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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2635

RIN 3209–AA04

Standards of Ethical Conduct for Employees of the Executive Branch; Exception for Gifts From a Political Organization

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is adopting as final without change an interim rule revising the Standards of Ethical Conduct for Employees of the Executive Branch to conform with the Hatch Act Reform Amendments of 1993.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Stuart D. Rick, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917; telephone: 202–208–8000; TDD: 202–208–8025; FAX: 202–208–8037.

SUPPLEMENTARY INFORMATION: On September 27, 1996, at 61 FR 50689–50691, the Office of Government Ethics published an interim rule amending various sections of the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635, to conform with the Hatch Act Reform Amendments of 1993, Public Law 103–94, as amended by section 315 of the 1997 Legislative Branch Appropriations Act, Public Law 104–197. Comments were invited from the public, to be received by OGE on or before November 26, 1996. No comments were received, and OGE has determined that no changes are needed to the interim rule amendments in adopting them as final.

Executive Order 12866

In promulgating these final rule amendments, 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 Review and Planning. These amendments have also been reviewed by the Office of Management and Budget under that Executive order.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this final amendatory rule will not have a significant economic impact on a substantial number of small entities because it primarily affects Federal executive branch employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because these amendments do not contain information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 2635

Conflict of interests, Executive branch standards of conduct, Government employees, Political activities (Government employees).

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is adopting the interim rule amending 5 CFR part 2635 which was published at 61 FR 50689–50691 on September 27, 1996, as a final rule without change.

Dated: December 18, 1996.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 97–6572 Filed 3–14–97; 8:45 am]

BILLING CODE 6345–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–158–AD; Amendment 39–9965; AD 97–06–08]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all de Havilland Model DHC–7 series airplanes, that requires certain structural inspections, and repair, if necessary. This amendment is prompted by a structural re-evaluation, which identified certain significant structural items to inspect for fatigue cracking as these airplanes approach and exceed the manufacturer's original design life. The actions specified by this AD are intended to prevent fatigue cracking in these areas which, if not detected and corrected in a timely manner, could reduce the structural integrity of these airplanes.

DATES: Effective April 21, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 21, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. 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, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sol Maroof, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7522; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all de Havilland Model DHC–7 series airplanes was published in the Federal Register on May 22, 1996 (61 FR 25598). That action proposed to require that operators incorporate, into their FAA-approved maintenance inspection program, the inspections specified in DHC–7 Maintenance Manual (PSM 1–7–2),

Chapter 5–60–00, Temporary Revision (TR 5–84), dated June 15, 1994. Additionally, that action proposed to require repair of any findings of cracks, loose or broken fasteners, or deformations.

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

The commenter supports the proposed rule.

Conclusion

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

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry will be affected by this AD, that it will take approximately 15 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $45,000, or $900 per airplane, per inspection cycle.

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:

97–06–08 De Havilland, Inc.: Amendment 39–9965. Docket 95–NM–158–AD.

Applicability: All Model DHC–7 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 (d) 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 ensure the continuing structural integrity of these airplanes, accomplish the following:

(a) Within 6 months after the effective date of this AD, incorporate into the FAA-approved maintenance inspection program the inspections and inspection intervals defined in DHC–7 Maintenance Manual (PSM 1–7–2), Chapter 5–60–00, Temporary Revision (TR 5–84), dated June 15, 1994; and inspect the significant structural items prior to the thresholds specified in TR 5–84 of PSM 1–7–2. Repeat the inspections thereafter at the intervals specified in TR 5–84 of PSM 1–7–2.

(b) Prior to further flight, repair any discrepancies detected during any inspection required by paragraph (a) of this AD in accordance with one of the following:

(1) the DHC–7 Maintenance Manual; or

(2) the DHC–7 Structural Repair Manual; or

(3) other data meeting the certification basis of the airplane which is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate; or

(4) data meeting the certification basis of the airplane which is approved by Transport Canada Aviation.

(c) All inspection results, positive or negative, must be reported to de Havilland in accordance with ''Introduction,'' paragraph 5, of DHC–7 Maintenance Manual (PSM 1–7–2), Chapter 5–60–00, Temporary Revision (TR 5–84), dated June 15, 1994. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(d) 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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

(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) The structural inspections shall be done in accordance with DHC–7 Maintenance Manual (PSM 1–7–2), Chapter 5–60–00, Temporary Revision (TR 5–84), dated June 15, 1994. 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 de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on April 21, 1997.

Issued in Renton, Washington, on March 6, 1997.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–6261 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–CE–44–AD; Amendment 39–9968; AD 97–06–11]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company (Formerly Beech Aircraft Corporation) 35 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) 35 series airplanes (formerly referred to as Beech 35 series airplanes). This action requires inspecting the ruddervator differential tail control rod assembly for corrosion or cracks, repairing or replacing any cracked or corroded part, and applying anti-corrosion sealant to the ruddervator control pushrods. This action results from a report of a split in the ruddervator control push rod on an affected airplane that was found during a routine inspection. The split occurred when water froze in the internal area of the control push rod and then expanded. The actions specified by this AD are intended to prevent failure of the differential tail control rod assembly, which could result in loss of control of the airplane.

DATES: Effective May 16, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 16, 1997.

ADDRESSES: Service information that applies to this AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96-CE–44-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Safety Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4122; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of the This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon 35 series airplanes (formerly referred to as Beech 35 series airplanes) was published in the Federal Register as a notice of proposed rulemaking (NPRM) on October 18, 1996 (61 FR 54372). The NPRM proposed to require inspecting the ruddervator differential tail control rod assembly for corrosion or cracks, repairing or replacing any cracked or corroded part, and applying anti-corrosion sealant to the ruddervator control pushrods. Accomplishment of the proposed actions as specified in the NPRM would be in accordance with Raytheon Mandatory Service Bulletin (MSB) No. 2668, Issued: September, 1996.

The NPRM was the result of a report of a split in the ruddervator control push rod on an affected airplane that was found during a routine inspection. The split occurred when water froze in the internal area of the control push rod and then expanded.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed AD or the FAA's determination of the cost to the public.

Raytheon has revised MSB No. 2668 to clarify certain steps contained in the ACCOMPLISHMENT INSTRUCTIONS section. The FAA has determined that the AD could be accomplished in accordance with either Raytheon MSB No. 2668, Revised December, 1996; or Raytheon MSB No. 2668, Issued: September, 1996, and has incorporated this service bulletin revision into the final rule.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the AD as proposed except for the incorporation of the revised service information and minor editorial corrections. The FAA has determined that this incorporation and the minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 10,405 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,497,200. This figure is based on the presumption that no affected airplane will have a corroded or cracked part in the ruddervator differential tail control rod assembly that will need to be repaired or replaced. The FAA has no way of determining how many ruddervator control push rods that will be corroded or cracked.

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 copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 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:

97–06–11 Raytheon Aircraft Company (formerly Beech Aircraft Corporation): Amendment 39–9968; Docket No. 96–CE–44–AD.

Applicability: Models 35, 35R, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35TC, V35A, V35A–TC, V35B, and V35B–TC airplanes, serial numbers D–1 through D–10403, D–15001, and D–15002, 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 (d) 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 within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent failure of the ruddervator differential tail control rod assembly, which could result in loss of control of the airplane, accomplish the following:

(a) Inspect the ruddervator differential tail control rod assembly for cracks and corrosion in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Mandatory Service Bulletin (MSB) No. 2668, Revised: December, 1996; or Raytheon MSB No. 2668, Issued: September, 1996. Prior to further flight, repair or replace any corroded or cracked part as specified in and in accordance with the service information referenced above.

(b) Apply anti-corrosion sealant to the ruddervator control pushrods in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon MSB No. 2668, Revised: December, 1996; or Raytheon MSB No. 2668, Issued: September, 1996.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(e) The inspection, repair or replacement (if necessary), and application required by this AD shall be done in accordance with either Raytheon Mandatory Service Bulletin No. 2668, Issued: September, 1996; or Raytheon Mandatory Service Bulletin No. 2668, Revised: December, 1996. 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 the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–9968) becomes effective on May 16, 1997.

Issued in Kansas City, Missouri, on March 7, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–6540 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 96–AGL–24]

Establishment of Class E Airspace; Ephraim, WI, Ephraim-Fish Creek Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Ephraim, WI. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 32 has been developed for Ephraim-Fish Creek Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On Monday, December 6, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Ephraim, WI (61 FR 65992). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Two (2) letters of objection were received in response to this airspace action. The objections were based on concerns for cost, safety, and noise. The following concerns were raised:

1. Establishing Class E controlled airspace, and possible future expansion of the airport, will increase the cost to the local taxpayers for airport operations.

2. Establishing Class E controlled airspace will allow larger aircraft and/or jet aircraft to operate into and out of the existing airport, thereby decreasing safety at the airport.

3. Establishing Class E controlled airspace will increase the noise levels associated with the airport and consequently lower the property values for the homes immediately adjacent to the airport.

All of these comments were considered and evaluated. They are responded to as follows:

1. There is no increase in direct cost to the local taxpayer associated with establishing Class E controlled airspace for this airport. The Class E airspace action is based on the GPS SIAP to Runway 32, which is supported by the Department of Defense system of Global Positioning System satellites now in orbit around the earth. Pilots desiring to use this GPS SIAP must carry the appropriate receiving equipment on board their aircraft. Neither of these costs are related to the local tax base for the airport. Further, concern for any possible future expansion of this airport is not appropriate to this airspace action, which is based on the existing airport; therefore, this comment is considered beyond the scope of this airspace action. Comments concerning any possible future expansion of the airport should be directed to the local airport authority.

2. Establishing Class E controlled airspace does not by itself increase the capability of the airport to accept larger aircraft and/or jet aircraft. Only a physical change to the existing runway (i.e., longer runway stressed for heavier aircraft) and other such related actions (i.e., associated parking ramp

expansion) would allow for larger types of aircraft to operate into and out of the airport. Establishing Class E controlled airspace actually enhances safety of flight operations, for those aircraft presently permitted to use the airport, during periods of marginal and deteriorating weather conditions. Therefore, any perceived risk associated with this concern is beyond the scope of this airspace action, because, as stated above, comments concerning any possible future expansion of the airport should be directed to the local airport authority.

3. Establishing Class E controlled airspace does not automatically lead to increased aircraft operations for that airport. The demographics of this airport indicate only a small insignificant increase in aircraft operations may occur as a result of this GPS SIAP and associated airspace action. There is presently no expected significant increase in the total annual air traffic operations due to the establishment of Class E controlled airspace at this airport. Therefore, there is not reasonable expectation of a significant increase in the noise levels, nor is there a reasonable expectation of a significant change in property values for homes immediately adjacent to the airport.

Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Ephraim, WI to accommodate aircraft executing the GPS Runway 32 SIAP at Ephraim-Fish Creek Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

The FAA has determined that this regulation only involves an establishes body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Ephriam, WI [New]

Ephraim-Fish Creek Airport, WI
(Lat. 45°08′07″ N, long. 87°11′09″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Ephraim-Fish Creek Airport.

* * * * *

Issued in Des Plaines, Illinois on February 14, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–6612 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AGL–30]

Establishment of Class E Airspace; Shawano, WI, Shawano Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Shawano, WI. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 29 has been developed for the Shawano Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On Wednesday, January 8, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Shawano, WI (62 FR 1067). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Shawano, WI to accommodate aircraft executing the GPS Runway 29 SIAP at Shawano Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling

pilots to circumnavigate the area or otherwise comply with IFR procedures.

The FAA has determined that this regulation only involves a established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Shawano, WI [New]
Shawano Municipal Airport, WI
(Lat. 44°47′14″ N, long 88°33′35″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Shawano Municipal Airport, and within 2 miles each side of the 115° bearing from the airport extending from the 6.40-mile radius to 10 miles southeast of the airport; excluding that airspace within the Clintonville, WI, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on February 27, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–6616 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AGL–29]

Establishment of Class E Airspace; Lemmon, SD, Lemmon Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Lemmon, SD. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 29 has been developed for Lemmon Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On Wednesday, January 8, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Lemmon, SD (62 FR 1066). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 712 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Lemmon, SD to accommodate aircraft executing the GPS runway 29 SIAP Lemmon Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 part 72 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL SD E5 Lemmon, SD [New]
Lemmon Municipal Airport, SD
(Lat. 45°55′08″ N, long. 102°06′18″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Lemmon Municipal Airport, and that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 46°10′00″ N, on the east by V169, on the south by lat. 45°33′00″ N, and on the west by V491, northbound to lat. 45°33′00″, thence eastbound to lat. 45°45′00″ N, long. 102°09′00″ W, thence northwestbound to lat. 46°10′00″ N, long. 102°34′00″ W.

* * * * *

Issued in Des Plaines, Illinois on February 27, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–6617 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AGL–31]

Establishment of Class E Airspace; Oakes, ND, Oakes Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Oakes, ND. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 30 has been developed for Oakes Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On Wednesday, January 8, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Oakes, ND (62 FR 1068). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Oakes, ND to accommodate aircraft executing the GPS Runway 30 SIAP at Oakes Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL ND E5 Oakes, ND [New]
Oakes Municipal Airport, ND
(Lat. 46°10′27″ N, long. 98°04′49″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Oakes Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on February 27, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–6618 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AGL–27]

Establishment of Class E Airspace; Hot Springs, SD, Hot Springs Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Hot Springs, SD. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 19 has been developed for Hot Springs Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On Wednesday, January 8, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Hot Springs, SD (62 FR 1069). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Hot Springs, SD to accommodate aircraft executing the GPS Runway 19 SIAP at Hot Springs Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL SD E5 Hot Springs, SD [New]
Hot Springs Municipal Airport
(Lat. 43°22′09″ N, long. 103°23′21″ W)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of Hot Springs Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on February 27, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–6620 Filed 3–14–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AGL–28]

Establishment of Class E Airspace; Gregory, SD, Gregory Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Gregory, SD. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 31 has been developed for the Gregory Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On Wednesday, January 8, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Gregory, SD (62 FR 1065). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Gregory, SD to accommodate aircraft executing the GPS Runway 31 SIAP at Gregory Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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) does not warrant preparation of a

Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL SD E5 Gregory, SD [New]
Gregory Municipal Airport, SD
(Lat. 43°13′18″ N, long. 99°24′12″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Gregory Municipal Airport, and that airspace extending upward from 1,200 feet above the surface beginning at lat. 43°41′00″ N, long. 99°29′00″ W, southeastbound to lat. 43°00′00″ N, long. 99°00′00″ W, westbound to V71, northwestbound to lat. 43°29′30″ N, long. 99°39′00″ W, to the point of beginning, and that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 43°20′00″ N, on the east by V71, on the south by lat. 43°00′00″ N, and on the west by long. 100°05′00″ W, excluding that airspace within the Winner, SD, E5 airspace.

* * * * *

Issued in Des Plaines, Illinois on February 27, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–6621 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Parts 921, 923 and 930

RIN 0648–AJ24

Coastal Zone Management Program Regulations and National Estuarine Research Reserve System Regulations

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

ACTION: Final rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is amending its ocean and coastal resource management regulations concerning the National Estuarine Research Reserve System, Coastal Zone Management Program, and Secretarial review procedures. The Coastal Zone Protection Act of 1996 amended the Coastal Zone Management Act (the Act) and reauthorized NOAA's Coastal Zone Management Program and National Estuarine Research Reserve System under the Act. Among the amendments to the Act were changes to the use of Coastal zone enhancement grants, the formula for financial assistance to the states for National Estuarine Research Reserve (NERR) activities, and the timing for the appeals process under the consistency provisions. NOAA issues this final rule to amend the existing regulations to conform with the statutory amendments.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Vickie A. Allin, Policy Coordination Division, Office of Ocean and Coastal Resource Management, 1305 East-West Highway, N/ORM4, Silver Spring, Maryland 20910. Telephone: 301–713–3086 ext. 126.

SUPPLEMENTARY INFORMATION:

I. Authority

This final rule is issued under the authority of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 et seq., as amended by the Coastal Zone Protection Act of 1996 (CZPA), Pub. L. 104–150.

II. Background

The CZMA was enacted to encourage and assist coastal states and territories to develop and implement management programs to preserve, protect, develop and, where possible, restore or enhance the resources of the Nation's coasts. Prior to the 1996 amendments:

- Section 309 of the CZMA identified eight national coastal zone enhancement objectives and authorized grants to states for development and submission of program changes that support attainment of those objectives. Section 309 did not authorize grants for implementation of those changes.
- Section 315 of the CZMA authorized grants to states for the designations, management and use of NERRs. However, section 315 limited, in most cases, the amount of Federal financial assistance that could be used for a NERR activity to a specified percentage of the cost of that activity.
- Section 307 of the CZMA established the Federal consistency requirement, which requires Federal agencies, applicants for Federal licenses, permits or other approvals and state or local government agencies applying for Federal financial assistance to conduct their activities consistent with federally-approved state coastal management programs if an activity is reasonably likely to affect any land or water use or natural resource of a state's coastal zone. Section 307 also provided for an appeal, referred to as a consistency appeal, to the Secretary of Commerce (Secretary) for a Secretarial override of state objections to Federal license or permit or financial assistance activities.

NOAA's regulations at 15 CFR Parts 921, 923 and 930 implement these provisions.

III. Coastal Zone Protection Act of 1996

The Coastal Zone Protection Act of 1996 (CZPA) contains the following amendments to the CZMA.

- Section 7 of the CZPA amends section 309 to add, as a ninth coastal zone enhancement objective, the adoption of procedures and policies to evaluate and facilitate the siting of aquaculture in the coastal zone.
- Section 3 of the CZPA amends section 309 to authorize limited use of coastal zone enhancement grants to states for implementation as well as for development and submission of program changes.
- Section 6 of the CZPA amends section 315 to provide that Federal financial assistance provided from amounts recovered as a result of damage to natural resources in the coastal zone may be used to pay for 100% of the cost of a NERR activity.
- Section 8 of the CZPA adds a new section 319 which requires that the Secretary publish a notice in the Federal Register stating when the record in a consistency appeal has closed. Within 90 days after publication of this notice, the Secretary shall issue a final decision

in the appeal or publish another notice detailing why the decision cannot be issued. In the latter case, the Secretary shall issue a final decision within 45 days after the publication of the latter notice.

IV. Discussion of Changes

Because of the statutory amendments, some of NOAA's current CZM Program and NERRS regulations no longer conform to the law. The purpose of this rule is to amend certain regulations so that they are consistent with the statute and to incorporate requirements that are effective immediately. These changes are non-controversial and are merely codifying statutory changes.

The following is a brief explanation of changes made to each of the sections of the regulations to reflect the statutory amendments.

A. National Coastal Zone Management Program

NOAA is amending regulations for the Coastal Zone Enhancement Grant Program at 15 CFR 923.121(a) and (g) to include limited use of section 309 enhancement grants for implementation of program changes. NOAA is also adding a new subsection, 15 CFR 923.122(b)(9), allowing use of section 309 grants for attainment of the new aquaculture coastal zone enhancement objective.

B. National Estuarine Research Reserve System

Several subsections of 15 CFR Part 921 limit the amount of section 315 Federal financial assistance that a state or other qualified entity or individual may receive to fund a NERR activity to a specific percentage of the cost of that activity. For each of these subsections, NOAA is adding the provision that 100% of the cost of the NERR activity may be funded with Federal financial assistance, when that assistance comes from amounts recovered as a result of damage to natural resources in the coastal zone.

C. Federal Consistency With Approved Coastal Management Programs

NOAA is deleting 15 CFR 930.130(b), which provided that the Secretary shall make all reasonable efforts to complete consideration of consistency appeals within 90 days. This section is superseded by section 8 of the CZPA.

V. Rulemaking Requirements

A. This rule was determined to be ''not significant'' for purposes of Executive Order 12866.

B. This rule relates to public property, loans, grants, benefits, and contracts, and therefore, it is exempt from every requirement of section 553 of the Administrative Procedure Act (5 U.S.C. 553), including notice and comment and delayed effective date.

C. Because a notice of proposed rulemaking is not required by 5 U.S.C. 553, or any other law, a Regulatory Flexibility Analysis is not required and was not prepared for purposes of the Regulatory Flexibility Act.

D. This rule involves collections of information subject to the Paperwork Reduction Act and cleared by the Office of Management and Budget under Control number 0648–0119. The estimated response times for these requirements are 480 hours for management program approval and 8 hours for program amendments and routine program changes. The response estimates shown include the time for reviewing instruction, searching existing data sources, gathering and maintaining date needed, and completing and reviewing the collection of information. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to 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.

E. National Environmental Policy Act. NOAA has concluded that this regulatory action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

F. This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4) 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.

G. NOAA has concluded that this regulatory action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 12612.

List of Subjects in 15 CFR Parts 921, 923, and 930

Administrative practice and procedure, Coastal zone, Grant programs—Natural resources, Reporting and recordkeeping requirements.

Dated: March 7, 1997.

David L. Evans,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

For the reasons set out in the Preamble, 15 CFR parts 921, 923, and 930 are amended as follows:

PART 921—NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM REGULATIONS

1. The authority citation for part 921 continues to read as follows:

Authority: Section 315 of the Coastal Zone Management Act, as amended (16 U.S.C. 1461)

2. Paragraph (f) of § 021.1 is amended by adding a sentence after the third sentence to read as follows:

§ 921.1 Mission, goals and general provisions.

* * * * *

(f) * * * Notwithstanding the above provisions for financial assistance, financial assistance provided from amounts recovered as a result of damage to natural resources located in the coastal zone may be used to pay 100 percent of the costs of activities carried out with the assistance. * * *

* * * * *

3. Section 921.20 is amended by revising the last sentence to read as follows:

§ 921.20 General.

* * * In any case, the amount of Federal financial assistance provided to a coastal state with respect to the acquisition of lands and waters, or interests therein, for any one National Estuarine Research Reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein or $5,000,000, whichever amount is less, except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs.

4. Section 921.31 is amended by revising the second and fourth sentences to read as follows:

§ 921.31 Supplemental acquisition and development awards.

