment that is safe, welcoming, and conducive to learning for all students.

Invitational Priority 4—Projects (1) to restructure institutions in ways that reassert the primacy of teaching and learning; and (2) to increase learning productivity; that is, to transform programs and teaching to promote more student learning relative to institutional resources expended.

Invitational Priority 5—Projects to promote cooperation between colleges and universities and elementary and secondary schools in order to improve students' preparation for, access to, and success in college. In particular, the Secretary seeks innovative school-college partnerships to improve articulation and develop new ways to improve both pre-service and in-service teacher education at both the elementary and secondary level.

Invitational Priority 6—Projects to support innovative reforms of undergraduate, graduate, and professional curricula that improve not

only what students learn, but how they learn.

Invitational Priority 7—Projects to support the development of faculty as professionals by (1) assessing and rewarding effective teaching; (2) helping institutions and faculty find ways to increase their emphasis on teaching and other means of involvement with student learners; (3) promoting new and more effective teaching methods; and (4) improving the preparation—especially the teaching skills—of graduate students who will be future faculty members.

Invitational Priority 8—Projects to disseminate to other institutions innovative postsecondary educational programs that have been locally developed and implemented.

Selection Criteria

In evaluating applications for grants under this program competition, the Secretary uses the following selection criteria chosen from those listed in 34 CFR 630.32:

(a) *Significance for postsecondary education.* The Secretary reviews each proposed project for its significance in improving postsecondary education by determining the extent to which it would—

(1) Address an important problem or need;

(2) Represent an improvement upon, or important departure from, existing practice;

(3) Involve learner-centered improvements;

(4) Achieve far-reaching impact through improvements that will be useful in a variety of ways and in a variety of settings; and

(5) Increase the cost-effectiveness of services.

(b) *Feasibility.* The Secretary reviews each proposed project for its feasibility by determining the extent to which—

(1) The proposed project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the proposed project, as evidenced by, for example—

(i) The applicant's understanding of the problem or need;

(ii) The quality of the project design, including objectives, approaches, and evaluation plan;

(iii) The adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(iv) The qualifications of key personnel who would conduct the project; and

(v) The applicant's relevant prior experience;

(3) The applicant and any other participating organizations are committed to the success of the proposed project, as evidenced by, for example—

(i) Contribution of resources by the applicant and by participating organizations;

(ii) Their prior work in the area; and

(iii) The potential for continuation of the proposed project beyond the period of funding (unless the project would be self-terminating); and

(4) The proposed project demonstrates potential for dissemination to or adaptation by other organizations, and shows evidence of interest by potential users.

(c) *Appropriateness of funding projects.* The Secretary reviews each application to determine whether support of the proposed project by the Secretary is appropriate in terms of availability of other funding sources for the proposed activities.

Under 630.32, the Secretary determines the methods to be used in applying the selection criteria.

For preapplications (preliminary applications) the Secretary gives greater weight to the selection criteria under (a) Significance for Postsecondary Education. The Secretary gives equal weight to (b) Feasibility and (c) Appropriateness of funding projects.

For final applications (applications) the Secretary gives equal weight to all three criteria and, within each of these criteria, equal weight to each of the subcriteria.

In applying the criteria, the Secretary first analyzes a preapplication or application in terms of each individual criterion and subcriterion. The Secretary then bases the final judgment of an application on an overall assessment of the degree to which the applicant addresses all selection criteria.

Project Period: Up to 36 months.

For Applications or Information Contact: Fund for the Improvement of Postsecondary Education (FIPSE), U.S. Department of Education, 600 Independence Avenue, SW., room 3100, ROB–3, Washington, D.C. 20202–5175. Telephone: (202) 708–5750.

Through World Wide Web at: <http://www.ed.gov/prog__info/FIPSE>.

Through Internet E-mail: FIPSE@ed.gov (Application materials will be mailed to you via U.S. Postal Service. Please indicate ''Comprehensive Program'' and give us your postal mailing address. Informational inquiries by e-mail will be given to the appropriate staff member and will be answered by return e-mail.)

Program Authority: 20 U.S.C. 1135–1135a–3.

Dated: August 14, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

Appendix—Intergovernmental Review of Federal Programs

This appendix applies to each program that is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each of those States under the Executive order. A listing containing the Single Point of Contact for each State is included in this appendix.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, EO 12372—CFDA# [commenter must insert number—including suffix letter, if any], U.S. Department of Education, room 6213, 600 Independence Avenue, SW., Washington, DC 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

State Single Points of Contact

Note: In accordance with Executive Order #12372, this listing represents the designated State Single Points of Contact. Because participation is voluntary some States no longer participate in the process. These include: Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Virginia, and Washington.

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

Arizona

Joanne Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, FAX: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th Street, room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

California

Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, room 121, Sacramento, California 95814, Telephone: (916) 323–7480, FAX: (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, N.W., Suite 500, Washington, DC 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, SW., room 401J, Atlanta, Georgia 30334, Telephone: (404) 656–3855 or 656–3829, FAX: (404) 656–7938

Illinois

Barbara Beard, State Single Point of Contact, Department of Commerce and Community Affairs, 620 East Adams, Springfield, Illinois 62701, Telephone: (217) 782–1671, FAX: (217) 534–1627

Indiana

Amy Brewer, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone: (317) 232–5619, FAX: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, FAX: (502) 573–2512

Maine

Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

William G. Carroll, Manager, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 225–4490, FAX: (410) 225–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 1900 Edison Plaza, 660 Plaza Drive, Detroit, Michigan 48226, Telephone: (313) 961–4266, FAX: (313) 961–4869

Mississippi

Cathy Mallette, 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 Mexico

Robert Peters, State Budget Division, room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640, FAX: (505) 827–3861

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605

North Carolina

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