* * * Federal financial assistance provided to a National Estuarine Research Reserve for supplemental development costs directly associated with facility construction (i.e., major construction activities) may not exceed 70 percent of the total project cost, except when the financial assistance is provided from amounts recovered as a

result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs. * * * Acquisition awards for the acquisition of lands or waters, or interest therein, for any one Reserve may not exceed an amount equal to 50 percent of the cost of the lands, waters, and interests therein or $5,000,000, whichever amount is less, except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs. * * *

5. Paragraph (c) of § 921.32 is amended by revising the second sentence to read as follows:

§ 921.32 Operation and management: Implementation of the management plan.

* * * * *

(c) * * * Federal funds provided pursuant to this section may not exceed 70 percent of the total cost of operating and managing the Reserve for any one year, except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs. * * *

* * * * *

6. Paragraph (b) of § 921.50 is amended by revising the last sentence to read as follows:

§ 921.50 General.

* * * * *

(b) * * * Federal funds provided under this subpart may not exceed 70 percent of the total cost of the project, consistent with § 921.81(e)(4) (''allowable costs''), except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs.

7. Paragraph (b) of § 921.60 is amended by revising the last sentence to read as follows:

§ 921.60 General.

* * * * *

(b) * * * Federal funds provided under this subpart may not exceed 70 percent of the total cost of the project, consistent with § 921.81(e)(4) (''allowable costs''), except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs.

* * * * *

8. Paragraph (b) of § 921.70 is amended by revising the last sentence to read as follows:

§ 921.70 General.

* * * * *

(b) * * * Federal funds provided under this subpart may not exceed 70 percent of the total cost of the project, consistent with § 921.81(e)(4) (''allowable costs''), except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs.

* * * * *

PART 923—COASTAL ZONE MANAGEMENT PROGRAM REGULATIONS

9. The authority citation for part 923 is revised to read as follows:

Authority: 16 U.S.C. 1451 et seq.; 31 U.S.C. 6506; 42 U.S.C. 3334; Sections 923.92 and 923.94 are also issued under E.O. 12372, July 14, 1982, 3 CFR 1982 Comp. p. 197, as amended by E.O. 12416, April 8, 1983, 3 CFR 1983 Comp. p. 186.

10. Section 923.121 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (g) to read as follows:

§ 923.121 General.

(a) * * * This subpart also allows use of section 309 funds for implementation of program changes for up to two fiscal years following the fiscal year in which a program change was approved.

* * * * *

(g) Grants awarded under section 309 may be used:

(1) To support up to 100 percent of the allowable costs of approved projects under section 309 of the CZMA, as amended; or

(2) To implement program changes approved by the Secretary for up to two fiscal years following the fiscal year in which a program change was approved.

* * * * *

11. Section 923.122 is amended by adding paragraph (b)(9) to read as follows:

§ 923.122 Objectives.

* * * * *

(b) * * *

(9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.

PART 930—FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS

12. The authority citation for part 930 is revised to read as follows:

Authority: 16 U.S.C. 1451 *et seq.*

§ 930.130 [Amended]

13. Section 930.130 is amended by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c) respectively.

[FR Doc. 97–6581 Filed 3–14–97; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8677]

RIN 1545–AU35

Consolidated Returns—Limitations on the Use of Certain Losses and Deductions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains a correction to final and temporary regulations [TD 8677] which were published in the Federal Register on Thursday, June 27, 1996 (61 FR 33321). The final and temporary regulations relate to the deductions and losses of members and also to the carryover and carryback of losses to consolidated and separate return years and to the built-in deduction rules.

EFFECTIVE DATE: June 27, 1996.

FOR FURTHER INFORMATION CONTACT: Diana Fulton at (202) 622–7550 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations that are the subject of this correction are under section 1502 of the Internal Revenue Code.

Need for Correction

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

Correction of Publication

Accordingly, the publication of the final and temporary regulations [TD

8677] which are the subject of FR Doc. 96–15823 is corrected as follows:

§ 1.1502–13 [Corrected]

On page 33323, the twentieth entry in the table is corrected to read as follows:

Affected section	Remove	Add
* * * * *	*	*
1.1502–13(h)(2), Example 2(b)	1.1502–22(c)	1.1502–22T
* * * * *	*	*

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 97–6676 Filed 3–14–97; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 20

[TD 8714]

RIN 1545–AU81

Estate and Gift Tax Marital Deduction; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to temporary regulations (TD 8714) which were published in the Federal Register on Tuesday, February 18, 1997 (62 FR 7156). The temporary regulations relate to the estate and gift tax marital deductions.

EFFECTIVE DATE: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Susan Hurwitz, (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are subject to these corrections are under sections 2044 and 2056 of the Internal Revenue Code.

Need for Correction

As published, the temporary regulations (TD 8714) contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (TD 8714) which are the subject of FR Doc. 97–3398 is corrected as follows:

1. On page 7156, column 2, in the preamble under the paragraph heading ''Effective Date'', lines 2 and 3, the language ''case of qualified terminable interest property elections made after February'' is corrected to read ''case of estates of decedents whose estate tax returns are due after February''.

§ 20.2056(b)–10T [Corrected]

2. On page 7157, column 1, § 20.2056(b)–10T, lines 4 and 5, the language ''estates of decedents dying after March 1, 1994. For further guidance, see'' is corrected to read ''estates of decedents whose estate tax returns are due after February 18, 1997. For further guidance, see''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 97–6675 Filed 3–14–97; 8:45 am]

BILLING CODE 4830–01–U

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4003, 4007, 4011, 4041, 4041A, 4043, and 4050

Disaster Relief in Response to Severe Weather in the Midwest and South

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of disaster relief.

SUMMARY: The Pension Benefit Guaranty Corporation is waiving certain penalties and extending certain deadlines in response to the major disasters declared by the President of the United States on account of severe weather in the Midwest and South.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. 1001 *et seq.*). Under ERISA and the PBGC's regulations, a number of deadlines must be met in order to avoid the imposition of penalties or other consequences.

On March 2, 4, 5, 6, and 7, 1997, the President of the United States issued declarations, under the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*), that major disasters exist because of recent severe weather in the Midwest and South. When this notice was prepared, the following counties had been designated by the Federal Emergency Management Agency (pursuant to 44 CFR 206.40(b)) as areas affected by these disasters:

- *In the state of Arkansas*: Baxter, Clark, Clay, Cross, Greene, Hempstead, Hot Spring, Jackson, Lee, Lincoln, Lonoke, Mississippi, Nevada, Newton, Poinsett, Pulaski, Saline, and White;
- *In the state of Indiana*: Clark, Crawford, Dearborn, Floyd, Harrison, Jefferson, Ohio, Perry, Posey, Spencer, Switzerland, Vanderburgh, and Warrick;
- *In the state of Kentucky*: Bath, Boone, Bourbon, Boyd, Bracken, Breckinridge, Bullitt, Caldwell, Campbell, Carroll, Carter, Christian, Daviess, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Hancock, Hardin, Harrison, Henderson, Henry, Hopkins, Jefferson, Kenton, Lewis, Mason, McLean, Meade, Menifee, Nelson, Nicholas, Ohio, Oldham, Owen, Pendleton, Powell, Scott, Shelby, Spencer, Trimble, and Washington;
- *In the state of Ohio*: Adams, Athens, Brown, Clermont, Gallia, Hamilton, Hocking, Jackson, Lawrence, Meigs, Monroe, Pike, Ross, Scioto, Vinton, and Washington;
- *In the state of Tennessee*: Carroll, Cheatham, Dyer, Madison, McNairy, Montgomery, and Obion; and
- *In the state of West Virginia*: Braxton, Cabell, Calhoun, Clay, Gilmer, Jackson, Kanawha, Lincoln, Mason, Putnam, Roane, Tyler, Wayne, Wetzel, Wirt, and Wood.

The PBGC is providing relief from certain deadlines and penalties. In general, this relief is applicable with respect to plans for which the administrator's or sponsor's principal place of business, or the office of a service provider, bank, insurance company, or other person maintaining

information necessary to meet the applicable deadlines, is located in an area that has been or is hereafter designated a major disaster area on account of severe weather in the Midwest and South occurring on or after February 28 and before April 30, 1997 (a ''designated disaster area'). However, the extension (discussed below) for filing requests for reconsideration or appeals is applicable to any aggrieved person who is residing in, or whose principal place of business is within a designated disaster area, or with respect to whom the office of the service provider, bank, insurance company, or other person maintaining the information necessary to file the request for reconsideration or appeal is within such an area.

Premiums

The PBGC will waive the late payment penalty charge with respect to any premium payment required to be made on or after February 28, 1997, and before April 30, 1997, if the payment is made by April 30, 1997. The PBGC is not permitted by law to waive late payment interest charges. (ERISA section 4007(b); 29 CFR 4007.7 and 4007.8(b)(3).)

Section 4071 Penalties

The PBGC will not assess a section 4071 penalty for a failure to file any of the following notices required to be filed with the PBGC on or after February 28, 1997, and before April 30, 1997, if the notice is filed by April 30, 1997:

(1) Post-distribution certification for single-employer plans (PBGC Form 501 or 602; ERISA section 4041(b)(3)(B) or (c)(3)(B); 29 CFR 4041.27(h) or 4041.48(b)),

(2) Notice of termination for multiemployer plans (ERISA section 4041A; 29 CFR 4041A.11),

(3) Notice of plan amendments increasing benefits by more than $10 million (ERISA section 307(e)),

(4) Missing participants information for single-employer plans (Schedule MP (including Attachments A and B) to PBGC Forms 501 and 602; ERISA section 4050; 29 CFR 4050.6), and

(5) Premium declarations (PBGC Forms 1 (including Schedule A) and 1–ES; ERISA section 4007; 29 CFR 4007.3).

The PBGC will not assess a section 4071 penalty for a failure to provide certain supporting information and documentation when a notice of failure to make required contributions totaling more than $1 million (including interest) is timely filed, if the timely filed notice includes at least items 1 through 7 and items 11 and 12 of Form 200; the responses to items 8 through 10, with the certifications in items 11 and 12, may be filed late (PBGC Form 200; ERISA section 302(f)(4); 29 CFR 4043.81). This relief applies to notices required to be filed with the PBGC on or after February 28, 1997, and before April 30, 1997, provided that all supporting information and documentation are filed by April 30, 1997.

The PBGC is not automatically forgoing assessment of penalties under section 4071 for failure to comply with other information submission requirements, but relief may be granted in individual cases. For example, 29 CFR 4010.11 provides for waivers and extensions for financial and actuarial information reporting under 29 CFR Part 4010.

Reportable Events Notices

With respect to a reportable event for which a post-event notice is required to be filed under subpart B of the PBGC's regulation on Reportable Events (29 CFR 4043.20 through 4043.35) on or after February 28, 1997, and before April 30, 1997, the PBGC is (pursuant to 29 CFR 4043.4(d)) extending to April 30, 1997, the time within which to provide certain supporting information and documentation when a notice of the reportable event is timely filed, if the timely filed notice includes at least the information specified on the front of PBGC Form 10 or, if Form 10 is not filed, the information specified in 29 CFR 4043.3(b)(1) through (5); the extension applies to the information specified on the back of Form 10 or, if Form 10 is not filed, the information specified in 29 CFR 4043.3(b)(6) through (8) and in paragraph (b) of the regulation section that describes the event.

The PBGC is not providing automatic extensions for advance notices of reportable events described in subpart C of the Reportable Events regulation (29 CFR 4043.61 through 4043.68), but waivers and extensions for such notices may be granted individually pursuant to 29 CFR 4043.4(d).

Standard and Distress Termination Notices and Distribution of Assets

With respect to a standard termination for which the standard termination notice is required to be filed, or the distribution of plan assets is required to be completed, on or after February 28, 1997, and before April 30, 1997, the PBGC is (pursuant to 29 CFR 4041.8) extending to April 30, 1997, the time within which the standard termination notice must be filed (and, thus, the time within which notices of plan benefits must be provided) and the time within which the distribution of plan assets must be completed.

With respect to a distress termination for which the distress termination notice is required to be filed on or after February 28, 1997, and before April 30, 1997, the PBGC is (pursuant to 29 CFR 4041.8) extending to April 30, 1997, the time within which the termination notice must be filed. With respect to a distress termination for which notices of benefit distribution must be provided or plan assets must be distributed on or after February 28, 1997, and before April 30, 1997, as a result of the PBGC's issuance of a distribution notice, the PBGC is (pursuant to 29 CFR 4041.8 and 4041.43(d)) extending to April 30, 1997, the time within which such actions must be taken. In addition, as noted above, the PBGC is providing relief from penalties for late filing of the post-distribution certification.

Participant Notices

For Participant Notices that are required to be issued on or after February 28, 1997, and before April 30, 1997, the PBGC is (pursuant to 29 CFR 4011.8) extending the due date to April 30, 1997.

Requests for Reconsideration or Appeals

For persons who are aggrieved by certain agency determinations and for whom a request for reconsideration or an appeal is required to be filed on or after February 28, 1997, and before April 30, 1997, the PBGC is (pursuant to 29 CFR 4003.4(b)) extending the time for filing to April 30, 1997.

Applying for Waivers/Extensions

A submission to the PBGC to which a waiver or an extension is applicable under this notice should be marked in bold print ''SEVERE WEATHER 3/97, [name of county], [name of state]'' at the top center.

Issued in Washington, DC this 12th day of March, 1997.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation

[FR Doc. 97–6748 Filed 3–13–97; 2:09 pm]

BILLING CODE 7708–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 296

National Reconnaissance Office Freedom of Information Act Program Regulation

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule administratively amends 32 CFR part 296 concerning National Reconnaissance Office Freedom of Information Act Program Regulation to reflect organizational changes made within the National Reconnaissance Office.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Barbara E. Freiman, 703–808–5029.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 296

Freedom of information.

Accordingly, 32 CFR part 296 is amended as follows:

PART 296—NATIONAL RECONNAISSANCE OFFICE FREEDOM OF INFORMATION ACT PROGRAM REGULATION

1. The authority citation for 32 CFR part 296 continues to read as follows:

Authority: 5 U.S.C. 552.

2. Section 296.2 is revised to read as follows:

§ 296.2 Definitions.

(a) *Freedom of Information Act Appellate Authority.* The Chief of Staff, NRO.

(b) *Initial Denial Authority.* The Chief, Information Access and Release Center, NRO.

§ 296.4 [Amended]

3. Section 296.4(a), first sentence, is amended by revising ''Director, External Relations, National Reconnaissance Office, 1040 Defense Pentagon, Washington, DC 20301–1040'' to read ''Chief, Information Access and Release Center, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715''.

§ 296.5 [Amended]

4. Section 296.5 is amended by revising ''Freedom of Information Act Appellate Authority, National Reconnaissance Office, 1040 Defense Pentagon, Washington, DC 20301–1040'' to red Chief, Information Access and Release Center, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715''.

Dated: March 12, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–6644 Filed 3–14–97; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

32 CFR Parts 543 and 544

Promotion of Rifle Practice and Civilian Marksmanship (Removal)

AGENCY: Office of the Administrative Assistant, U.S. Army, DOD.

ACTION: Final rule.

SUMMARY: This document removes the Department of the Army's Promotion of Rifle Practice and Civilian Marksmanship regulations codified in 32 CFR. The parts have served the purpose for which they were intended and are no longer necessary. This is based on the transfer of the Civilian Marksmanship from conduct by the Department of the Army to conduct by the Corporation for the Promotion of Rifle Practice and Firearms Safety as referenced in the Federal Register notice Vol 61 No 209, page 55621, dated 28 Oct 96.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Sandra R. Riley, Director, Policy and Plans, Office of the Administrative Assistant, 105 Army Pentagon, Washington, DC 20310–0105, phone (703) 697–6900.

SUPPLEMENTARY INFORMATION: Removal of parts is based on the National Defense Authorization Act for Fiscal Year 1996, Public Law 104–106 Title XVI, section 1601, 1611–1624 which has been completed.

List of Subjects

32 CFR Part 543

Arms and munitions, Reporting and recordkeeping requirements, Surety bonds.

32 CFR Part 544

Arms and munitions, Decorations, medals, awards.

PARTS 543 AND 544—[REMOVED AND RESERVED]

Accordingly, 32 CFR parts 543 and 544 are removed.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–6575 Filed 3–14–97; 8:45 am]

BILLING CODE 3710–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 059–0005a; FRL–5697–3]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on a revision to the Arizona State Implementation Plan. The revision concerns a rule from the following local agency: Maricopa County Environmental Services Department (MCESD). This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC emissions from Commercial Bread Bakeries. Thus, EPA is finalizing the approval of this rule into the Arizona SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on May 16, 1997 unless adverse or critical comments are received by April 16, 1997. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: Copies of the rule and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are available for inspection at the following locations:

Rulemaking Office (Air-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

Maricopa County Department of Environmental Services, 2406 South 24th Street, Suite E–204, Phoenix, AZ 85034–6822.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office (Air-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

Applicability

The rule being approved into the Arizona SIP is: MCESD Rule 343—Commercial Bread Bakeries. This rule was submitted by the Arizona Department of Environmental Quality to EPA on August 31, 1995.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in l977 (1977 Act or pre-amended Act), that included the Maricopa County Area. 43 FR 8964, 40 CFR 81.305. On March 19, 1979, EPA changed the name and modified the geographic boundaries of the ozone nonattainment area of Maricopa County to the Maricopa Association of Governments (MAG) Urban Planning Area. 44 FR 16391, 40 CFR 81.303. On February 24, 1984, EPA notified the Governor of Arizona, pursuant to section 110(a)(2)(H) of the pre-amended Act, that MCESD's portion of the Arizona SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call, 49 FR 18827, May 3, 1984). On May 26, 1988, EPA again notified the Governor of Arizona, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above district's portions of the Arizona SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's second SIP-Call, 53 FR 34500, September 7, 1988). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(b)(2)(C) of the CAA, Congress statutorily required nonattainment areas to submit RACT rules for all major stationary sources of VOCs by November 15, 1992 (the RACT catch-up requirement).

The MAG Urban Planning Area is classified as moderate;[1] therefore, this area was subject to the RACT catch-up requirement and the November 15, 1992 deadline.[2]

The State of Arizona submitted many revised RACT rules for incorporation into its SIP on August 31, 1995, including the rule being acted on in this notice. This notice addresses EPA's direct-final approval action for MCESD Rule 343—Commercial Bread Bakeries. MCESD adopted Rule 343 on February 15, 1995. This submitted rule was found to be complete on October 25, 1995 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, Appendix V[3] and is being finalized for approval into the SIP.

Rule 343 controls VOC emissions from bread ovens at commercial bread bakeries. VOCs contribute to the production of ground level ozone and smog. This rule was originally adopted as part of MCESD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's 1988 SIP-Call and the section 182(b)(2)(C) CAA requirement. The following is EPA's evaluation and final action for this rule.

EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents.[4] Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to ''catch-up'' their RACT rules. See section 182(b)(2)(C). For some source categories, such as bakeries, EPA did not publish a CTG. In such cases, the District may determine what controls are required by reviewing the operation of facilities subject to the regulation and evaluating regulations for similar sources in other areas. Bakery sources have been subject to a RACT regulation since 1989 in the Bay Area Air Quality Management District. EPA did publish an Alternative Control Technology Document (ACT) entitled, ''Alternative Control Technology Document for Bakery Oven Emissions'', EPA 453/R–92–017, December 1992 as guidance for this source category. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 4. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP. MCESD's Rule 343, Commercial Bread Bakeries, is a new rule which was adopted to control VOC emissions from large commercial bakeries by establishing emissions reduction standards, recordkeeping requirements, and test methods for demonstration of compliance with the rule. A detailed evaluation of Rule 343, Commercial Bread Bakeries, can be found in the Technical Support Document (TSD) dated July 30, 1996. EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, MCESD, Rule 343, Commercial Bread Bakeries, is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for

[1] The Maricopa Association of Governments (MAG) Urban Planning Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[2] Arizona did not make the required SIP submittal by November 15, 1992. On January 15, 1993, the EPA made a finding of nonsubmittal pursuant to section 179(a)(1), which started an 18-month sanction clock. The rule being acted upon in this action was submitted in response to the EPA finding of failure to submit.

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[4] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice'' (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTG's).

revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 16, 1997, unless, by April 16, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 16, 1997.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over a population of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action.

The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rule being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under 5 U.S.C. 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. 804(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 19, 1997.

Nora L. McGee,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(82) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(82) New and amended rules and regulations for the Maricopa County Environmental Services Department—Air Pollution Control were submitted on August 31, 1995, by the Governor's designee.

(i) Incorporated by reference.

(A) Rule 343, adopted on February 15, 1995.

* * * * *

[FR Doc. 97–5972 Filed 3–14–97; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 63

[FRL–5700–9]

RIN 2060–AE37

Test Methods for the Polymers and Resins I Rule; Appendix A, Test Methods 310 A, B, C, 312 A, B, C, 313 A, B

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates test methods 310 a, b and c, 312 a, b and c, and 313 a and b for the detection of residual amounts of hazardous air pollutants (HAPs) in conjunction with the recently issued National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Manufacture of Major Elastomers, (commonly referred to as Polymers and Resins I). The methods were adapted from industrial methods submitted by the facilities in the polymers and resins industry and were published for public comment as part of the Polymers and Resins I proposed rulemaking action. The methods will be

promulgated, in conjunction with the Polymers and Resins I rule, as EPA methods 310 a, b and c, 312 a, b and c, and 313 a and b, and will be codified at 40 CFR Part 63, Appendix A.

Methods 310 a, b, and c are applicable for determining the residual amount of solvent (hexane being the most commonly used solvent) and diene monomer in ethylene-propylene terpolymer (EPDM) as produced in the solution polymerization process. Methods 312 a, b, and c are applicable for determining the residual amount of styrene in styrene-butadiene rubber (SBR) as produced in the emulsion polymerization process. Methods 313 a and b are applicable for determining the residual amount of toluene, dimer, and styrene in polybutadiene rubber (PBR) and SBR crumb as produced in the solution polymerization process. All of the methods analyses are through the use of gas chromatography.

EFFECTIVE DATE: These methods are effective March 17, 1997.

ADDRESS: The background information for the promulgated test methods may be obtained from: Air Docket Section (LE–131), Attention: Docket No. A–92–44, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The docket is located at the above address in room M–1500, Waterside Mall (ground floor), and may be inspected from 8 a.m. to 4 p.m., Monday through Friday; telephone number (202) 382–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For information concerning the methods, contact Mr. Solomon Ricks at (919) 541–5242, Emission Measurement Center, Emission Monitoring and Analysis Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711.

SUPPLEMENTARY INFORMATION: *Response to Comments:* Concurrent with the proposal of subpart U, the EPA proposed three test residual HAP test methods—one each for SBRE, PBR/SBRS, and EPR. In determining the methods to be included in the proposal, the industry was given the opportunity to submit test methods for evaluation and approval by the EPA. The EPA selected the test methods submitted by the Exxon Chemical Company (Method 310), the Goodyear Tire and Rubber Company (Method 312), and the American Synthetic Rubber Corporation (Method 313) as the test methods to be used to determine residual HAP concentration.

After proposal of the test methods, several commenters stated that no single analytical method would produce consistent results for all polymers. It was suggested by the companies that each company should be allowed to demonstrate compliance using a company-specific method that is comparable to the EPA test method. The EPA agreed with the commenters and concluded that it was appropriate to allow every interested company to validate their own test method using a modified version of 40 CFR part 63, Appendix A, Method 301.

A total of eight test methods were submitted by seven different companies. Throughout the process, the affected industry has been involved with all activity associated with the EPA's promulgation of the residual organic HAP test methods. The EPA held meetings with industry representatives to discuss their comments on the proposed methods, and to discuss procedures for validating company test methods. Representatives of each of those three companies which did not submit test methods were in attendance at one or more of the meetings.

This notice with the promulgated regulatory language is also available on the Technology Transfer Network (TTN) on the EPA's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a telephone call. Dial (919) 541–5742 for up to a 14,400 bps modem. If more information on TTN is needed, call the HELP line at (919) 541–5384.

Other materials related to this rulemaking are available for review in the docket.

Judicial Review: Under section 307(b)(1) of the Act, judicial review of the final rule is available only by filing a petition for review in the U. S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

I. Introduction

The methods being promulgated are to be used in testing for residual amounts of HAPs to determine compliance with the standards in the promulgated Polymers and Resins I rule (September 5, 1996, 61 FR 46906). The methods were published for comment along with the Polymers and Resins I proposal under the authority of section 112(d) of the Clean Air Act as amended in 1990. Section 112(d) requires the Administrator to regulate emissions of HAP listed in section 112(b) of the Clean Air Act. The Polymers and Resins I proposal was published for public comment on June 12, 1995 (60 FR 30801).

The methods being promulgated will apply to ethylene-propylene elastomers production, polybutadiene rubber production, and styrene-butadiene rubber and latex production, using stripping technology as the method of compliance. As stated in the promulgated Polymers and Resins I rule, if compliance is to be demonstrated by sampling, samples of the stripped wet crumb or stripped latex must be taken after the stripper and analyzed to determine the residual HAP content.

II. Summary of Test Methods

A. Methods 310 a, b, and c

The promulgated methods are adapted from test methods submitted to the EPA by DSM Copolymer, Uniroyal Chemical, and Exxon. These companies are involved in the manufacture of EPDM rubber. The basic principle of DSM Copolymer's methods involve heating a sample in a sealed bottle with an internal standard and analyzing the vapor by gas chromatography. Uniroyal Chemical extracts residual hexane contained in wet pieces of EPDM polymer with methyl isobutyl ketone (MIBK). The extract is then analyzed by gas chromatography. Exxon's principle involves dissolving an EPDM crumb rubber sample in toluene to which heptane has been added as an internal standard. Acetone is then added to the solution to precipitate the crumb, and the supernatant is then analyzed for hexane and diene by a gas chromatograph with a flame ionization detector (FID).

B. Methods 312 a, b, and c

The promulgated methods are adapted from a test methods submitted to the EPA by Goodyear Tire and Rubber Company, Ameripol Synpol Corporation, and DSM Copolymer. The basic principle of the Goodyear method is to coagulate the SBR latex sample with an an ethyl alcohol solution containing a specific amount of alpha-methyl styrene as the internal standard, and analyzing the extract to determine styrene concentration using a gas chromatograph with a FID. Ameripol Synpol coagulates the latex sample in propanol which contains alpha-methyl styrene as the internal standard. The extract is then analyzed by a gas chromatograph to determine the residual styrene from the latex. DSM Copolymer utilizes a packed column gas chromatograph with a FID to determine

the concentration of residual styrene in the latex samples.

C. Methods 313 a and b

The promulgated methods are adapted from test methods submitted to the EPA by the American Synthetic Rubber Corporation (ASRC) and the Goodyear Tire and Rubber Company. The basic principle of the ASRC method involves placing the wet crumb sample in a sealed vial and running on a headspace sampler which heats the vial to a specified temperature for a specific time and then injects a known volume of vapor into a capillary gas chromatograph. The method determines residual toluene and styrene in the stripper crumb derived from solution polymerization processes that utilize toluene as the polymerization solvent. The Goodyear method uses the principle of dissolving the polymer sample in chloroform and coagulating the cement with an isopropyl alcohol solution containing a specific amount of alpha-methyl styrene as the internal standard. The extract of this coagulation is then injected into a gas chromatograph and separated into individual components.

III. Significant Comments and Changes to Test Methods

When published with the Polymers and Resins I proposal, the methods were proposed as methods 310, 312, and 313. The industry submitted their test methods for EPA review, and it was left to the EPA to decide which method would be acceptable as the test methods to be used for compliance purposes. However, after proposal, the companies who submitted their methods for consideration, and whose methods were not selected, raised the issue that no single analytical method would produce consistent results for all polymers. After review and consideration of this issue, the EPA concluded that it was appropriate to allow every interested company to validate their own test method using a modified version of 40 CFR part 63, Appendix A, Method 301. The results of this effort was to have a total of eight methods submitted as validated test methods by seven companies. Only three affected companies decided not to submit methods. Therefore, the final methods rule include methods 310a, b, and c for EPR, methods 312a, b, and c for SBRE, and methods 313a and b for PBR/SBRS, as acceptable residual organic HAP test methods.

IV. Administrative Requirements

A. Docket

The docket is an organized and complete file for all information submitted or otherwise considered by EPA in the development of this promulgated rulemaking. The principal purposes of the docket are: (1) to allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials) [Clean Air Act Section 307(d)(7)(A)].

B. Office of Management and Budget Review

Under Executive Order 12866 (58 FR 51735 October 4, 1993), the EPA is required to judge whether a regulation is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order to prepare a regulatory impact analysis (RIA). The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, this action has been determined to be ''not significant.''

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant adverse impact on a substantial number of small businesses. This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard, rather it provides acceptable test methods that the businesses regulated by Polymers and Resins I may use to comply with that rule. As such, it will not present a significant economic impact on a substantial number of small businesses.

D. Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

Under 5 U.S.C. 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. 804(2).

E. Paperwork Reduction Act

The rule does not impose or change any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

F. Unfunded Mandates

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

EPA has determined that the action proposed today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector, nor does this action significantly or uniquely impact small governments, because this action contains no requirements that apply to such govenments or impose obligations upon them. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Emulsion polymerization, Gas chromatography, Residual Hydrocarbon, Styrene, Solution polymerization.

Dated: March 4, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, Appendix A of Part 63 of Title 40 of the CFR is amended as follows:

PART 63—[AMENDED]

1. The authority citation for Part 63 continues to read as follows:

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

2. Appendix A of Part 63 is amended by adding methods 310, 312, and 313 to read as follows:

APPENDIX A—TEST METHODS

* * * * *

METHOD 310A—DETERMINATION OF RESIDUAL HEXANE THROUGH GAS CHROMATOGRAPHY

1.0 Scope and Application

1.1 This method is used to analyze any crumb rubber or water samples for residual hexane content.

1.2 The sample is heated in a sealed bottle with an internal standard and the vapor is analyzed by gas chromatography.

2.0 Summary of Method

2.1 This method, utilizing a capillary column gas chromatograph with a flame ionization detector, determines the concentration of residual hexane in rubber crumb samples.

3.0 Definitions

3.1 The definitions are included in the text as needed.

4.0 Interferences

4.1 There are no known interferences.

5.0 Safety

5.1 It is the responsibility of the user of this procedure to establish safety and health practices applicable to their specific operation.

6.0 Equipment and Supplies

6.1 Gas Chromatograph with a flame ionization detector and data handling station equipped with a capillary column 30 meters long.

6.2 Chromatograph conditions for Sigma 1:

6.2.1 Helium pressure: 50# inlet A, 14# aux

6.2.2 Carrier flow: 25 cc/min

6.2.3 Range switch: 100x

6.2.4 DB: 1 capillary column

6.3 Chromatograph conditions for Hewlett-Packard GC:

6.3.1 Initial temperature: 40 °C

6.3.2 Initial time: 8 min

6.3.3 Rate: 0

6.3.4 Range: 2

6.3.5 DB: 1705 capillary column

6.4 Septum bottles and stoppers

6.5 Gas Syringe—0.5 cc

7.0 Reagents and Standards

7.1 Chloroform, 99.9+%, A.S.C. HPLC grade

8.0 Sample Collection, Preservation, and Storage

8.1 A representative sample should be caught in a clean 8 oz. container with a secure lid.

8.2 The container should be labeled with sample identification, date and time.

9.0 Quality Control

9.1 The instrument is calibrated by injecting calibration solution (Section 10.2 of this method) five times.

9.2 The retention time for components of interest and relative response of monomer to the internal standard is determined.

9.3 Recovery efficiency must be determined once for each sample type and whenever modifications are made to the method.

9.3.1 Determine the percent hexane in three separate dried rubber crumb samples.

9.3.2 Weigh a portion of each crumb sample into separate sample bottles and add a known amount of hexane (10 microliters) by microliter syringe and 20 microliters of internal standard. Analyze each by the described procedure and calculate the percent recovery of the known added hexane.

9.3.3 Repeat the previous step using twice the hexane level (20 microliters), analyze and calculate the percent recovery of the known added hexane.

9.3.4 Set up two additional sets of samples using 10 microliters and 20 microliters of hexane as before, but add an amount of water equal to the dry crumb used. Analyze and calculate percent recovery to show the effect of free water on the results obtained.

9.3.5 A value of R between 0.70 and 1.30 is acceptable.

9.3.6 R shall be used to correct all reported results for each compound by dividing the measured results of each compound by the R for that compound for the same sample type.

10.0 Calibration and Instrument Settings

10.1 Calibrate the chromatograph using a standard made by injecting 10 µl of fresh hexane and 20 µl of chloroform into a sealed septum bottle. This standard will be 0.6 wt.% *total* hexane based on 1 gram of dry rubber.

10.2 Analyze the hexane used and calculate the percentage of each hexane isomer (2-methylpentane, 3-methylpentane, n-hexane, and methylcyclo-pentane). Enter these percentages into the method calibration table.

10.3 Heat the standard bottle for 30 minutes in a 105 °C oven.

10.4 Inject about 0.25 cc of vapor into the gas chromatograph and after the analysis is finished, calibrate according to the procedures described by the instrument manufacturer.

11.0 Procedure

11.1 Using a cold mill set at a wide roller gap (125–150 mm), mill about 250 grams of crumb two times to homogenize the sample.

11.2 Weigh about 2 grams of wet crumb into a septum bottle and cap with a septum ring. Add 20 µl of chloroform with a syringe and place in a 105 °C oven for 45 minutes.

11.3 Run the moisture content on a separate portion of the sample and calculate the grams of dry rubber put into the septum bottle.

11.4 Set up the data station on the required method and enter the dry rubber weight in the sample weight field.

11.5 Inject a 0.25 cc vapor sample into the chromatograph and push the start button.

11.6 At the end of the analysis, the data station will print a report listing the concentration of each identified component.

11.7 To analyze water samples, pipet 5 ml of sample into the septum bottle, cap and add 20 µl of chloroform. Place in a 105 °C oven for 30 minutes.

11.8 Enter 5 grams into the sample weight field.

11.9 Inject a 0.25 cc vapor sample into the chromatograph and push the start button.

11.10 At the end of the analysis, the data station will print a report listing the concentration of each identified component.

12.0 Data Analysis and Calculation

12.1 For samples that are prepared as in section 11 of this method, ppm

n-hexane is read directly from the computer.

12.2 The formulas for calculation of the results are as follows:

$ppm_{hexane}=(A_{hexane}\times R_{hexane})/(A_{is}\times R_{is})$

Where:

A_{hexane}=area of hexane

R_{hexane}=response of hexane

A_{is}=area of the internal standard

R_{is}=response of the internal standard

% hexane in crumb=(ppm_{hexane}/sample amount)100

12.3 Correct the results by the value of R (as determined in sections 9.3.4, 9.3.5, and 9.3.6 of this method).

13.0 Method Performance

13.1 The test has a standard deviation of 0.14 wt% at 0.66 wt% hexane. Spike recovery of 12 samples at two levels of hexane averaged 102.3%. Note: Recovery must be determined for each type of sample. The values given here are meant to be examples of method performance.

14.0 Pollution Prevention

14.1 Waste generation should be minimized where possible. Sample size should be an amount necessary to adequately run the analysis.

15.0 Waste Management

15.1 All waste shall be handled in accordance with federal and state environmental regulations.

16.0 References and Publications

16.1 DSM Copolymer Test Method T–3380.

METHOD 310B—DETERMINATION OF RESIDUAL HEXANE THROUGH GAS CHROMATOGRAPHY

1.0 Scope and Application

Analyte	CAS No.	Matrix	Method sensitivity (5.5g sample size)
Hexane	110–54–3	Rubber crumb	.01 wt%.
Ethylidene norbornene (ENB)	16219–75–3	Rubber crumb	.001 wt%.

1.1 Data Quality Objectives:

In the production of ethylene-propylene terpolymer crumb rubber, the polymer is recovered from solution by flashing off the solvent with steam and hot water. The resulting water-crumb slurry is then pumped to the finishing units. Certain amounts of solvent (hexane being the most commonly used solvent) and diene monomer remain in the crumb. The analyst uses the following procedure to determine those amounts.

2.0 Summary of Method

2.1 The crumb rubber sample is dissolved in toluene to which heptane has been added as an internal standard. Acetone is then added to this solution to precipitate the crumb, and the supernatant is analyzed for hexane and diene by a gas chromatograph equipped with a flame ionization detector (FID).

3.0 Definitions

3.1 Included in text as needed.

4.0 Interferences

4.1 None known.

4.2 Benzene, introduced as a contaminant in the toluene solvent, elutes between methyl cyclopentane and cyclohexane. However, the benzene peak is completely resolved.

4.3 2,2-dimethyl pentane, a minor component of the hexane used in our process, elutes just prior to methyl cyclopentane. It is included as ''hexane'' in the analysis whether it is integrated separately or included in the methyl cyclopentane peak.

5.0 Safety

5.1 This procedure does not purport to address all of the safety concerns associated with its use. It is the responsibility of the user of this procedure to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.

5.2 Chemicals used in this analysis are flammable and hazardous (see specific toxicity information below). Avoid contact with sources of ignition during sample prep. All handling should be done beneath a hood. Playtex or nitrile gloves recommended.

5.3 Hexane is toxic by ingestion and inhalation. Vapor inhalation causes irritation of nasal and respiratory passages, headache, dizziness, nausea, central nervous system depression. Chronic overexposure can cause severe nerve damage. May cause irritation on contact with skin or eyes. May cause damage to kidneys.

5.3 ENB may be harmful by inhalation, ingestion, or skin absorption. Vapor or mist is irritating to the eyes, mucous membranes, and upper respiratory tract. Causes skin irritation.

5.4 Toluene is harmful or fatal if swallowed. Vapor harmful if inhaled. Symptoms: headache, dizziness, hallucinations, distorted perceptions, changes in motor activity, nausea, diarrhea, respiratory irritation, central nervous system depression, unconsciousness, liver, kidney and lung damage. Contact can cause severe eye irritation. May cause skin irritation. Causes irritation of eyes, nose, and throat.

5.5 Acetone, at high concentrations or prolonged overexposure, may cause headache, dizziness, irritation of eyes and respiratory tract, loss of strength, and narcosis. Eye contact causes severe irritation; skin contact may cause mild irritation. Concentrations of 20,000 ppm are immediately dangerous to life and health.

5.6 Heptane is harmful if inhaled or swallowed. May be harmful if absorbed through the skin. Vapor or mist is irritating to the eyes, mucous membranes, and upper respiratory tract. Prolonged or repeated exposure to skin causes defatting and dermatitis.

5.7 The steam oven used to dry the polymer in this procedure is set at 110° C. Wear leather gloves when removing bottles from the oven.

6.0 Equipment and Supplies

6.1 4000-ml volumetric flask

6.2 100-ml volumetric pipette

6.3 1000-ml volumetric flask

6.4 8-oz. French Square sample bottles with plastic-lined caps

6.5 Top-loading balance

6.6 Laboratory shaker

6.7 Laboratory oven set at 110° C (steam oven)

6.8 Gas chromatograph, Hewlett-Packard 5890A, or equivalent, interfaced with HP 7673A (or equivalent) autosampler (equipped with nanoliter adapter and robotic arm), and HP 3396 series II or 3392A (or equivalent) integrator/controller.

6.9 GC column, capillary type, 50m × 0.53mm, methyl silicone, 5 micron

film thickness, Quadrex, or equivalent.

6.10 Computerized data acquisition system, such as CIS/CALS

6.11 Crimp-top sample vials and HP p/n 5181–1211 crimp caps.

6.12 Glass syringes, 5-ml, with ''Luer-lock'' fitting

6.13 Filters, PTFE, .45µm pore size, Gelman Acrodisc or equivalent, to fit on Luer-lock syringes (in 6.12, above).

7.0 Reagents and Standards

7.1 Reagent toluene, EM Science Omnisolv

Purity Check: Prior to using any bottle of reagent toluene, analyze it according to section 11.2 of this method. Use the bottle only if hexane, heptane, and ENB peak areas are less than 15 each (note that an area of 15 is equivalent to less than 0.01 wt% in a 10g sample).

7.2 Reagent acetone, EM Science Omnisolv HR–GC

Purity Check: Prior to using any bottle of reagent acetone, analyze it according to section 11.2 of this method. Use the bottle only if hexane, heptane, and ENB peak areas are less than 15 each.

7.3 Reagent heptane, Aldrich Chemical Gold Label, Cat #15,487–3

Purity Check: Prior to using any bottle of reagent heptane, analyze it according to section 11.2 of this method. Use the bottle only if hexane and ENB peak areas are less than 5 each.

7.4 Internal standard solution—used as a concentrate for preparation of the more dilute Polymer Dissolving Solution. It contains 12.00g heptane/100ml of solution which is 120.0g per liter.

Preparation of internal standard solution (polymer dissolving stock solution):

Action	Notes
7.4.1 Tare a clean, dry 1-liter volumetric flask on the balance. Record the weight to three places.	If the 1-liter volumetric flask is too tall to fit in the balance case, you can shield the flask from drafts by inverting a paint bucket with a hole cut in the bottom over the balance cover. Allow the neck of the flask to project through the hole in the bucket.
7.4.2 Weigh 120.00 g of n-heptane into the flask. Record the total weight of the flask and heptane as well as the weight of heptane added.	Use 99+% n-heptane from Aldrich or Janssen Chimica.
7.4.3 Fill the flask close to the mark with toluene, about 1 to 2″ below the mark.	Use EM Science Omnisolve toluene, Grade TX0737–1, or equivalent.
7.4.4 Shake the flask vigorously to mix the contents	Allow any bubbles to clear before proceeding to the next step.
7.4.5 Top off the flask to the mark with toluene. Shake vigorously, as in section 5.4.4 of this method, to mix well.	
7.4.6 Weigh the flask containing the solution on the three place balance record the weight	
7.4.7 Transfer the contents of the flask to a 1 qt Boston round bottle	Discard any excess solution
7.4.8 Label the bottle with the identity of the contents, the weights of heptane and toluene used, the date of preparation and the preparer's name.	Be sure to include the words *''Hexane in Crumb Polymer Dissolving Stock Solution''* on the label.
7.4.9 Refrigerate the completed blend for the use of the routine Technicians.	

7.5 Polymer Dissolving Solution (''PDS'')—Heptane (as internal standard) in toluene. This solution contains 0.3g of heptane internal standard per 100 ml of solution.

7.5.1 Fill a 4000ml volumetric flask about ¾ full with toluene.

7.5.2 Add 100 ml of the internal standard solution (section 7.4 of this method) to the flask using the 100ml pipette.

7.5.3 Fill the flask to the mark with toluene. Discard any excess.

7.5.4 Add a large magnetic stirring bar to the flask and mix by stirring.

7.5.5 Transfer the polymer solvent solution to the one-gallon labeled container with 50ml volumetric dispenser attached.

7.5.6 Purity Check: Analyze according to section 11.2. *NOTE*: You must ''precipitate'' the sample with an equal part of acetone (thus duplicating actual test conditions—see section 11.1 of this method, sample prep) before analyzing. Analyze the reagent 3 times to quantify the C_6 and ENB interferences. Inspect the results to ensure good agreement among the three runs (within 10%).

7.5.7 Tag the bottle with the following information:
POLYMER DISSOLVING SOLUTION FOR C_6 IN CRUMB ANALYSIS
PREPARER'S NAME
DATE
CALS FILE ID'S OF THE THREE ANALYSES FOR PURITY (from section 7.5.6 of this method)

7.6 Quality Control Solution: the quality control solution is prepared by adding specific amounts of mixed hexanes (barge hexane), n-nonane and ENB to some polymer dissolving solution. Nonane elutes in the same approximate time region as ENB and is used to quantify in that region because it has a longer shelf life. ENB, having a high tendency to polymerize, is used in the QC solution only to ensure that both ENB isomers elute at the proper time.

First, a concentrated stock solution is prepared; the final QC solution can then be prepared by diluting the stock solution.

7.6.1 In preparation of stock solution, fill a 1-liter volumetric flask partially with polymer dissolving solution (PDS)—see section 7.5 of this method. Add 20.0 ml barge hexane, 5.0 ml n-nonane, and 3 ml ENB. Finish filling the volumetric to the mark with PDS.

7.6.2 In preparation of quality control solution, dilute the quality control stock solution (above) precisely 1:10 with PDS, i.e. 10 ml of stock solution made up to 100 ml (volumetric flask) with PDS. Pour the solution into a 4 oz. Boston round bottle and store in the refrigerator.

8.0 Sample Collection, Preservation and Storage

8.1 Line up facility to catch crumb samples. The facility is a special facility where the sample is drawn.

8.1.1 Ensure that the cock valve beneath facility is closed.

8.1.2 Line up the system from the slurry line cock valve to the cock valve at the nozzle on the stripper.

8.1.3 Allow the system to flush through facility for a period of 30 seconds.

8.2 Catch a slurry crumb sample.

8.2.1 Simultaneously close the cock valves upstream and downstream of facility.

8.2.2 Close the cock valve beneath the slurry line in service.

8.2.3 Line up the cooling tower water through the sample bomb water jacket to the sewer for a minimum of 30 minutes.

8.2.4 Place the sample catching basket beneath facility and open the cock valve underneath the bomb to retrieve the rubber crumb.

8.2.5 If no rubber falls by gravity into the basket, line up nitrogen to the bleeder upstream of the sample bomb and force the rubber into the basket.

8.2.6 Close the cock valve underneath the sample bomb.

8.3 Fill a plastic ''Whirl-pak'' sample bag with slurry crumb and send it to the lab immediately.

8.4 Once the sample reaches the lab, it should be prepped as soon as possible to avoid hexane loss through evaporation. Samples which have lain untouched for more than 30 minutes should be discarded.

9.0 Quality Control

Quality control is monitored via a computer program that tracks analyses of a prepared QC sample (from section 7.6.2 of this method). The QC sample result is entered daily into the program, which plots the result as a data point on a statistical chart. If the data point does not satisfy the ''in-control'' criteria (as defined by the lab quality facilitator), an ''out-of-control'' flag appears, mandating corrective action.

In addition, the area of the n-heptane peak is monitored so that any errors in making up the polymer dissolving solution will be caught and corrected. Refer to section 12.4 of this method.

9.1 Fill an autosampler vial with the quality control solution (from section 7.6.2 of this method) and analyze on the GC as normal (per section 11 of this method).

9.2 Add the concentrations of the 5 hexane isomers as they appear on the CALS printout. Also include the 2,2-dimethyl-pentane peak just ahead of the methyl cyclopentane (the fourth major isomer) peak in the event that the peak integration split this peak out. Do not include the benzene peak in the sum. Note the nonane concentration. Record both results (total hexane and nonane) in the QC computer program. If out of control, and GC appears to be functioning within normal parameters, reanalyze a fresh control sample. If the fresh QC is not in control, check stock solution for contaminants or make up a new QC sample with the toluene currently in use. If instrument remains out-of-control, more thorough GC troubleshooting may be needed.

Also, verify that the instrument has detected both isomers of ENB (quantification not necessary—see section 7.0 of this method).

9.3 Recovery efficiency must be determined for each sample type and whenever modifications are made to the method. Recovery shall be between 70 and 130 percent. All test results must be corrected by the recovery efficiency value (R).

9.3.1 Approximately 10 grams of wet EPDM crumb (equivalent to about 5 grams of dry rubber) shall be added to six sample bottles containing 100 ml of hexane in crumb polymer dissolving solution (toluene containing 0.3 gram n-heptane/100 ml solution). The polymer shall be dissolved by agitating the bottles on a shaker for 4 hours. The polymer shall be precipitated using 100 ml acetone.

9.3.2 The supernatant liquid shall be decanted from the polymer. Care shall be taken to remove as much of the liquid phase from the sample as possible to minimize the effect of retained liquid phase upon the next cycle of the analysis. The supernatant liquid shall be analyzed by gas chromatography using an internal standard quantitation method with heptane as the internal standard.

9.3.3 The precipitated polymer from the steps described above shall be re-dissolved using toluene as the solvent. The toluene solvent and acetone precipitant shall be determined to be free of interfering compounds.

9.3.4 The rubber which was dissolved in the toluene shall be precipitated with acetone as before, and the supernatant liquid decanted from the precipitated polymer. The liquid shall be analyzed by gas chromatography and the rubber phase dried in a steam-oven to determine the final polymer weight.

9.3.5 The ratios of the areas of the hexane peaks and of the heptane internal standard peak shall be calculated for each of the six samples in the two analysis cycles outlined above. The area ratios of the total hexane to heptane (R1) shall be determined for the two analysis cycles of the sample set. The ratio of the values of R1 from the second analysis cycle to the first cycle shall be determined to give a second ratio (R2).

10.0 Calibration and Standardization

The procedure for preparing a Quality Control sample with the internal standard in it is outlined in section 7.6 of this method.

10.1 The relative FID response factors for n-heptane, the internal standard, versus the various hexane isomers and ENB are relatively constant and should seldom need to be altered. However Baseline construction is a most critical factor in the production of good data. For this reason, close attention should be paid to peak integration. Procedures for handling peak integration will depend upon the data system used.

10.2 If recalibration of the analysis is needed, make up a calibration blend of the internal standard and the analytes as detailed below and analyze it using the analytical method used for the samples.

10.2.1 Weigh 5 g heptane into a tared scintillation vial to five places.

10.2.2 Add 0.2 ml ENB to the vial and reweigh.

10.2.3 Add 0.5 ml hexane to the vial and reweigh.

10.2.4 Cap, and shake vigorously to mix.

10.2.5 Calculate the weights of ENB and of hexane added and divide their weights by the weight of the n-heptane added. The result is the known of given value for the calibration.

10.2.6 Add 0.4 ml of this mixture to a mixture of 100 ml toluene and 100 ml of acetone. Cap and shake vigorously to mix.

10.2.7 Analyze the sample.

10.2.8 Divide the ENB area and the total areas of the hexane peaks by the n-heptane area. This result is the ''found'' value for the calibration.

10.2.9 Divide the appropriate ''known'' value from 10.2.5 by the found value from 10.2.8. The result is the response factor for the analyte in question. Previous work has shown that the standard deviation of the calibration method is about 1% relative.

11.0 Procedure

11.1 SAMPLE PREPARATION

11.1.1 Tare an 8oz sample bottle—Tag attached, cap off; record weight and sample ID on tag in pencil.

11.1.2 Place crumb sample in bottle: RLA–1: 20g; RLA–3: 10g—(gives a dry wt of ~10g); (gives a dry wt of ~5.5g).

11.1.3 Dispense 100ml of PDS into each bottle. SAMPLE SHOULD BE PLACED INTO SOLUTION ASAP TO AVOID HEXANE LOSS—Using ''Dispensette'' pipettor. *Before dispensing, ''purge'' the dispensette (25% of its volume) into a waste bottle to eliminate any voids.*

11.1.4 Tightly cap bottles and load samples into shaker.

11.1.5 Insure that ''ON–OFF'' switch on the shaker itself is ''ON.''

11.1.6 Locate shaker timer. Insure that toggle switch atop timer control box is in the middle (''off'') position. If display reads ''04:00'' (4 hours), move toggle switch to the left position. Shaker should begin operating.

11.1.7 After shaker stops, add 100 ml acetone to each sample to precipitate polymer. Shake minimum of 5 minutes on shaker—Vistalon sample may not have fully dissolved; nevertheless, for purposes of consistency, 4 hours is the agreed-upon dissolving time.

11.1.8 Using a 5-ml glass Luer-lock syringe and Acrodisc filter, filter some of the supernatant liquid into an autosampler vial; crimp the vial and load it into the GC autosampler for analysis (section 11.2 of this method)—The samples are filtered to prevent polymer buildup in the GC. Clean the syringes in toluene.

11.1.9 Decant remaining supernatant into a hydrocarbon waste sink, being careful not to discard any of the polymer. Place bottle of precipitate into the steam oven and dry for six hours—Some grades of Vistalon produce very small particles in the precipitate, thus making complete decanting impossible without discarding some polymer. In this case, decant as much as possible and put into the oven as is, allowing the oven to drive off remaining supernatant (this practice is avoided for environmental reasons). WARNING: OVEN IS HOT—110 °C (230° F).

11.1.10 Cool, weigh and record final weight of bottle.

11.2 GC ANALYSIS

11.2.1 Initiate the CALS computer channel.

11.2.2 Enter the correct instrument method into the GC's integrator.

11.2.3 Load sample vial(s) into autosampler.

11.2.4 Start the integrator.

11.2.5 When analysis is complete, plot CALS run to check baseline skim.

12.0 Data Analysis and Calculations

12.1 Add the concentrations of the hexane peaks as they appear on the CALS printout. Do not include the benzene peak in the sum.

12.2 Subtract any hexane interferences found in the PDS (see section 7.5.6 of this method); record the result.

12.3 Note the ENB concentration on the CALS printout. Subtract any ENB interference found in the PDS and record this result in a ''% ENB by GC'' column in a logbook.

12.4 Record the area (from CALS printout) of the heptane internal standard peak in a ''C7 area'' column in the logbook. This helps track instrument performance over the long term.

12.5 After obtaining the final dry weight of polymer used (section 11.1.10 of this method), record that result in a ''dry wt.'' column of the logbook.

12.6 Divide the %C6 by the dry weight to obtain the total PHR hexane in crumb. Similarly, divide the %ENB by the dry weight to obtain the total PHR ENB in crumb. Note that PHR is an abbreviation for ''parts per hundred''. Record both the hexane and ENB results in the logbook.

12.7 Correct all results by the recovery efficiency value (R).

13.0 Method Performance

13.1 The method has been shown to provide 100% recovery of the hexane analyte. The method was found to give a 6% relative standard deviation when the same six portions of the same sample were carried through the procedure. Note: These values are examples; each sample type must be tested for sample recovery.

14.0 Pollution Prevention

14.1 Dispose of all hydrocarbon liquids in the appropriate disposal sink system; never pour hydrocarbons down a water sink.

14.2 As discussed in section 11.1.9 of this method, the analyst can minimize venting hydrocarbon vapor to the atmosphere by decanting as much hydrocarbon liquid as possible before oven drying.

15.0 Waste Mamagement

15.1 The Technician conducting the analysis should follow the proper waste management practices for their laboratory location.

16.0 References

16.1 Baton Rouge Chemical Plant Analytical Procedure no. BRCP 1302

16.2 Material Safety Data Sheets (from chemical vendors) for hexane, ENB, toluene, acetone, and heptane

METHOD 310C—DETERMINATION OF RESIDUAL N-HEXANE IN EPDM RUBBER THROUGH GAS CHROMATOGRAPHY

1.0 Scope and Application

1.1 This method describes a procedure for the determination of residual hexane in EPDM wet crumb rubber in the 0.01—2% range by solvent extraction of the hexane followed by gas chromatographic analysis where the hexane is detected by flame ionization and quantified via an internal standard.

1.2 This method may involve hazardous materials operations and equipment. This method does not purport to address all the safety problems associated with it use, if any. It is the responsibility of the user to consult and establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.

2.0 Summary

2.1 Residual hexane contained in wet pieces of EPDM polymer is extracted with MIBK. A known amount of an internal standard (IS) is added to the extract which is subsequently analyzed via gas chromatography where the hexane and IS are separated and detected utilizing a megabore column and flame ionization detection (FID). From the response to the hexane and the IS, the amount of hexane in the EPDM polymer is calculated.

3.0 Definitions

3.1 Hexane—refers to n-hexane

3.2 Heptane—refers to n-heptane

3.3 MIBK—methyl isobutyl ketone (4 methyl 2—Pentanone)

4.0 Interferences

4.1 Material eluting at or near the hexane and/or the IS will cause erroneous results. Prior to extraction, solvent blanks must be analyzed to confirm the absence of interfering peaks.

5.0 Safety

5.1 Review Material Safety Data Sheets of the chemicals used in this method.

6.0 Equipment and Supplies

6.1 4 oz round glass jar with a wide mouth screw cap lid.
6.2 Vacuum oven.
6.3 50 ml pipettes.
6.4 A gas chromatograph with an auto sampler and a 50 meter, 0.53 ID, methyl silicone column with 5 micron phase thickness.
6.5 Shaker, large enough to hold 10, 4 oz. jars.
6.6 1000 and 4000 ml volumetric flasks.
6.7 Electronic integrator or equivalent data system.
6.8 GC autosampler vials.
6.9 50 uL syringe.

7.0 Reagents and Standards

7.1 Reagent grade Methyl-Iso-Butyl-Ketone (MIBK)
7.2 n-heptane, 99% + purity
7.3 n-hexane, 99% + purity

8.0 Sample Collection

8.1 Trap a sample of the EPDM crumb slurry in the sampling apparatus. Allow the crumb slurry to circulate through the sampling apparatus for 5 minutes; then close off the values at the bottom and top of the sampling apparatus, trapping the crumb slurry. Run cooling water through the water jacket for a minimum of 30 minutes. Expel the cooled crumb slurry into a sample catching basket. If the crumb does not fall by gravity, force it out with demineralized water or nitrogen. Send the crumb slurry to the lab for analysis.

9.0 Quality Control

9.1 The Royalene crumb sample is extracted three times with MIBK containing an internal standard. The hexane from each extraction is added together to obtain a total hexane content. The percent hexane in the first extraction is then calculated and used as the recovery factor for the analysis.
9.2 Follow this test method through section 11.4 of the method. After removing the sample of the first extraction to be run on the gas chromatograph, drain off the remainder of the extraction solvent, retaining the crumb sample in the sample jar. Rinse the crumb with demineralized water to remove any MIBK left on the surface of the crumb. Repeat the extraction procedure with fresh MIBK with internal standard two more times.
9.3 After the third extraction, proceed to section 11.5 of this method and obtain the percent hexane in each extraction. Use the sample weight obtained in section 12.1 of this method to calculate the percent hexane in each of the extracts.
9.4 Add the percent hexane obtained from the three extractions for a total percent hexane in the sample.
9.5 Use the following equations to determine the recovery factor (R):

% Recovery of the first extraction=(% hexane in the first extract/total % hexane)×100

Recovery Factor (R)=(% Hexane Recovered in the first extract)/100

10.0 Calibration

10.1 Preparation of Internal Standard (IS) solution:

Accuracy weigh 30 grams of n-heptane into a 1000 ml volumetric flask. Dilute to the mark with reagent grade MIBK. Label this Solution ''A''. Pipette 100 mls. of Solution A into a 4 liter volumetric flask. Fill the flask to the mark with reagent MIBK. Label this Solution ''B''. Solution ''B'' will have a concentration of 0.75 mg/ml of heptane.

10.2 Preparation of Hexane Standard Solution (HS):

Using a 50 uL syringe, weigh by difference, 20 mg of n-hexane into a 50 ml volumetric flask containing approximately 40 ml of Solution B. Fill the flask to the mark with Solution B and mix well.

10.3 Conditions for GC analysis of standards and samples:

Temperature:
Initial=40 °C
Final=150 °C
Injector=160 °C
Detector=280 °C
Program Rate=5.0 °C/min

Initial Time=5 minutes Final Time=6 minutes

Flow Rate=5.0 ml/min

Sensitivity=detector response must be adjusted to keep the hexane and IS on scale.

10.4 Fill an autosampler vial with the HS, analyze it three times and calculate a Hexane Relative Response Factor (RF) as follows:

$RF=(A_{IS} \times C_{HS} \times P_{HS})/(A_{HS} \times C_{IS} \times P_{IS})$

Where:
A_{IS}=Area of IS peak (Heptane)
A_{HS}=Area of peak (Hexane Standard)
C_{HS}=Mg of Hexane/50 ml HS
C_{IS}=Mg of Heptane/50 ml IS Solution B
P_{IS}=Purity of the IS n-heptane
P_{HS}=Purity of the HS n-hexane

11.0 Procedure

11.1 Weight 10 grams of wet crumb into a tared (W1), wide mouth 4 oz. jar.
11.2 Pipette 50 ml of Solution B into the jar with the wet crumb rubber.
11.3 Screw the cap on tightly and place it on a shaker for 4 hours.
11.4 Remove the sample from the shaker and fill an autosampler vial with the MIBK extract.
11.5 Analyze the sample two times.
11.6 Analyze the HS twice, followed by the samples. Inject the HS twice at the end of each 10 samples or at the end of the run.

12.0 Calculations

12.1 Drain off the remainder of the MIBK extract from the polymer in the 4 oz. jar. Retain all the polymer in the jar. Place the uncovered jar and polymer in a heated vacuum oven until the polymer is dry. Reweigh the jar and polymer (W2) and calculate the dried sample weight of the polymer as follows:

Dried SW=W2—W1 (2)

12.2 Should the polymer be oil extended, pipette 10 ml of the MIBK extract into a tared evaporating dish (W1) and evaporate to dryness on a steam plate.

Reweigh the evaporating dish containing the extracted oil (W2). Calculate the oil content of the polymer as follows:

Gram of oil extracted =5 (W2—W1) (3)

% Hexane in polymer=$(A_s \text{ X RF X } C_{IS} \text{ X } P_{IS})/(A_{IS} \text{ X SW})$ (4)

Where:
A_s=Area of sample hexane sample peak.
A_{IS}=Area of IS peak in sample.
C_{IS}=Concentration of IS in 50 ml.
P_{IS}=Purity of IS.
SW=Weight of dried rubber after extraction. (For oil extended polymer, the amount of oil extracted is added to the dry rubber weight).

% Corrected Hexane=(% Hexane in Polymer)/R (5)

R=Recovery factor determined in section 9 of this method.

13.0 Method Performance

13.1 Performance must be determined (1) for each sample type by following the procedures in section 9 of this method.

14.0 Waste Generation

14.1 Waste generation should be minimized where possible.

15.0 Waste Management

15.1 All waste shall be handled in accordance with Federal and State environmental regulations.

16.0 References

(Reserved)

METHOD 312A—DETERMINATION OF STYRENE IN LATEX STYRENE-BUTADIENE RUBBER, THROUGH GAS CHROMATOGRAPHY

1. Scope and Application

1.1 This method describes a procedure for determining parts per million (ppm) styrene monomer (CAS No. 100–42–5) in aqueous samples, including latex samples and styrene stripper water.

1.2 The sample is separated in a gas chromatograph equipped with a packed column and a flame ionization detector.

2.0 Summary of Method

2.1 This method utilizes a packed column gas chromatograph with a flame ionization detector to determine the concentration of residual styrene in styrene butadiene rubber (SBR) latex samples.

3.0 Definitions

3.1 The definitions are included in the text as needed.

4.0 Interferences

4.1 In order to reduce matrix effects and emulsify the styrene, similar styrene free latex is added to the internal standard. There are no known interferences.

4.2 The operating parameters are selected to obtain resolution necessary to determine styrene monomer concentrations in latex.

5.0 Safety

5.1 It is the responsibility of the user of this procedure to establish appropriate safety and health practices.

6.0 Equipment and Supplies

6.1 Adjustable bottle-top dispenser, set to deliver 3 ml. (for internal standard), Brinkmann Dispensette, or equivalent.

6.2 Pipettor, set to 10 ml., Oxford Macro-set, or equivalent.

6.3 Volumetric flask, 100-ml, with stopper.

6.4 Hewlett Packard Model 5710A dual channel gas chromatograph equipped with flame ionization detector.

6.4.1 11 ft. × ⅛ in. stainless steel column packed with 10% TCEP on 100/120 mesh Chromosorb P, or equivalent.

6.4.2 Perkin Elmer Model 023 strip chart recorder, or equivalent.

6.5 Helium carrier gas, zero grade.

6.6 Liquid syringe, 25-µl.

6.7 Digital MicroVAX 3100 computer with VG Multichrom software, or equivalent data handling system.

6.6 Wire Screens, circular, 70-mm, 80-mesh diamond weave.

6.7 DEHA—(N,N-Diethyl hydroxylamine), 97+% purity, CAS No. 3710–84–7

6.8 p-Dioxane, CAS No. 123–91–1

7.0 Reagents and Standards

7.1 Internal standard preparation.

7.1.1 Pipette 5 ml p-dioxane into a 1000-ml volumetric flask and fill to the mark with distilled water and mix thoroughly.

7.2 Calibration solution preparation.

7.2.1 Pipette 10 ml styrene-free latex (eg: NBR latex) into a 100-ml volumetric flask.

7.2.2 Add 3 ml internal standard (section 7.1.1 of this method).

7.2.3 Weigh exactly 10µl fresh styrene and record the weight.

7.2.4 Inject the styrene into the flask and mix well.

7.2.5 Add 2 drops of DEHA, fill to the mark with water and mix well again.

7.2.6 Calculate concentration of the calibration solution as follows:

mg/l styrene=(mg styrene added)/0.1 L

8.0 Sample Collection, Preservation, and Storage

8.1 A representative SBR emulsion sample should be caught in a clean, dry 6-oz. teflon lined glass container. Close it properly to assure no sample leakage.

8.2 The container should be labeled with sample identification, date and time.

9.0 Quality Control

9.1 The instrument is calibrated by injecting calibration solution (Section 7.2 of this method) five times.

9.2 The retention time for components of interest and relative response of monomer to the internal standard is determined.

9.3 Recovery efficiency must be determined once for each sample type and whenever modifications are made to the method.

9.3.1 A set of six latex samples shall be collected. Two samples shall be prepared for analysis from each sample. Each sample shall be analyzed in duplicate.

9.3.2 The second set of six latex samples shall be analyzed in duplicate before spiking each sample with approximately 1000 ppm styrene. The spiked samples shall be analyzed in duplicate.

9.3.3 For each hydrocarbon, calculate the average recovery efficiency (R) using the following equations:

where:

$R=\Sigma(R_n)/6$

where:

$R_n=(c_{ns}-c_v)/S_n$

n=sample number

c_{ns}=concentration of compound measured in spiked sample number n.

c_{nu}= concentration of compound measured in unspiked sample number n.

S_n=theoretical concentration of compound spiked into sample n.

9.3.4 A value of R between 0.70 and 1.30 is acceptable.

9.3.5 R is used to correct all reported results for each compound by dividing the measured results of each compound by the R for that compound for the same sample type.

10.0 Calibration and Instrument Settings

10.1 Injection port temperature, 250°C.

10.2 Oven temperature, 110°C, isothermal.

10.3 Carrier gas flow, 25 cc/min.

10.4 Detector temperature, 250°C.

10.5 Range, 1X.

11.0 Procedure

11.1 Turn on recorder and adjust baseline to zero.

11.2 Prepare sample.

11.2.1 For latex samples, add 3 ml Internal Standard (section 7.1 of this method) to a 100-ml volumetric flask. Pipet 10 ml sample into the flask using the Oxford pipettor, dilute to the 100-ml mark with water, and shake well.

11.2.2 For water samples, add 3 ml Internal Standard (section 7.1 of this method) to a 100-ml volumetric flask and fill to the mark with sample. Shake well.

11.3 Flush syringe with sample.

11.4 Carefully inject 2 µl of sample into the gas chromatograph column injection port and press the start button.

11.5 When the run is complete the computer will print a report of the analysis.

12.0 Data Analysis and Calculation

12.1 For samples that are prepared as in section 11.2.1 of this method:

ppm styrene = A x D

Where:

A = ''ppm'' readout from computer

D = dilution factor (10 for latex samples)

12.2 For samples that are prepared as in section 11.2.2 of this method,

ppm styrene is read directly from the computer.

13.0 Method Performance

13.1 This test has a standard deviation (1) of 3.3 ppm at 100 ppm styrene. The average Spike Recovery from six samples at 1000 ppm Styrene was 96.7 percent. The test method was validated using 926 ppm styrene standard. Six analysis of the same standard provided average 97.7 percent recovery. Note: These are example recoveries and do not replace quality assurance procedures in this method.

14.0 Pollution Prevention

14.1 Waste generation should be minimized where possible. Sample size should be an amount necessary to adequately run the analysis.

15.0 Waste Management

15.1 All waste shall be handled in accordance with Federal and State environmental regulations.

16.0 References and Publications

16.1 40 CFR 63 Appendix A—Method 301 Test Methods Field Validation of Pollutant Measurement

16.2 DSM Copolymer Test Method T–3060, dated October 19, 1995, entitled: *Determination of Residual Styrene in Latex*, Leonard, C.D., Vora, N.M.*et al*

METHOD 312B—DETERMINATION OF RESIDUAL STYRENE IN STYRENE-BUTADIENE (SBR) RUBBER LATEX BY CAPILLARY GAS CHROMATOGRAPHY

1.0 Scope

1.1 This method is applicable to SBR latex solutions.

1.2 This method quantitatively determines residual styrene concentrations in SBR latex solutions at levels from 80 to 1200 ppm.

2.0 Principle of Method

2.1 A weighed sample of a latex solution is coagulated with an ethyl alcohol (EtOH) solution containing a specific amount of alpha-methyl styrene (AMS) as the internal standard. The extract of this coagulation is then injected into a gas chromatograph and separated into individual components. Quantification is achieved by the method of internal standardization.

3.0 Definitions

3.1 The definitions are included in the text as needed.

4.0 Interferences

(Reserved)

5.0 Safety

5.1 This method may involve hazardous materials, operations, and equipment. This method does not purport to address all of the safety problems associated with its use. It is the responsibility of the user of this method to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.

6.0 Equipment and Supplies

6.1 Analytical balance, 160 g capacity, and 0.1 mg resolution

6.2 Bottles, 2-oz capacity, with poly-cap screw lids

6.3 Mechanical shaker

6.4 Syringe, 10-ul capacity

6.5 Gas chromatograph, Hewlett Packard model 5890A, or equivalent, configured with FID with a megabore jet, splitless injector packed with silanized glass wool.

6.5.1 Establish the following gas chromatographic conditions, and allow the system to thoroughly equilibrate before use.

Injection technique = Splitless
Injector temperature = 225 deg C
Oven temperature = 70 deg C (isothermal)
Detector: temperature = 300 deg C
range = 5
attenuation = 0
Carrier gas: helium = 47 ml/min
Detector gases: hydrogen = 30 ml/min
air = 270 ml/min
make-up = 0 ml/min
Analysis time: = 3.2 min at the specified carrier gas flow rate and column temperature.

6.6 Gas chromatographic column, DB–1, 30 M X 0.53 ID, or equivalent, with a 1.5 micron film thickness.

6.7 Data collection system, Perkin-Elmer/Nelson Series Turbochrom 4 Series 900 Interface, or equivalent.

6.8 Pipet, automatic dispensing, 50-ml capacity, and 2-liter reservoir.

6.9 Flasks, volumetric, class A, 100-ml and 1000-ml capacity.

6.10 Pipet, volumetric delivery, 10-ml capacity, class A.

7.0 Chemicals and Reagents

CHEMICALS:

7.1 Styrene, C8H8, 99+%, CAS 100–42–5

7.2 Alpha methyl styrene, C9H10, 99%, CAS 98–83–9

7.3 Ethyl alcohol, C2H5OH, denatured formula 2B, CAS 64–17–5

REAGENTS:

7.4 Internal Standard Stock Solution: 5.0 mg/ml AMS in ethyl alcohol.

7.4.1 Into a 100-ml volumetric flask, weigh 0.50 g of AMS to the nearest 0.1 mg.

7.4.2 Dilute to the mark with ethyl alcohol. This solution will contain 5.0 mg/ml AMS in ethyl alcohol and will be labeled the AMS STOCK SOLUTION.

7.5 Internal Standard Working Solution: 2500 ug/50 ml of AMS in ethyl alcohol.

7.5.1 Using a 10 ml volumetric pipet, quantitatively transfer 10.0 ml of the AMS STOCK SOLUTION into a 1000-ml volumetric flask.

7.5.2 Dilute to the mark with ethyl alcohol. This solution will contain 2500 ug/50ml of AMS in ethyl alcohol and will be labeled the AMS WORKING SOLUTION.

7.5.3 Transfer the AMS WORKING SOLUTION to the automatic dispensing pipet reservoir.

7.6 Styrene Stock Solution: 5.0 mg/ml styrene in ethyl alcohol.

7.6.1 Into a 100-ml volumetric flask, weigh 0.50 g of styrene to the nearest 0.1 mg.

7.6.2 Dilute to the mark with ethyl alcohol. This solution will contain 5.0 mg/ml styrene in ethyl alcohol and will be labeled the STYRENE STOCK SOLUTION.

7.7 Styrene Working Solution: 5000 ug/10 ml of styrene in ethyl alcohol.

7.7.1 Using a 10-ml volumetric pipet, quantitatively transfer 10.0 ml of the STYRENE STOCK SOLUTION into a 100-ml volumetric flask.

7.7.2 Dilute to the mark with ethyl alcohol. This solution will contain 5000 ug/10 ml of styrene in ethyl alcohol and will be labeled the STYRENE WORKING SOLUTION.

8.0 Sample Collection, Preservation and Storage

8.1 Label a 2-oz sample poly-cap lid with the identity, date and time of the sample to be obtained.

8.2 At the sample location, open sample valve for at least 15 seconds to ensure that the sampling pipe has been properly flushed with fresh sample.

8.3 Fill the sample jar to the top (no headspace) with sample, then cap it tightly.

8.4 Deliver sample to the Laboratory for testing within one hour of sampling.

8.5 Laboratory testing will be done within two hours of the sampling time.

8.6 No special storage conditions are required unless the storage time

exceeds 2 hours in which case refrigeration of the sample is recommended.

9.0 Quality Control

9.1 For each sample type, 12 samples of SBR latex shall be obtained from the process for the recovery study. Half the vials and caps shall be tared, labeled ''spiked'', and numbered 1 through 6. The other vials are labeled ''unspiked'' and need not be tared, but are also numbered 1 through 6.

9.2 The six vials labeled ''spiked'' shall be spiked with an amount of styrene to approximate 50% of the solution's expected residual styrene level.

9.3 The spiked samples shall be shaken for several hours and allowed to cool to room temperature before analysis.

9.4 The six samples of unspiked solution shall be coagulated and a mean styrene value shall be determined, along with the standard deviation, and the percent relative standard deviation.

9.5 The six samples of the spiked solution shall be coagulated and the results of the analyses shall be determined using the following equations:

$M_r = M_s - M_u$

$R = M_r / S$

where:

M_u=Mean value of styrene in the unspiked sample

M_s=Measured amount of styrene in the spiked sample

M_r=Measured amount of the spiked compound

S=Amount of styrene added to the spiked sample

R=Fraction of spiked styrene recovered

9.6 A value of R between 0.70 and 1.30 is acceptable.

9.7 R is used to correct all reported results for each compound by dividing the measured results of each compound by the R for that compound for the same sample type.

10.0 Calibration

10.1 Using a 10-ml volumetric pipet, quantitatively transfer 10.0 ml of the STYRENE WORKING SOLUTION (section 7.7.2 of this method) into a 2-oz bottle.

10.2 Using the AMS WORKING SOLUTION equipped with the automatic dispensing pipet (section 7.5.3 of this method), transfer 50.0 ml of the internal standard solution into the 2-oz bottle.

10.3 Cap the 2-oz bottle and swirl. This is the calibration standard, which contains 5000 µg of styrene and 2500 µg of AMS.

10.4 Using the conditions prescribed (section 6.5 of this method), chromatograph 1 µl of the calibration standard.

10.5 Obtain the peak areas and calculate the relative response factor as described in the calculations section (section 12.1 of this method).

11.0 Procedure

11.1 Into a tared 2-oz bottle, weigh 10.0 g of latex to the nearest 0.1 g.

11.2 Using the AMS WORKING SOLUTION equipped with the automatic dispensing pipet (section 7.5.3 of this method), transfer 50.0 ml of the internal standard solution into the 2-oz bottle.

11.3 Cap the bottle. Using a mechanical shaker, shake the bottle for at least one minute or until coagulation of the latex is complete as indicated by a clear solvent.

11.4 Using the conditions prescribed (section 6.5 of this method), chromatograph 1 ul of the liquor.

11.5 Obtain the peak areas and calculate the concentration of styrene in the latex as described in the calculations section (Section 12.2 of this method).

12.0 Calculations

12.1 Calibration:

$RF = (W_x \times A_{is}) / (W_{is} \times A_x)$

where:

RF=the relative response factor for styrene

W_x=the weight (ug) of styrene

A_{is}=the area of AMS

W_{is}=the weight (ug) of AMS

A_x=the area of styrene

12.2 Procedure:

$ppm_{styrene} = (A_x RF \times W_{is}) / (A_{is} \times W_s)$

where:

$ppm_{styrene}$=parts per million of styrene in the latex

A_x=the area of styrene

RF=the response factor for styrene

W_{is}=the weight (ug) of AMS

A_{is}=the area of AMS

W_s=the weight (g) of the latex sample

12.3 Correct for recovery (R) as determined by section 9.0 of this method.

13.0 Precision

13.1 Precision for the method was determined at the 80, 144, 590, and 1160 ppm levels. The standard deviations were 0.8, 1.5, 5 and 9 ppm respectively. The percent relative standard deviations (%RSD) were 1% or less at all levels. Five degrees of freedom were used for all precision data except at the 80 ppm level, where nine degrees of freedom were used. Note: These are example results and do not replace quality assurance procedures in this method.

14.0 Pollution Prevention

14.1 Waste generation should be minimized where possible. Sample size should be an amount necessary to adequately run the analysis.

15.0 Waste Management

15.1 Discard liquid chemical waste into the chemical waste drum.

15.2 Discard latex sample waste into the latex waste drum.

15.3 Discard polymer waste into the polymer waste container.

16.0 References

16.1 This method is based on Goodyear Chemical Division Test Method E–889.

METHOD 312C—DETERMINATION OF RESIDUAL STYRENE IN SBR LATEX PRODUCED BY EMULSION POLYMERIZATION

1.0 Scope

1.1 This method is applicable for determining the amount of residual styrene in SBR latex as produced in the emulsion polymerization process.

2.0 Principle of Method

2.1 A weighed sample of latex is coagulated in 2-propanol which contains alpha-methyl styrene as an Internal Standard. The extract from the coagulation will contain the alpha-methyl styrene as the Internal Standard and the residual styrene from the latex. The extract is analyzed by a Gas Chromatograph. Percent styrene is calculated by relating the area of the styrene peak to the area of the Internal Standard peak of known concentration.

3.0 Definitions

3.1 The definitions are included in the text as needed.

4.0 Interferences

(Reserved)

5.0 Safety

5.1 When using solvents, avoid contact with skin and eyes. Wear hand and eye protection. Wash thoroughly after use.

5.2 Avoid overexposure to solvent vapors. Handle only in well ventilated areas.

6.0 Equipment and Supplies

6.1 *Gas Chromatograph*—Hewlett Packard 5890, Series II with flame ionization detector, or equivalent.

Column—HP 19095F–123, 30m × 0.53mm, or equivalent. Substrate HP FFAP (cross-linked) film thickness 1 micrometer. Glass injector port liners with silanized glass wool plug.

Integrator—HP 3396, Series II, or equivalent.

6.2 Wrist action shaker
6.3 Automatic dispenser
6.4 Automatic pipet, calibrated to deliver 5.0 ±0.01 grams of latex
6.5 Four-ounce wide-mouth bottles with foil lined lids
6.6 Crimp cap vials, 2ml, teflon lined septa
6.7 Disposable pipets
6.8 Qualitative filter paper
6.9 Cap crimper
6.10 Analytical balance
6.11 10ml pipette
6.12 Two-inch funnel

7.0 Reagents and Standards

7.1 2-Propanol (HP2C grade)
7.2 Alpha methyl styrene (99+% purity)
7.3 Styrene (99+% purity)
7.4 Zero air
7.5 Hydrogen (chromatographic grade)
7.6 Helium
7.7 Internal Standard preparation

7.7.1 Weigh 5.000–5.005 grams of alpha-methyl styrene into a 100ml volumetric flask and bring to mark with 2-propanol to make Stock ''A'' Solution.

Note: Shelf life—6 months.

7.7.2 Pipette 10ml of Stock ''A'' Solution into a 100ml volumetric flask and bring to mark with 2-propanol to prepare Stock ''B'' Solution.

7.7.3 Pipette 10ml of the Stock ''B'' solution to a 1000ml volumetric flask and bring to the mark with 2-propanol. This will be the Internal Standard Solution (0.00005 grams/ml).

7.8 Certification of Internal Standard—Each batch of Stock ''B'' Solution will be certified to confirm concentration.

7.8.1 Prepare a Standard Styrene Control Solution in 2-propanol by the following method:

7.8.1.1 Weigh 5.000 ±.005g of styrene to a 100ml volumetric flask and fill to mark with 2-propanol to make Styrene Stock ''A'' Solution.

7.8.1.2 Pipette 10ml of Styrene Stock ''A'' Solution to a 100ml volumetric flask and fill to mark with 2-propanol to make Styrene Stock ''B'' Solution.

7.8.1.3 Pipette 10ml of Styrene Stock ''B'' soluion to a 250ml volumtric flask and fill to mark wtih 2-propanol to make the Certification Solution.

7.8.2 Certify Alpha-Methyl Styrene Stock ''B'' Solution.

7.8.2.1 Pipette 5ml of the Certification Solution and 25ml of the Alpha Methyl Styrene Internal Standard Solution to a 4-oz. bottle, cap and shake well.

7.8.2.2 Analyze the resulting mixture by GC using the residual styrene method. (11.4–11.6 of this method)

7.8.2.3 Calculate the weight of alpha methyl styrene present in the 25ml aliquat of the new Alpha Methyl Styrene Standard by the following equation:

$$W_x = F_x x W_{is}(A_x/A_{is})$$

Where

A_x = Peak area of alpha methyl styrene
A_{is} = Peak area of styrene
W_x = Weight of alpha methyl styrene
W_{is} = Weight of styrene (.00100)
F_x = Analyzed response factor = 1

The Alpha Methyl Styrene Stock Solution used to prepare the Internal Standard Solution may be considered certified if the weight of alpha methyl styrene analyzed by this method is within the range of .00121g to .00129g.

8.0 Sampling

8.1 Collect a latex sample in a capped container. Cap the bottle and identify the sample as to location and time.
8.2 Deliver sample to Laboratory for testing within one hour.
8.3 Laboratory will test within two hours.
8.4 No special storage conditions are required.

9.0 Quality Control

9.1 The laboratory is required to operate a formal quality control program. This consists of an initial demonstration of the capability of the method as well as ongoing analysis of standards, blanks, and spiked samples to demonstrate continued performance.

9.1.1 When the method is first set up, a calibration is run and the recovery efficiency for each type of sample must be determined.

9.1.2 If new types of samples are being analyzed, then recovery efficiency for each new type of sample must be determined. New type includes any change, such as polymer type, physical form or a significant change in the composition of the matrix.

9.2 Recovery efficiency must be determined once for each sample type and whenever modifications are made to the method.

9.2.1 In determining the recovery efficiency, the quadruplet sampling system shall be used. Six sets of samples (for a total of 24) shall be taken. In each quadruplet set, half of the samples (two out of the four) shall be spiked with styrene.

9.2.2 Prepare the samples as described in section 8 of this method. To the vials labeled ''spiked'', add a known amount of styrene that is expected to be present in the latex.

9.2.3 Run the spiked and unspiked samples in the normal manner. Record the concentrations of styrene reported for each pair of spiked and unspiked samples with the same vial number.

9.2.4 For each hydrocarbon, calculate the average recovery efficiency (R) using the following equation:

$$R=\Sigma(R_n)/12$$

Where: n = sample number

$$R_n=(M_s - M_u)/S$$

M_s=total mass of compound (styrene) measured in spiked sample (μg)

M_u=total mass of compound (styrene) measured in unspiked sample (μg)

S=theoretical mass of compound (styrene) spiked into sample (μg)

R=fraction of spiked compound (styrene) recovered

9.2.5 A different R value should be obtained for each sample type. A value of R between 0.70 and 1.30 is acceptable.

9.2.6 R is used to correct all reported results for each compound by dividing the measured results of each compound by the R for that compound for the same sample type.

10.0 Calibration

A styrene control sample will be tested weekly to confirm the FID response and calibration.

10.1 Using the Styrene Certification Solution prepared in 7.8.1, perform test analysis as described in 7.8.2 using the equation in 7.8.2.3 to calculate results.

10.2 Calculate the weight of styrene in the styrene control sample using the following equation:

$$W_{sty}=(F_x x A_{sty} x W_{is})A_{is}$$

The instrument can be considered calibrated if the weight of the styrene analyzed is within range of 0.00097—0.00103gms.

11.0 Procedure

11.1 Using an auto pipet, add 25ml of Internal Standard Solution to a 4 oz. wide-mouth bottle.

11.2 Using a calibrated auto pipet, add 5.0 ± 0.01g latex to the bottle containing the 25ml of Internal Standard Solution.

11.3 Cap the bottle and place on the wrist action shaker. Shake the sample for a minimum of five minutes using the timer on the shaker. Remove from shaker.

11.4 Using a disposable pipet, fill the 2ml sample vial with the clear alcohol extract. (If the extract is not clear, it should be filtered using a funnel and filter paper.) Cap and seal the vial.

11.5 Place the sample in the autosampler tray and start the GC and Integrator. The sample will be injected into the GC by the auto-injector, and the Integrator will print the results.

11.6 *Gas Chromatograph Conditions*

Oven Temp—70 °C
Injector Temp—225 °C
Detector Temp—275 °C
Helium Pressure—500 KPA
Column Head Pressure—70 KPA
Makeup Gas—30 ml/min.
Column—HP 19095F—123, 30m x 0.53mm Substrate: HP—FFAP (cross-linked) 1 micrometer film thickness

12.0 Calculations

12.1 The integrator is programmed to do the following calculation at the end of the analysis:

$$\%ResidualStyrene=(A_x X W_{is})/(A_{is} X W_x) X F_x X 100$$

Where:
A_x=Peak area of styrene
A_{is}=Peak area of internal standard
W_x=Weight of sample = 5g
W_{is}=Weight of internal std. = 0.00125g
F_x=Analyzed response factor = 1.0

12.2 The response factor is determined by analyzing a solution of 0.02g of styrene and 0.02g of alpha methyl styrene in 100ml of 2-propanol. Calculate the factor by the following equation:

$$F_x=(W_x x A_{is})/(W_{is} x A_x)$$

Where:
W_x=Weight of styrene
A_x=Peak area of styrene
W_{is}=Weight of alpha methyl styrene
A_{is}=Peak area of alpha methyl styrene

13.0 Method Performance

13.1 Performance must be determined for each sample type by following the procedures in section 9 of this method.

14.0 Waste Generation

14.1 Waste generation should be minimized where possible.

15.0 Waste Management

15.1 All waste shall be handled in accordance with Federal and State environmental regulations.

16.0 References
(Reserved)

METHOD 313A—DETERMINATION OF RESIDUAL HYDROCARBONS IN RUBBER CRUMB

1.0 Scope and Application

1.1 This method determines residual toluene and styrene in stripper crumb of the of the following types of rubber: polybutadiene (PBR) and styrene/butadiene rubber (SBR), both derived from solution polymerization processes that utilize toluene as the polymerization solvent.

1.2 The method is applicable to a wide range of concentrations of toluene and styrene provided that calibration standards cover the desired range. It is applicable at least over the range of 0.01 to 10.0 % residual toluene and from 0.1 to 3.0 % residual styrene. It is probably applicable over a wider range, but this must be verified prior to use.

1.3 The method may also be applicable to other process samples as long as they are of a similar composition to stripper crumb. See section 3.1 of this method for a description of stripper crumb.

2.0 Summary of Method

2.1 The wet crumb is placed in a sealed vial and run on a headspace sampler which heats the vial to a specified temperature for a specific time and then injects a known volume of vapor into a capillary GC. The concentration of each component in the vapor is proportional to the level of that component in the crumb sample and does not depend on water content of the crumb.

2.2 Identification of each component is performed by comparing the retention times to those of known standards.

2.3 Results are calculated by the external standard method since injections are all performed in an identical manner. The response for each component is compared with that obtained from dosed samples of crumb.

2.4 Measured results of each compound are corrected by dividing each by the average recovery efficiency determined for the same compound in the same sample type.

3.0 Definitions

3.1 Stripper crumb refers to pieces of rubber resulting from the steam stripping of a toluene solution of the same polymer in a water slurry. The primary component of this will be polymer with lesser amounts of entrained water and residual toluene and other hydrocarbons. The amounts of hydrocarbons present must be such that the crumb is a solid material, generally less that 10 % of the dry rubber weight.

4.0 Interferences

4.1 Contamination is not normally a problem since samples are sealed into vials immediately on sampling.

4.2 Cross contamination in the headspace sampler should not be a problem if the correct sampler settings are used. This should be verified by running a blank sample immediately following a normal or high sample. Settings may be modified if necessary if this proves to be a problem, or a blank sample may be inserted between samples.

4.3 Interferences may occur if volatile hydrocarbons are present which have retention times close to that of the components of interest. Since the solvent makeup of the processes involved are normally fairly well defined this should not be a problem. If it is found to be the case, switching to a different chromatographic column will probably resolve the situation.

5.0 Safety

5.1 The chemicals specified in this method should all be handled according to standard laboratory practices as well as any special precautions that may be listed in the MSDS for that compound.

5.2 Sampling of strippers or other process streams may involve high pressures and temperatures or may have the potential for exposure to chemical fumes. Only personnel who have been trained in the specific sampling procedures required for that process should perform this operation. An understanding of the process involved is necessary. Proper personal protective equipment should be worn. Any sampling devices should be inspected prior to use. A detailed sampling procedure which specifies exactly how to obtain the sample must be written and followed.

6.0 Equipment and Supplies

6.1 Hewlett Packard (HP) 7694 Headspace sampler, or equivalent, with the following conditions:

Times (min.): GC cycle time 6.0 , vial equilibration 30.0 , pressurization 0.25 , loop fill 0.25, loop equilibration 0.05 , inject 0.25
Temperatures (deg C): oven 70, loop 80, transfer line 90
Pressurization gas: He @ 16 psi

6.2 HP 5890 Series II capillary gas chromatograph, or equivalent, with the following conditions:

Column: Supelco SPB–1, or equivalent, 15m × .25mm × .25µ film
Carrier: He @ 6 psi
Run time: 4 minutes
Oven: 70 deg C isothermal
Injector: 200 deg C split ratio 50:1
Detector: FID @ 220 deg C

6.3 HP Chemstation consisting of computer, printer and Chemstation software, or an equivalent chromatographic data system.

6.4 20 ml headspace vials with caps and septa.

6.5 Headspace vial crimper.

6.6 Microliter pipetting syringes.

6.7 Drying oven at 100 deg C vented into cold trap or other means of trapping hydrocarbons released.

6.8 Laboratory shaker or tumbler suitable for the headspace vials.

6.9 Personal protective equipment required for sampling the process such as rubber gloves and face and eye protection.

7.0 Reagents and Standards

7.1 Toluene, 99.9+% purity, HPLC grade.

7.2 Styrene, 99.9+% purity, HPLC grade.

7.3 Dry rubber of same type as the stripper crumb samples.

8.0 Sample Collection, Preservation and Storage

8.1 Collect a sample of crumb in a manner appropriate for the process equipment being sampled.

8.1.1 If conditions permit, this may be done by passing a stream of the crumb slurry through a strainer, thus separating the crumb from the water. Allow the water to drain freely, do not attempt to squeeze any water from the crumb. Results will not depend on the exact water content of the samples. Immediately place several pieces of crumb directly into a headspace vial. This should be done with rubber gloves to protect the hands from both the heat and from contact with residual hydrocarbons. The vial should be between ¼ and ⅓ full. Results do not depend on sample size as long as there is sufficient sample to reach an equilibrium vapor pressure in the headspace of the vial. Cap and seal the vial. Prepare each sample at least in duplicate. This is to minimize the effect of the variation that naturally occurs in the composition of non homogeneous crumb. The free water is not analyzed by this method and should be disposed of appropriately along with any unused rubber crumb.

8.1.2 Alternatively the process can be sampled in a specially constructed sealed bomb which can then be transported to the laboratory. The bomb is then cooled to ambient temperature by applying a stream of running water. The bomb can then be opened and the crumb separated from the water and the vials filled as described in section 8.1.1 of this method. The bomb may be stored up to 8 hours prior to transferring the crumb into vials.

8.2 The sealed headspace vials may be run immediately or may be stored up to 72 hours prior to running. It is possible that even longer storage times may be acceptable, but this must be verified for the particular type of sample being analyzed (see section 9.2.3 of this method). The main concern here is that some types of rubber eventually may flow, thus compacting the crumb so that the surface area is reduced. This may have some effect on the headspace equilibration.

9.0 Quality Control

9.1 The laboratory is required to operate a formal quality control program. This consists of an initial demonstration of the capability of the method as well as ongoing analysis of standards, blanks and spiked samples to demonstrate continued performance.

9.1.1 When the method is first set up a calibration is run (described in section 10 of this method) and an initial demonstration of method capability is performed (described in section 9.2 of this method). Also recovery efficiency for each type of sample must be determined (see section 9.4 of this method).

9.1.2 It is permissible to modify this method in order to improve separations or make other improvements, provided that all performance specifications are met. Each time a modification to the method is made it is necessary to repeat the calibration (section 10 of this method), the demonstration of method performance (section 9.2 of this method) and the recovery efficiency for each type of sample (section 9.4 of this method).

9.1.3 Ongoing performance should be monitored by running a spiked rubber standard. If this test fails to demonstrate that the analysis is in control, then corrective action must be taken. This method is described in section 9.3 of this method.

9.1.4 If new types of samples are being analyzed then recovery efficiency for each new type of sample must be determined. New type includes any change, such as polymer type, physical form or a significant change in the composition of the matrix.

9.2 Initial demonstration of method capability to establish the accuracy and precision of the method. This is to be run following the calibration described in section 10 of this method.

9.2.1 Prepare a series of identical spiked rubber standards as described in section 9.3 of this method. A sufficient number to determine statistical information on the test should be run. Ten may be a suitable number, depending on the quality control methodology used at the laboratory running the tests. These are run in the same manner as unknown samples (see section 11 of this method).

9.2.2 Determine mean and standard deviation for the results. Use these to determine the capability of the method and to calculate suitable control limits for the ongoing performance check which will utilize the same standards.

9.2.3 Prepare several additional spiked rubber standards and run 2 each day to determine the suitability of storage of the samples for 24, 48 and 72 hours or longer if longer storage times are desired.

9.3 A spiked rubber standard should be run on a regular basis to verify system performance. This would probably be done daily if samples are run daily. This is prepared in the same manner as the calibration standards (section 10.1 of this method), except that only one concentration of toluene and styrene is prepared. Choose concentrations of toluene and styrene that fall in the middle of the range expected in the stripper crumb and then do not change these unless there is a major change in the composition of the unknowns. If it becomes necessary to change the composition of this standard the initial performance demonstration must be repeated with the new standard (section 9.2 of this method).

9.3.1 Each day prepare one spiked rubber standard to be run the following day. The dry rubber may be prepared in bulk and stored for any length of time consistent with the shelf life of the product. The addition of water and hydrocarbons must be performed daily and all the steps described under section 10.1 of this method must be followed.

9.3.2 Run the spiked rubber standard prepared the previous day. Record the results and plot on an appropriate control chart or other means of determining statistical control.

9.3.3 If the results for the standard indicate that the test is out of control then corrective action must be taken. This may include a check on procedures, instrument settings, maintenance or recalibration. Samples may be stored (see section 8.2 of this

method) until compliance is demonstrated.

9.4 Recovery efficiency must be determined once for each sample type and whenever modifications are made to the method.

9.4.1 For each sample type collect 12 samples from the process (section 8.1 of this method). This should be done when the process is operating in a normal manner and residual hydrocarbon levels are in the normal range. Half the vials and caps should be tared, labeled ''spiked'' and numbered 1 through 6. The other vials are labeled ''unspiked'' and need not be tared but are also numbered 1 through 6. Immediately on sampling, the vials should be capped to prevent loss of volatiles. Allow all the samples to cool completely to ambient temperature. Reweigh each of the vials labeled ''spiked'' to determine the weight of wet crumb inside.

9.4.2 The dry weight of rubber present in the wet crumb is estimated by multiplying the weight of wet crumb by the fraction of nonvolatiles typical for the sample. If this is not known, an additional quantity of crumb may be sampled, weighed, dried in an oven and reweighed to determine the fraction of volatiles and nonvolatiles prior to starting this procedure.

9.4.3 To the vials labeled ''spiked'' add an amount of a mixture of toluene and styrene that is between 40 and 60 % of the amount expected in the crumb. This is done by removing the cap, adding the mixture by syringe, touching the tip of the needle to the sample in order to remove the drop and then immediately recapping the vials. The mixture is not added through the septum, because a punctured septum may leak and vent vapors as the vial is heated. The weights of toluene and styrene added may be calculated from the volumes of the mixture added, its composition and density, or may be determined by the weight of the vials and caps prior to and after addition. The exact dry weight of rubber present and the concentration of residual toluene and styrene are not known at this time so an exact calculation of the concentration of hydrocarbons is not possible until the test is completed.

9.4.4 Place all the vials onto a shaker or tumbler for 24 ± 2 hours. This is essential in order for the hydrocarbons to be evenly distributed and completely absorbed into the rubber. If this is not followed the toluene and styrene will be mostly at the surface of the rubber and high results will be obtained.

9.4.5 Remove the vials from the shaker and tap them so that all the crumb settles to the bottom of the vials. Allow them to stand for 1 hour prior to analysis to allow any liquid to drain fully to the bottom.

9.4.6 Run the spiked and unspiked samples in the normal manner. Record the concentrations of toluene and styrene reported for each pair of spiked and unspiked samples with the same vial number.

9.4.7 Open each of the vials labeled ''spiked'', remove all the rubber crumb and place it into a tarred drying pan. Place in a 100 deg C oven for two hours, cool and reweigh. Subtract the weight of the tare to give the dry weight of rubber in each spiked vial. Calculate the concentration of toluene and styrene spiked into each vial as percent of dry rubber weight. This will be slightly different for each vial since the weights of dry rubber will be different.

9.4.8 For each hydrocarbon calculate the average recovery efficiency (R) using the following equations:

$R = R__\Sigma (P_n)/6$ (average of the 6 individual R_n values)

Where:

$R_n = (C_{ns} — C_{nu}) / S_n$

Where:

n=vial number

Cns=concentration of compound measured in spiked sample number n.

Cnu=concentration of compound measured in unspiked sample number n.

Sn=theoretical concentration of compound spiked into sample n calculated in step 9.4.7

9.4.9 A different R value should be obtained for each compound (styrene and toluene) and for each sample type.

9.4.10 A value of R between 0.70 and 1.30 is acceptable.

9.4.11 R is used to correct all reported results for each compound by dividing the measured results of each compound by the R for that compound for the same sample type (see section 12.2 of this method.)

10.0 Calibration

10.1 Calibration standards are prepared by dosing known amounts of the hydrocarbons of interest into vials containing known amounts of rubber and water.

10.1.1 Cut a sufficient quantity of dry rubber of the same type as will be analyzed into pieces about the same size as that of the crumb. Place these in a single layer on a piece of aluminum foil or other suitable surface and place into a forced air oven at 100° C for four hours. This is to remove any residual hydrocarbons that may be present. This step may be performed in advance.

10.1.2 Into each of a series of vials add 3.0 g of the dry rubber.

10.1.3 Into each vial add 1.0 ml distilled water or an amount that is close to the amount that will be present in the unknowns. The exact amount of water present does not have much effect on the analysis, but it is necessary to have a saturated environment. The water will also aid in the uniform distribution of the spiked hydrocarbons over the surface of the rubber after the vials are placed on the shaker (in step 10.1.5 of this method).

10.1.4 Into each vial add varying amounts of toluene and styrene by microliter syringe and cap the vials immediately to prevent loss. The tip of the needle should be carefully touched to the rubber in order to transfer the last drop to the rubber. Toluene and styrene may first be mixed together in suitable proportions and added together if desired. The weights of toluene and styrene added may be calculated from the volumes of the mixture added, its composition and density, or may be determined by the weight of the vials and caps prior to and after addition. Concentrations of added hydrocarbons are calculated as percent of the dry rubber weight. At least 5 standards should be prepared with the amounts of hydrocarbons added being calculated to cover the entire range possible in the unknowns. Retain two samples with no added hydrocarbons as blanks.

10.1.5 Place all the vials onto a shaker or tumbler for 24 ± 2 hours. This is essential in order for the hydrocarbons to be evenly distributed and completely absorbed into the rubber. If this is not followed the toluene and styrene will be mostly at the surface of the rubber and high results will be obtained.

10.1.6 Remove the vials from the shaker and tap them so that all the crumb settles to the bottom of the vials. Allow them to stand for 1 hour prior to analysis to allow any liquid to drain fully to the bottom.

10.2 Run the standards and blanks in the same manner as described for unknowns (section 11 of this method), starting with a blank, then in order of increasing hydrocarbon content and ending with the other blank.

10.3 Verify that the blanks are sufficiently free from toluene and styrene or any interfering hydrocarbons.

10.3.1 It is possible that trace levels may be present even in dry product. If levels are high enough that they will interfere with the calibration then the drying procedure in section 10.1.1 of this method should be reviewed and modified as needed to ensure that suitable standards can be prepared.

10.3.2 It is possible that the final blank is contaminated by the previous

standard. If this is the case review and modify the sampler parameters as needed to eliminate this problem. If necessary it is possible to run blank samples between regular samples in order to reduce this problem, though it should not be necessary if the sampler is properly set up.

10.4 Enter the amounts of toluene and styrene added to each of the samples (as calculated in section 10.1.4 of this method) into the calibration table and perform a calibration utilizing the external standard method of analysis.

10.5 At low concentrations the calibration should be close to linear. If a wide range of levels are to be determined it may be desirable to apply a nonlinear calibration to get the best fit.

11.0 Procedure

11.1 Place the vials in the tray of the headspace sampler. Enter the starting and ending positions through the console of the sampler. For unknown samples each is run in duplicate to minimize the effect of variations in crumb composition. If excessive variation is noted it may be desirable to run more than two of each sample.

11.2 Make sure the correct method is loaded on the Chemstation. Turn on the gas flows and light the FID flame.

11.3 Start the sequence on the Chemstation. Press the START button on the headspace unit. The samples will be automatically injected after equilibrating for 30 minutes in the oven. As each sample is completed the Chemstation will calculate and print out the results as percent toluene and styrene in the crumb based on the dry weight of rubber.

12.0 Data Analysis and Calculations

12.1 For each set of duplicate samples calculate the average of the measured concentration of toluene and styrene. If more than two replicates of each sample are run calculate the average over all replicates.

12.2 For each sample correct the measured amounts of toluene and styrene using the following equation:

Corrected Result = C_m/R

Where:

C_m = Average measured concentration for that compound.

R = Recovery efficiency for that compound in the same sample type (see section 9.4 of this method)

12.3 Report the recovery efficiency (R) and the corrected results of toluene and styrene for each sample.

13.0 Method Performance

13.1 This method can be very sensitive and reproducible. The actual performance depends largely on the exact nature of the samples being analyzed. Actual performance must be determined by each laboratory for each sample type.

13.2 The main source of variation is the actual variation in the composition of non homogeneous crumb in a stripping system and the small sample sizes employed here. It therefore is the responsibility of each laboratory to determine the optimum number of replicates of each sample required to obtain accurate results.

14.0 Pollution Prevention

14.1 Samples should be kept sealed when possible in order to prevent evaporation of hydrocarbons.

14.2 When drying of samples is required it should be done in an oven which vents into a suitable device that can trap the hydrocarbons released.

14.3 Dispose of samples as described in section 15.

15.0 Waste Management

15.1 Excess stripper crumb and water as well as the contents of the used sample vials should be properly disposed of in accordance with local and federal regulations.

15.2 Preferably this will be accomplished by having a system of returning unused and spent samples to the process.

16.0 References

16.1 ''HP 7694 Headspace Sampler—Operating and Service Manual'', Hewlett-Packard Company, publication number G1290–90310, June 1993.

METHOD 313B—THE DETERMINATION OF RESIDUAL HYDROCARBON IN SOLUTION POLYMERS BY CAPILLARY GAS CHROMATOGRAPHY

1.0 Scope

1.1 This method is applicable to solution polymerized polybutadiene (PBD).

1.2 This method quantitatively determines n-hexane in wet crumb polymer at levels from 0.08 to 0.15% by weight.

1.3 This method may be extended to the determination of other hydrocarbons in solution produced polymers with proper experimentation and documentation.

2.0 Principle of Method

2.1 A weighed sample of polymer is dissolved in chloroform and the cement is coagulated with an isopropyl alcohol solution containing a specific amount of alpha-methyl styrene (AMS) as the internal standard. The extract of this coagulation is then injected into a gas chromatograph and separated into individual components. Quantification is achieved by the method of internal standardization.

3.0 Definitions

3.1 The definitions are included in the text as needed.

4.0 Interferences

(Reserved)

5.0 Safety

5.1 This method may involve hazardous materials, operations, and equipment. This method does not purport to address all of the safety problems associated with its use. It is the responsibility of the user of this method to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.

6.0 Equipment and Supplies

6.1 Analytical balance, 160 g capacity, 0.1 mg resolution

6.2 Bottles, 2-oz capacity with poly-cap screw lids

6.3 Mechanical shaker

6.4 Syringe, 10–ul capacity

6.5 Syringe, 2.5–ml capacity, with 22 gauge 1.25 inch needle, PP/PE material, disposable

6.6 Gas chromatograph, Hewlett-Packard model 5890, or equivalent, configured with FID, split injector packed with silanized glass wool.

6.6.1 Establish the following gas chromatographic conditions, and allow the system to thoroughly equilibrate before use.

6.6.2 Injector parameters:
Injection technique=Split
Injector split flow=86 ml/min
Injector temperature=225 deg C

6.6.3 Oven temperature program:
Initial temperature=40 deg C
Initial time=6 min
Program rate=10 deg C/min
Upper limit temperature=175 deg C
Upper limit interval=10 min

6.6.4 Detector parameters:
Detector temperature=300 deg C
Hydrogen flow=30 ml/min
Air flow=350 ml/min
Nitrogen make up=26 ml/min

6.7 Gas chromatographic columns: SE–54 (5%-phenyl) (1%-vinyl)-methylpolysiloxane, 15 M×0.53 mm ID with a 1.2 micron film thickness, and a Carbowax 20M (polyethylene glycol), 15 M×0.53 mm ID with a 1.2 micron film thickness.

6.7.1 Column assembly: using a 0.53 mm ID butt connector union, join the 15 M×0.53 mm SE–54 column

to the 15 M×0.53 mm Carbowax 20M. The SE–54 column will be inserted into the injector and the Carbowax 20M inserted into the detector after they have been joined.

6.7.2 Column parameters:
Helium flow=2.8 ml/min
Helium headpressure=2 psig

6.8 Centrifuge

6.9 Data collection system, Hewlett-Packard Model 3396, or equivalent

6.10 Pipet, 25–ml capacity, automatic dispensing, and 2 liter reservoir

6.11 Pipet, 2–ml capacity, volumetric delivery, class A

6.12 Flasks, 100 and 1000-ml capacity, volumetric, class A

6.13 Vial, serum, 50-ml capacity, red rubber septa and crimp ring seals

6.14 Sample collection basket fabricated out of wire mesh to allow for drainage

7.0 Chemicals and Reagents

CHEMICALS:

7.1 alpha-Methyl Styrene, C9H10, 99+% purity, CAS 98–83–9

7.2 n-Hexane, C6H14, 99+% purity, CAS 110–54–3

7.3 Isopropyl alcohol, C3H8O 99.5+% purity, reagent grade, CAS 67–63–0

7.4 Chloroform, CHCl3, 99% min., CAS 67–66–3

REAGENTS:

7.5 Internal Standard Stock Solution: 10 mg/25 ml AMS in isopropyl alcohol.

7.5.1 Into a 25-ml beaker, weigh 0.4 g of AMS to the nearest 0.1 mg.

7.5.2 Quantitatively transfer this AMS into a 1-L volumetric flask. Dilute to the mark with isopropyl alcohol.

7.5.3 Transfer this solution to the automatic dispensing pipet reservoir. This will be labeled the AMS STOCK SOLUTION.

7.6 n-Hexane Stock Solution: 13mg/2ml hexane in isopropyl alcohol.

7.6.1 Into a 100-ml volumetric flask, weigh 0.65 g of n-hexane to the nearest 0.1 mg.

7.6.2 Dilute to the mark with isopropyl alcohol. This solution will be labeled the n-HEXANE STOCK SOLUTION.

8.0 Sample Collection, Preservation and Storage

8.1 A sampling device similar to Figure 1 is used to collect a non-vented crumb rubber sample at a location that is after the stripping operation but before the sample is exposed to the atmosphere.

8.2 The crumb rubber is allowed to cool before opening the sampling device and removing the sample.

8.3 The sampling device is opened and the crumb rubber sample is collected in the sampling basket.

8.4 One pound of crumb rubber sample is placed into a polyethylene bag. The bag is labeled with the time, date and sample location.

8.5 The sample should be delivered to the laboratory for testing within one hour of sampling.

8.6 Laboratory testing will be done within 3 hours of the sampling time.

8.7 No special storage conditions are required unless the storage time exceeds 3 hours in which case refrigeration of the samples is recommended.

9.0 Quality Control

9.1 For each sample type, 12 samples shall be obtained from the process for the recovery study. Half of the vials and caps shall be tared, labeled ''spiked'', and numbered 1 through 6. The other vials shall be labeled ''unspiked'' and need not be tared, but are also numbered 1 through 6.

9.2 Determine the % moisture content of the crumb sample. After determining the % moisture content, the correction factor for calculating the dry crumb weight can be determined by using the equation in section 12.2 of this method.

9.3 Run the spiked and unspiked samples in the normal manner. Record the concentrations of the n-hexane content of the mixed hexane reported for each pair of spiked and unspiked samples.

9.4 For the recovery study, each sample of crumb shall be dissolved in chloroform containing a known amount of mixed hexane solvent.

9.5 For each hydrocarbon, calculate the recovery efficiency (R) using the following equations:

$M_r = M_s - M_u$

$R = M_r / S$

Where:

M_u=Measured amount of compound in the unspiked sample

M_s=Measured amount of compound in the spiked sample

M_r=Measured amount of the spiked compound

S=Amount of compound added to the spiked sample

R=Fraction of spiked compound recovered

9.6 Normally a value of R between 0.70 and 1.30 is acceptable.

9.7 R is used to correct all reported results for each compound by dividing the measured results of each compound by the R for that compound for the same sample type.

10.0 Calibration

10.1 Using the AMS STOCK SOLUTION equipped with the automatic dispensing pipet (7.5.3 of this method), transfer 25.0 ml of the internal standard solution into an uncapped 50-ml serum vial.

10.2 Using a 2.0 ml volumetric pipet, quantitatively transfer 2.0 ml of the n-HEXANE STOCK SOLUTION (7.6.2 of this method) into the 50-ml serum vial and cap. This solution will be labeled the CALIBRATION SOLUTION.

10.3 Using the conditions prescribed (6.6 of this method), inject 1 µl of the supernate.

10.4 Obtain the peak areas and calculate the response factor as described in the calculations section (12.1 of this method).

11.0 Procedure

11.1 Determination of Dry Polymer Weight

11.1.1 Remove wet crumb from the polyethylene bag and place on paper towels to absorb excess surface moisture.

11.1.2 Cut small slices or cubes from the center of the crumb sample to improve sample uniformity and further eliminate surface moisture.

11.1.3 A suitable gravimetric measurement should be made on a sample of this wet crumb to determine the correction factor needed to calculate the dry polymer weight.

11.2 Determination of n-Hexane in Wet Crumb

11.2.1 Remove wet crumb from the polyethylene bag and place on paper towels to absorb excess surface moisture.

11.2.2 Cut small slices or cubes from the center of the crumb sample to improve sample uniformity and further eliminate surface moisture.

11.2.3 Into a tared 2 oz bottle, weigh 1.5 g of wet polymer to the nearest 0.1 mg.

11.2.4 Add 25 ml of chloroform to the 2 oz bottle and cap.

11.2.5 Using a mechanical shaker, shake the bottle until the polymer dissolves.

11.2.6 Using the autodispensing pipet, add 25.0 ml of the AMS STOCK SOLUTION (7.5.3 of this method) to the dissolved polymer solution and cap.

11.2.7 Using a mechanical shaker, shake the bottle for 10 minutes to

coagulate the dissolved polymer.

11.2.8 Centrifuge the sample for 3 minutes at 2000 rpm.

11.2.9 Using the conditions prescribed (6.6 of this method), chromatograph 1 µl of the supernate.

11.2.10 Obtain the peak areas and calculate the concentration of the component of interest as described in the calculations (12.2 of this method).

12.0 Calculations

12.1 Calibration:

$RF_x=(W_x \times A_{is}) / (W_{is} \times A_x)$

Where:

RF_x=the relative response factor for n-hexane

W_x=the weight (g) of n-hexane in the CALIBRATION SOLUTION

A_{is}=the area of AMS

W_{is}=the weight (g) of AMS in the CALIBRATION SOLUTION

A_x=the area of n-hexane

12.2 Procedure:

12.2.1 Correction Factor for calculating dry crumb weight.

F=1—(% moisture / 100)

Where:

F=Correction factor for calculating dry crumb weight

% moisture determined by appropriate method

12.2.2 Moisture adjustment for chromatographic determination.

$W_s=F \times W_c$

Where:

W_s=the weight (g) of the dry polymer corrected for moisture

F=Correction factor for calculating dry crumb weight

W_c=the weight (g) of the wet crumb in section 9.6

12.2.3 Concentration (ppm) of hexane in the wet crumb.

$ppm_x=(A_x * RF_x * W_{is} * 10000) / (A_{is} * W_s)$

Where:

ppm_x=parts per million of n-hexane in the polymer

A_x=the area of n-hexane

RF_x=the relative response factor for n-hexane

W_{is}=the weight (g) of AMS in the sample solution

A_{is}=the area of AMS

W_s=the weight (g) of the dry polymer corrected for moisture

13.0 Method Performance

13.1 Precision for the method was determined at the 0.08% level.

The standard deviation was 0.01 and the percent relative standard deviation (RSD) was 16.3 % with five degrees of freedom.

14.0 Waste Generation

14.1 Waste generation should be minimized where possible.

15.0 Waste Management

15.1 Discard liquid chemical waste into the chemical waste drum.

15.2 Discard polymer waste into the polymer waste container.

16.0 References

16.1 This method is based on Goodyear Chemical Division Test Method E–964.

[FR Doc. 97–6506 Filed 3–14–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 79

[FRL–5707–7]

Registration of Fuels and Fuel Additives: Changes in Requirements, and Applicability to Blenders of Deposit Control Gasoline Additives

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action finalizes several specific changes to existing regulations which require the registration and testing of designated motor vehicle fuels and fuel additives (F/FAs) by their manufacturers. Included are changes to the regulatory definitions of ''fuel manufacturer,'' ''additive,'' and ''small business,'' as well as modifications to grouping rules for biodiesel and synthetic fuels. These changes will streamline F/FA registration and testing burdens and reduce the number of respondents, while maintaining the informational value of the program and its contributions to the public health and environmental goals of the Clean Air Act.

Another previously proposed change, to establish a *de minimis* provision for F/FAs containing certain ''atypical'' elements, is not addressed in this action. However, in a direct final rule also published elsewhere in this issue of the Federal Register, certain deadlines related to testing of atypical F/FAs are extended while EPA determines the most appropriate disposition of the *de minimis* proposal.

EFFECTIVE DATE: This action will be effective on May 16, 1997.

ADDRESSES: Documents related to this final rule have been placed in Public Docket No. A–90–07 located at the U.S. EPA, Air Docket Section, Room M–1500, 401 M Street S.W., Washington, DC 20460. The docket is open for public inspection from 8:00 a.m. until 5:30 p.m., Monday through Friday, except on Federal holidays. A reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Jim Caldwell (202–233–9303) or Joseph Fernandes (202–233–9016), U.S. EPA, Office of Mobile Sources, Fuels and Energy Division, Mail Code 6406J, 401 M Street SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Electronic copies of this rule and earlier rulemaking documents related to the F/FA Registration Program are available free of charge on EPA's Technology Transfer Network Bulletin Board System (TTNBBS, phone access 919–541–5742) and on the Internet (http://www.epa.gov/omswww). Parties requiring assistance may call Mr. Fernandes at (202) 233–9016.

I. Regulated Entities

Regulated categories and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry	Manufacturers of gasoline and diesel fuel. Manufacturers of additives for gasoline and diesel fuel.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine this preamble and the changes to the regulatory text. You should also carefully examine all provisions of the registration program at 40 CFR part 79.

II. Introduction

A. Background

The F/FA registration program is authorized by section 211 of the Clean Air Act (CAA) and codified in 40 CFR part 79. In accordance with CAA sections 211(a) and (b)(1), basic registration requirements applicable to gasoline and diesel fuels and their additives were issued in 1975. These regulations require manufacturers to submit information on their F/FA products, such as the commercial identity, chemical composition, purpose-in-use, and range of concentration, in order to have such products registered by the EPA.

Additional registration requirements, implementing sections 211(b)(2) and (e), were proposed in April 1992 and

February 1994 (57 FR 13168 and 59 FR 8886, respectively) and were finalized on June 27, 1994 (59 FR 33042). The additional regulations require manufacturers, as part of their F/FA registration responsibilities, to conduct tests and submit information on the health effects of their F/FA products. These requirements are organized within three tiers. Tier 1 requires analysis of the combustion and evaporative emissions of F/FAs and a survey of existing scientific information on the public health and welfare effects of these emissions. To the extent that adequate test data are not already available (as defined in the regulations), Tier 2 requires manufacturers to conduct specified toxicology tests to screen for potential adverse health effects of the F/FA emissions. Additional testing may be required under Tier 3 at EPA's discretion.

The rule also includes several provisions to reduce the information collection and testing burdens. Among these provisions is a voluntary grouping and cost sharing program which allows manufacturers of similar F/FAs to pool their resources and efforts in complying with the requirements. Special provisions for small manufacturers are also included.

On July 11, 1996, EPA published a Notice of Proposed Rulemaking (NPRM, 61 FR 36535), proposing several specific changes to the F/FA registration regulations.[1] The proposed modifications were designed to reduce the number of respondents and streamline the requirements of the program. For example, EPA proposed to change the definition of a fuel manufacturer so that the addition of a small volume of an additive to fuel would not by itself cause a party to be considered a fuel manufacturer. EPA also proposed to change the definition of an additive to exclude substances composed solely of carbon and/or hydrogen. Together, these two proposals were expected to relieve hundreds of businesses from existing regulatory responsibilities to register and test F/FAs. Other proposals potentially affected small businesses, biodiesel and synthetic fuel manufacturers, and manufacturers of atypical F/FAs (i.e., those containing elements other than carbon, hydrogen, oxygen, nitrogen, and sulfur). In response to the NPRM, EPA received 43 written comments, which are available in the docket for public review.

B. Today's Actions

This final rule promulgates most of the revisions proposed in the NPRM of July 11, 1996. The specific regulatory revisions are discussed in Sections III through VII of this preamble, including analyses of the public comments related to each issue.

One of the provisions which EPA proposed in the NPRM was a *de minimis* provision, which would delete standard Tier 2 requirements for certain atypical F/FAs when the atypical elements are present at very low concentrations. Additives qualifying for this *de minimis* provision were proposed to be those containing no atypical elements other than aluminum, boron, calcium, sodium, zinc, magnesium, phosphorus, potassium, and/or iron, where the total of these elements would not exceed 25 parts per million when the additive is mixed in fuel at the maximum recommended concentration.

The proposed *de minimis* provision is not finalized in today's action, but is still under consideration. EPA received significant public comment about all aspects of the proposal, and has not yet fully analyzed the suggestions therein. Nevertheless, EPA is aware that this delay in resolving the *de minimis* issue might result in significant uncertainty for manufacturers of atypical additives, who do not know whether EPA will finalize the proposed exemption or what the scope of the final exemption might be, but who nonetheless face regulatory deadlines in the near future. In particular, all F/FA manufacturers (except some small businesses and others qualifying for specific exemptions or alternative deadlines) are required by May 27, 1997 to either (1) submit the results of completed Tier 2 testing to EPA, or (2) demonstrate the existence of suitable arrangements for Tier 2 test completion by May 27, 2000. However, if EPA does adopt a *de minimis* provision in a future rulemaking action, some atypical manufacturers would not be subject to these Tier 2 requirements.

To permit EPA to consider all issues raised in response to the proposed provision, without any unnecessary adverse impact on the manufacturers, EPA is publishing elsewhere in this issue of the Federal Register a direct final rule, extending each of the two deadlines related to Tier 2 testing by 18 months, for all atypical F/FAs.[2] Thus, during the time needed by EPA to complete its determination of the most appropriate disposition of the *de minimis* proposal, potentially-affected manufacturers will be relieved of compliance deadlines which might no longer apply to them. EPA estimates that the 18-month extension will be adequate for the Agency to complete its analysis and publish a final rule (or other notification as appropriate), while still leaving sufficient time for manufacturers of atypical F/FAs to comply with any applicable requirements to secure contractual arrangements for timely completion of Tier 2 testing.

III. Fuel Manufacturer and Additive Definitions

A. Background

In the NPRM of July 11, 1996, EPA proposed several changes affecting the definition of a fuel additive and the definition of a fuel manufacturer. These changes were intended to ease regulatory burdens by reducing the number of entities subject to F/FA registration responsibilities and by streamlining certain registration requirements.

First, EPA proposed to revise the definition of an additive (at § 79.2(e)) to exclude substances composed solely of carbon and/or hydrogen. The proposed change would reinstate the definition that was in effect prior to the final rule of May 27, 1994, and would provide regulatory relief to perhaps hundreds of companies considered to be ''fuel manufacturers'' only because they add common hydrocarbon stocks to finished fuels.

Similarly, EPA proposed to revise the definition of a fuel manufacturer (at 79.2(d)) to exclude those parties whose ''manufacturing'' activity consists only of adding small amounts of detergent and/or other performance additives to fuel. Specifically, EPA proposed that parties which merely add additives in amounts accounting for less than 1 percent by volume of the resulting additive/fuel mixture would not be considered fuel manufacturers by virture of this activity. In such cases, the registration and testing requirements for the additives themselves are already being met by the responsible additive manufacturers. Thus, including as fuel manufacturers those entities whose only relevant activity is the blending of such additives into fuel has the effect of

[1] In addition to the NPRM, a direct final rule, ''Registration of Fuels and Fuel additives: Minor Changes to the Testing Requirements for Registration,'' appeared in the same issue of the Federal Register (61 FR 36506, July 11, 1996). Another technical change was promulgated in a subsequent direct final rule, ''Registration of Fuels and Fuel Additives: Minor Revisions'' (61 FR 58744, November 18, 1996).

[2] Deadlines for requirements not proposed to be affected by the *de minimis* provision (i.e., Tier 1 and potential Alternative Tier 2 and/or Tier 3 requirements) are not affected by these extensions.

increasing the number of F/FA registration respondents while yielding little incremental information to EPA.

The proposed ''one-percent solution'' described above would not change the registration responsibilities of parties who add oxygenates in amounts sufficient to produce mixtures categorized as non-baseline.[3] EPA judged that it is generally appropriate for manufacturers of oxygenated fuels to share (along with oxygenate manufacturers) the responsibility for registering and testing these mixtures. The blending of oxygenates in relatively large volumes can cause substantive changes in the basic properties, emission composition, and toxic potential of the fuel. Furthermore, in the case of most oxygenates, the blending is accomplished ''upstream'' by fuel refiners and importers. Thus, other manufacturing activities besides the addition of oxygenate generally define these blenders as fuel manufacturers and make them responsible for F/FA registration and testing requirements.

However, certain physical properties prevent transport of ethanol-containing fuel through the pipeline distribution system, so that ethanol must be added to fuel downstream rather than at the refinery. In addition to refiners and importers, therefore, many ethanol blenders are terminal operators and truckers who are considered ''fuel manufacturers'' only because of their oxygenate-blending activity. Some of these entities qualify for the small business exemption at 79.58(d)(2), which exempts them from Tier 1 and Tier 2 testing responsibilities. As fuel manufacturers, however, they must still comply with the reporting requirements of the F/FA registration program. As pointed out in the NPRM, these requirements may constitute a significant paperwork burden for such respondents, while adding little information to EPA in regard to oxygenated fuels beyond that which is available through other program reporting mechanisms.

Recognizing the unique market structure for ethanol blending activities, EPA proposed to revise the fuel manufacturer definition to exclude oxygenate blenders who meet the regulatory definition of a small business. For convenient reference, it was also proposed that the definition of ''oxygenate compound'' at 40 CFR 79.50 also be incorporated at 40 CFR 79.2(k).

B. Summary of Comments and Final Actions

Comments about the proposed definition changes were overwhelmingly supportive and, with some modification, EPA is finalizing them in today's action. The modifications are discussed below.

Several commenters said that the proposed new definition of a fuel manufacturer could be misinterpreted as excluding or changing the requirements of fuel refiners and importers, in addition to entities whose fuel ''manufacturing'' activity is limited to the blending of additives or oxygenates into fuel. EPA did not intend the proposed changes to affect any of the existing registration and testing responsibilities of refiners and importers for any of the fuel formulations they produce or blend. Accordingly, the regulatory language for the revised definitions has been modified to eliminate the potential ambiguity.

Some commenters said that all oxygenate blenders other than refiners and importers should be excluded from the definition of a fuel manufacturer, not just those oxygenate blenders which are small businesses (docket items VII–D–06, VII–D–12, VII–D–14). They stated that this broad exemption would level the playing field among blenders without impeding the development of health effects data, since oxygenate manufacturers and major fuel refiners and importers would retain this responsibility.

EPA has carefully considered the commenters' arguments in relation to other provisions of the F/FA registration and testing program. The program is structured around the concept that business entities which profit from the sale of a F/FA product should generally share responsibility for its potential effects on the public health and welfare. Such businesses have thus been required to share in the burdens associated with determining these potential effects. However, this general principle is tempered by various provisions which recognize that other factors, such as characteristics of the F/FA marketplace and distribution system, must also be taken into account when assigning the regulatory burdens. For example, the special provision for relabeled additives (§ 79.58(a)) provides an exemption based on the position of a business entity in the product marketing and distribution chain. The special provisions for small businesses (§ 79.58(d)) also grant exemptions based upon financial and marketplace factors. Moreover, provisions finalized in today's action permit this exemption to ''pass through'' to customers of small businesses, regardless of the size of the customers, to prevent disruption of marketplace relationships (see section IV.B, below).

EPA's proposal to exclude as fuel manufacturers those oxygenate blenders who meet small business criteria would certainly provide additional regulatory relief to this financial segment of the industry. However, as pointed out by the commenters, the proposed change would not fully resolve the underlying problem it was intended to address: The regulation's unequal impact on different segments of the oxygenate marketplace.

EPA identified this in the NPRM as the basic problem which was proposed to be addressed through regulatory revision. Specifically, in the background discussion provided in the NPRM, EPA described the oxygenate marketplace characteristics which created the need for the proposed change as follows: ''In the case of oxygenates other than ethanol, the oxygenate is generally added to gasoline at the fuel refinery, before the gasoline is distributed through the pipeline. These 'upstream' blenders tend to be relatively limited in number, and often are large fuel manufacturing businesses. Ethanol, on the other hand, is generally prohibited from transport through the pipeline * * *, and must be added to the fuel downstream. Thus, rather than being blended by relatively few fuel refiners, ethanol is added to fuel by large numbers of terminal operators, fuel halers, and some fuel retailers * * *'' (61 FR 36537).

EPA thus recognized in the NPRM that, among the various fuel oxygenates, only ethanol blending involved numerous entities other than importers and refiners. Logically, the inclusion of oxygenate blenders as fuel manufacturers when they are not otherwise fuel importers or refiners has a potentially greater disruptive impact on the ethanol marketplace than on the market for other oxygenates. To alleviate some of this imbalance, EPA proposed in the NPRM to exempt small oxygenate blenders from the fuel manufacturer definition, noting that many of the entities involved in ethanol blending already qualify for small business exemptions and thus have requirements limited only to paperwork submittal. However, upon reconsideration, EPA agrees with the commenters that a more equitable outcome can be attained by exempting all entities whose only ''manufacturing'' activity is the blending of oxygenate. This would restrict the

[3] As specified in § 79.56(e)(3), non-baseline F/FAs contain (among other criteria) no elements in addition to carbon, hydrogen, oxygen, nitrogen, and sulfur, and, in the case of gasoline F/FAs, contain 1.5 percent or more oxygen by weight, and, in the case of diesel F/FAs, contain 1.0 percent or more oxygen by weight.

regulatory responsibility for registration and testing of ethanol and ethanol blends to the same types of business entities that are subject to these requirements with respect to other oxygenates and oxygenate blends, i.e., oxygenate manufacturers, fuel refiners, and importers.

Thus, for the reasons discussed above, this final rule revises the definition of a fuel manufacturer to specifically exclude oxygenate blenders, regardless of their size, if they are not also fuel refiners or importers.

IV. Small Business Provisions

A. Tax-Based Revenue

Under § 79.58(d), qualification for the F/FA program's small business provisions is based in part on a manufacturer's total annual sales revenue: a $50 million limit for manufacturers of baseline and non-baseline F/FAs, and a $10 million limit for manufacturers of atypical F/FAs. After these criteria were promulgated, communications from trade organizations (docket item VI–D–05) suggested that the total sales limits should be revised to take tax effects into account. These organizations pointed out that sales and excise taxes accumulate as the fuel passes along the refining-distribution-marketing chain, but are generally not included in the price paid for the fuel (nor in the gross sales revenue of the seller) until the fuel is marketed at the retail level. The accumulated sales and excise taxes may represent a considerable portion of a small retailer's fuel-related sales revenues. Thus, the commenters said, small marketers would be disadvantaged in comparison with small refiners and other upstream businesses unless these tax effects were reflected in the small business definition.

EPA found these arguments persuasive, and proposed to change § 79.58(d) to allow revenue representing the collection of taxes to be excluded from a manufacturer's total annual sales for the purpose of qualifying as a small business. EPA also proposed to revise § 79.59(b)(5)(ii) to require the submittal, at EPA's request, of documentation showing the validity of sales amounts excluded as taxes. All comments received about these proposals (docket items VII–D–02, VII–D–06, and VII–D–21) were supportive, and the proposed regulatory changes are finalized in today's final rule.

B. Extension of Applicability of Tier 2 Exemption

Under the existing regulations, it is possible for the manufacturer of an additive to be exempt from Tier 2 testing requirements under the special provisions for small businesses, while larger fuel manufacturers who buy and blend this additive into fuel do not qualify for the exemption and must still test the additive/fuel mixture. As described in the NPRM, this combination of circumstances has led to awkward and unintended outcomes. EPA thus proposed to revise § 79.58(d) to exempt fuel manufacturers from Tier 2 requirements arising from the use of an additive which is itself exempt from Tier 2 under the small business provisions.

The one comment received on this issue (docket item VII–D–27) was supportive. However, the commenter suggested that the ''pass through'' of the Tier 2 exemption should apply not only to parties who blend an exempted additive into fuel, but also to other additive manufacturers who buy and blend the exempted additive with other additives and then bring the resulting multifunctional additive to the marketplace. The commenter was concerned that non-exempt customers who are secondary additive manufacturers, just like those who are fuel manufacturers, might stop purchasing the additive in lieu of having to conduct their own Tier 2 testing.

EPA agrees that this situation falls within the intent of the proposal. That is, passing the Tier 2 exemption through to secondary additive manufacturers as well as fuel manufacturers will help preserve the business base of small additive manufacturers by shielding their customers from Tier 2 requirements. The new regulatory language at § 79.58(d)(6) extends the applicability of the small business exemption accordingly. However, the ''pass through'' of the Tier 2 exemption to secondary additive manufacturers only applies if the secondary manufacturer blends the exempted additive with one or more other registered additives and/or substances containing only carbon and/or hydrogen. This approach is consistent with the conditions qualifying for exemption from periodic additive reporting requirements, under § 79.5(b).

C. Small Business Definition Basis

While supportive of the tax-related changes discussed above, one commenter also said that the small business definition should be further changed, such that only fuel-related revenue would be included in determining whether a business is considered ''small'' for the purpose of this program (docket item VII–D–02). The revenue amounts specified in the small business definition adopted in May 1994 were selected to strike a reasonable balance between EPA's scientific (and statutorily-mandated) need for information and the financial ability of responsible business entities to provide that information. Thus, the revenue cut-off points were selected on the basis of the total sales revenue of the ultimate parent companies of registered F/FA manufacturers. EPA did not propose to change this basic aspect of the small business definition, and is not addressing this issue in this rulemaking.

V. Biodiesel Provisions

A. Background

Biodiesel fuels and most blends of bio-and conventional diesel fuel contain more than 1.0 weight percent oxygen and thus, according to § 79.56(e)(3)(ii)(B), fall into the non-baseline diesel category. Under § 79.56(e)(4)(ii)(B)(*2*), as adopted in May 1994, biodiesel fuels derived from vegetable oil (''mixed alkyl esters of plant origin'') are grouped separately from biodiesel fuels derived from animal fat (''mixed alkyl esters of animal origin''). For each group, the representative to be used in health effects testing is required to be that member product with the highest maximum recommended concentration reported in its registration data. During testing, the selected product is to be used at this maximum concentration.

In the rule promulgated in May, 1994, EPA established the two separate biodiesel groups because of concern that the composition of animal-derived and vegetable-derived fuels might differ considerably, and thus might demonstrate different toxicological properties. Both vegetable oil and animal fat are composed of triglycerides, and the process used to convert the triglycerides to fuel (i.e., an esterification process in which an alcohol is reacted with fat or oil) is the same for both. As discussed in the preamble to the May 1994 rule, EPA understood that up to 3.0 percent of the resulting chemical mixture may be composed of non-esterified reactants, other reaction products, and possible contaminants, and EPA was concerned that these components could vary significantly between the different feedstocks.

In subsequent communications with EPA (see docket item VI–E–01), representatives of the industry asserted that biodiesel produced from different lipid sources are substantially the same. As a result of its evaluation of these arguments, EPA proposed to revise the

grouping rules in § 79.56(e)(4)(ii)(B)(*2*) to permit animal-and vegetable-derived biodiesels to be grouped together. EPA requested comment on this proposed change, as well as data comparing the composition and emissions of biodiesel fuels derived from different feedstocks.

In the NPRM, EPA also requested comment on a possible change to the rule governing the biodiesel blend selected to serve as the group representative, such that a particular percent blend would be specified (e.g., 100 percent or 20 percent) rather than requiring the highest concentration registered for a biodiesel product to be used. Comments were also requested on the practicality of different blend options with respect to their compatibility with test vehicles or engines.

B. Summary of Comments

Comments submitted by the National Biodiesel Board (NBB) and the Fats and Proteins Research Foundation, Inc. (FPRF) supported the proposal to permit biodiesel F/FAs derived from animal fats, vegetable fats, used/recycled vegetable oils, fats and greases to be consolidated into one group (Docket items VII–D–17 and VII–D–19). NBB and FPRF commented that biodiesel F/FAs from these various sources have similar composition. They stated that the primary difference is a shift in the composition of saturated fatty esters, e.g., soybean oil is typically 12–15 percent saturated while tallow is typically 50 percent saturated. NBB stated that this difference appears to have little effect on biodiesel emission characteristics, and submitted a recent study demonstrating that these fuels respond in a similar manner when burned in a diesel engine.[4] The FPRF commented that it would be inconsistent with the treatment of petroleum-based fuels and economically detrimental to biodiesel manufacturers to require duplicate testing for different biofuels.

In regard to EPA's concerns about the non-esterified portion of biodiesel, NBB noted that the American Society for Testing and Materials (ASTM) Biodiesel Task force (within Committee D2, Section E2 on diesel fuels) has been working actively to develop and promulgate a standard for biodiesel. According to NBB, the ASTM standard will minimize any source-related differences which might exist in the non-ester fraction. The standard is expected to set a minimum conversion of the starting fats and oils to 97.9% ester product, based on the free and total glycerine specification. NBB said that the remaining 2.1% of non-ester materials is nearly all composed of partially reacted lipids, primarily monoglycerides and diglycerides. Under the ASTM standard, trace byproducts would be limited in composition and amount by ash, flashpoint, free glycerine, acid value, carbon residue, and sediment specifications. The NBB suggested that, once the ASTM standard for biodiesel is finalized, the Agency should incorporate it into the specifications for the biodiesel group representative.

In response to EPA's request for comment about the most appropriate biodiesel blend for use in health effects testing, one commenter (docket item VII–D–28) felt that testing should be done on a formulation which reflects the levels at which biodiesel would actually be expected to be blended, i.e., 20 percent or less. On the other hand, the NBB supported the choice of 100 percent biodiesel as the group representative. NBB said that valid approximations of the potential health effects of biodiesel blends may be determined from utilizing data resulting from the testing of base diesel fuel and 100 percent biodiesel, extrapolating the data based on scientific observations of the linear trends of emissions. NBB stated that the use of 100 percent biodiesel in health effects testing need not be precluded by concerns about engine compatibility, so long as recognized problems (i.e., accelerated deterioration of fuel hoses and fuel pump seals) are addressed in the testing protocol. However, NBB also noted that the potential market applications for biodiesel range from less than 5 percent for low blend/premium diesel to 100 percent applications in marine and underground mining markets. Vehicles subject to urban bus and/or clean fuel fleet regulatory programs are likely to operate on 20 percent blends due to operating performance features such as increased lubricity and economic competitiveness vis-a-vis other alternative fuels. Off-road markets such as underground mining and marine will likely use blends approaching 100 percent in order to comply with environmental and safety regulations.

C. Analysis and Conclusions

While the available data are not comprehensive, EPA agrees with industry commenters that plant- and animal-derived biodiesel fuels appear to have generally similar chemical composition. It is EPA's understanding that, whether the feedstock is plant or animal, the nonesterified fraction of biofuel is mostly composed of partially reacted lipids of different chain lengths, primarily monoglycerides and diglycerides. EPA is encouraged to learn that ASTM is developing compositional standards designed to ensure biodiesel quality. For the reasons discussed in the previous section, the ASTM standards, when finalized, should serve to further limit both the amount and chemical variability of non-ester components and any other differences that may exist between biodiesel fuels derived from plant and animal feedstocks. Thus, the Agency's earlier concern about the possible variation in non-ester components depending on plant or animal lipid source is largely allayed.

For these reasons, grouping of biodiesel F/FAs based upon their plant vs. animal feedstock origin does not appear to be warranted at this time. Accordingly, as proposed, the Agency is today revising the grouping rule for biodiesel F/FAs to permit plant and animal biodiesel F/FAs to group together and be represented by one group representative for compliance with Tier 1 and Tier 2 testing requirements.

Nevertheless, EPA wishes to emphasize that the data currently available do not demonstrate equivalent composition and emission characteristics across all biodiesel formulations. In fact, significant variations may exist even within the same feedstock. For example, soybeans grown under different climatological conditions may have different chemical compositions and, therefore, could have different emission profiles. The potential use of waste cooking oils and recycled grease as biodiesel feedstocks may also present cause for concern. In addition to lipid source, the identity of the alcohol used in the biodiesel production process may also have significant effects on both regulated and unregulated emissions. Furthermore, if the proposed ASTM standards for biodiesel fuels are not finalized, or if the final standards do not provide the expected level of biodiesel quality control, then additional variability concerns are likely to arise.

It is important to recall, therefore, that Tiers 1 and 2 are largely intended to provide screening-level information. Under the Tier 3 testing authority specified in 79.54, EPA may require not only follow-up testing on the group representative which underwent Tier 1 and Tier 2 testing, but also may require testing of one or more other members of a group. Thus, even though this final rule will allow all biodiesel F/FAs to

[4] Van Gerpen, J. *Comparison of the Engine Performance and Emission Characteristics of Vegetable Oil-Based and Animal Fat-Based BIodiesel.* Iowa State University, August 1996. (Docket item VII–D–19).

group together and be represented in Tier 1 and Tier 2 testing by one test substance, EPA is not precluded from requiring any other vegetable-derived, animal-derived, or other biodiesel F/FAs to undergo separate testing in the future under the Tier 3 authority.

In regard to selecting the biodiesel group representative, EPA has decided that 100 percent biofuel is most appropriate for the screening purposes of Tiers 1 and 2. EPA has received industry assurances, both in written comments (docket item VII–D–19) and in follow-up communications,[5] that the use of 100 percent biofuel does not require significant engine modifications. Furthermore, while 20 percent biodiesel formulations are expected to predominate in the commercial marketplace during the short term, both lower and higher percent blends may see greater market penetration in the future. For example, the state of Iowa has announced plans for a one-year trial of five percent biodiesel fuel in its vehicle fleet.[6] At the other extreme, some biodiesel manufacturers have registered blends of up to 50 percent, and 100 percent biofuels are anticipated for certain nonroad applications.

In view of the diversity of biodiesel fuel blend percentages and the uncertainty about future usage patterns, EPA believes that Tier 1 and Tier 2 testing on 100 percent biofuel will provide the most useful and widely applicable screening information. These tests will furnish a detailed profile of the emissions produced during the combustion of biofuel itself as well as screening information on the potential toxicity of these emissions. Such data can be expected to help inform EPA's initial evaluation, not only of 100 percent biofuel, but also of various percentage biodiesel fuels. It must be noted, however, that EPA does not accept the biodiesel industry's suggestion that such data can just be extrapolated to give valid approximations of the effects of various biodiesel blends. This suggestion implicitly assumes that the emissions generated by any given biodiesel percentage blend are simply the weighted sum of the emissions generated separately by baseline diesel fuel and 100 percent biofuel, without regard to possible interactions between them. To strengthen the credibility of this assumption, detailed characterization of the combustion emissions from biodiesel blends would be required. EPA therefore encourages the biodiesel industry group to consider conducting, on a voluntary basis, emission characterization tests on one or more biodiesel percentage blends, parallel to the Tier 1 testing required to be run on the 100 percent biofuel group representative. If submitted to EPA along with the required Tier 1 submittal, such information could help to allay EPA's concerns about the possible variability of different biodiesel blends.

A direct final rule published elsewhere in this issue of the Federal Register (see discussion in section II.B of this preamble) includes a change extending the Tier 1 deadline for biodiesel F/FAs to one year from today's date. Interested readers should consult that notice for additional information.

VI. Synthetic Fuel Provisions

A. Background

Under §§ 79.56(e)(3) (i)(B) and (ii)(B), a fuel derived from any source other than conventional petroleum is assigned to a non-baseline category. Further, under § 79.56(e)(4)(ii) (A)*(3)* and (B)*(3)*, separate non-baseline groups are defined for formulations derived in whole or in part from each non-conventional source or process, including coal, tar or oil sands, shale, and recycled chemical or petrochemical products. The objective of these grouping provisions was to assure separate testing for fuels which EPA expected would differ from conventional fuels in composition or other properties, and which therefore might have different public health impacts.

Following promulgation of the regulations in May 1994, EPA received communications from some affected industries (e.g., see docket items VI–D–02 and VI–D–03), indicating that fuels derived from ''synthetic'' feedstocks (''synfuels'') do not necessarily differ from fuels derived from conventional petroleum sources. Based on this information, EPA solicited substantive comment and supporting data relevant to possible revision of the rules for grouping these fuels. Several alternatives were discussed in the proposal, including (1) case-by-case assignment of a synfuel to a baseline or non-baseline group, determined by comparative compositional analysis, (2) baseline or non-baseline assignment determined by the proportion of the final fuel derived from a non-conventional source, and (3) elimination of the distinction between conventional petroleum and some or all non-conventional crude sources as a criterion for group assignment. Changes to the rules for selecting group representatives were also proposed. In addition, EPA proposed to eliminate the phrase ''non-conventional process'' as a grouping criterion [in §§ 79.56(e)(4)(ii)(A)*(3)* and (ii)(B)*(3)*], because the phrase was open to misinterpretation and confusion.

B. Summary of Comments

EPA received over twenty written comments on these issues, all strongly in favor of removing the general distinction between synthetic and conventional sources as a criterion for group assignment. Some commenters provided analytic data and other information showing that properties of crude oil derived from tar (or oil) sands are well within the range for conventional crude and that, after processing, these fuels are frequently lower in sulfur, olefins, and metal content than conventional fuels (see, for example, docket items VII–D–03, VII–D–04, VII–D–15, VII–D–25, VII–D–29, VII–D–34, VII–D–42). Commenters pointed out that commercialized synfuels are subject to the same EPA regulations and industry specifications (e.g., ASTM and pipeline requirements) as conventional fuels, and are totally commingled and fungible with them. They felt that grouping based on the proportion of synthetically-derived component would therefore not only be arbitrary, but would create unjustifiable market restrictions.

Information submitted in regard to coal-derived fuels similarly supported their categorization as baseline fuels, without respect to blend ratio. One commenter, reporting the results of a recent analysis of fuels derived from coal liquefaction processes, stated that these distillates are similar to petroleum in terms of hydrocarbon composition and are of adequate quality to be blended directly into refinery streams (docket item VII–D–41). The U.S. Department of Energy's Pittsburgh Energy Technology Center submitted data (docket item VII–D–43) showing that coal-derived Fischer-Tropsch diesel fuels were superior to petroleum-derived fuels in terms of performance (higher cetane number and lower aromatic content) and ''cleanliness'' (heteroatom composition and paraffin distribution).

C. Conclusions

EPA has reviewed the qualitative and quantitative information submitted by the commenters and agrees that motor vehicle fuels derived from oil or tar sands or synthesized from coal appear

[5] See memorandum of December 6, 1996 from Joseph Sopata to Docket A–90–07, entitled, ''Phone Conversations with Leroy Watson of the National Biodiesel Board (NBB).''

[6] ''Iowa DOT to Use 5% blends of Biodiesel in State Fleet,'' *Oxyfuel News*, Vol VIII, No. 45, Page 6, November 18, 1996.

to fall within the broad range of properties and components of other F/FAs that are categorized as baseline. Today's final rule deletes fuels derived from these sources from the list of synthetically-derived fuels considered to be non-baseline, thus allowing them to join the baseline F/FA groups. As noted in section V.C. of this preamble, however, EPA retains the authority in § 79.54 to require additional testing at the Tier 3 level, including testing of different representative(s) of a group than those tested at the Tier 1 and/or Tier 2 level. For example, under Tier 3, EPA could require special analyses of the composition or emissions of members of the baseline F/FA group that are derived from non-conventional sources. Separate toxicology testing of these or other group members could also be required under Tier 3.

In addition to the change described above, today's final rule deletes ''non-conventional process'' from the non-baseline grouping criteria. No comments were received regarding the grouping of motor vehicle fuels which might be synthesized from shale or from recycled or other petrochemical sources (e.g., used motor oils, recovered chemical spills, recycled plastics, industrial waste streams), and EPA has not changed the grouping rules or group representative specifications for these fuels.

VII. Tier I Exposure Analysis

In the NPRM, EPA proposed to delete the Tier 1 requirement [at § 79.52(c)] to provide a qualitative discussion of potential public exposure to F/FA emission products. Since it was to be based on data already required to be submitted for registration (e.g., annual and projected production volume, marketing, and distribution data for F/FA products), EPA concluded upon review that the required discussion would add little or no incremental value to other data requirements. Public commenters agreed that this requirement was redundant and should be deleted.

In this final rule, therefore, EPA has deleted § 79.52(c) and modified the introductory paragraph in § 79.52(a) accordingly. Deletion of this Tier 1 requirement does not in any way imply that EPA considers population exposure data to be unimportant. On the contrary, information on exposures is necessary for quantitative risk assessment. However, rigorous population exposure studies that would be useful to risk assessment are complex, expensive, and beyond the intended scope of the Tier 1 and Tier 2 screening requirements. As described above and in the proposed rule, the information that was to be submitted under the original Tier 1 requirement would generally be based on production and sales data. The resulting qualitative analysis would be only inferentially related to actual population exposure and, in any case, is already available to EPA in manufacturers' basic registration data submittals (see §§ 79.59(b) (2) and (3)). As such, it would be duplicative and of little incremental value in assessing risk.

VIII. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this direct final rule is not a ''significant regulatory action''. In fact, the provisions finalized by this action will decrease the number of parties to which these regulations apply and will reduce the requirements and costs of other parties subject to the regulations.

B. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule will reduce or eliminate the reporting and testing requirements for many small businesses, and will simplify compliance and reduce potential testing requirements for all affected parties.

C. Paperwork Reduction Act

Per the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR part 1320, this action does not involve the addition of any collection of information as defined therein.

D. Unfunded Mandates Reform Act

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

EPA has determined that the action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This final rule does not establish regulatory requirements that may significantly or uniquely affect small governments. In fact, this final rule has the net effect of reducing the burden of the fuel and fuel additive registration program on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 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. 804(2).

List of Subjects in 40 CFR Part 79

Environmental protection, Fuel additives, Gasoline, Motor vehicle

pollution, Penalties, Reporting and recordkeeping requirements.

Dated: March 4, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 79 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 79—[AMENDED]

1. The authority citation for part 79 continues to read as follows:

Authority: 42 U.S.C. 7414, 7524, 7545 and 7601.

2. Section 79.2 is amended by revising paragraphs (d) and (e) and by adding paragraph (k), to read as follows:

§ 79.2 Definitions.

* * * * *

(d) *Fuel manufacturer* means any person who, for sale or introduction into commerce, produces, manufactures, or imports a fuel or causes or directs the alteration of the chemical composition of a bulk fuel, or the mixture of chemical compounds in a bulk fuel, by adding to it an additive, except:

(1) A party (other than a fuel refiner or importer) who adds a quantity of additive(s) amounting to less than 1.0 percent by volume of the resultant additive(s)/fuel mixture is not thereby considered a fuel manufacturer.

(2) A party (other than a fuel refiner or importer) who adds an oxygenate compound to fuel in any otherwise allowable amount is not thereby considered a fuel manufacturer.

(e) *Additive* means any substance, other than one composed solely of carbon and/or hydrogen, that is intentionally added to a fuel named in the designation (including any added to a motor vehicle's fuel system) and that is not intentionally removed prior to sale or use.

* * * * *

(k) *Oxygenate compound* means an oxygen-containing, ashless organic compound, such as an alcohol or ether, which may be used as a fuel or fuel additive.

3. Section 79.52 is amended by revising the first sentence in paragraph (a) and removing and reserving paragraph (c), to read as follows:

§ 79.52 Tier 1.

(a) *General Specifications.* Tier 1 requires manufacturers of designated fuels or fuel additives (or groups of manufacturers pursuant to § 79.56) to supply to the Administrator the identity and concentration of certain emission products of such fuels or additives and any available information regarding the health and welfare effects of the whole and speciated emissions of such fuels or additives. * * *

* * * * *

4. Section 79.56 is amended by revising paragraphs (e)(3)(i)(A)(*5*), (e)(3)(i)(B), (e)(3)(ii)(A)(*5*), (e)(3)(ii)(B), (e)(4)(ii)(A)(*3*) introductory text, (e)(4)(ii)(A)(*3*)(*i*), (e)(4)(ii)(B)(*1*), (e)(4)(ii)(B)(*1*), (e)(4)(ii)(B)(*2*) introductory text, (e)(4)(ii)(B)(*2*)(*ii*), (e)(4)(ii)(B)(*3*) introductory text, and (e)(4)(ii)(B)(*3*)(*i*); and by adding paragraph (e)(4)(ii)(B)(*2*)(*iv*) to read as follows:

§ 79.56 Fuel and fuel additive grouping system.

* * * * *

(e) * * *

(3) * * *

(i) * * *

(A) * * *

(*5*) Derived only from conventional petroleum, heavy oil deposits, coal, tar sands, and/or oil sands.

(B) The Non-Baseline Gasoline category is comprised of gasoline fuels and associated additives which conform to the specifications in paragraph (e)(3)(i)(A) of this section for the Baseline Gasoline category except that they contain 1.5 percent or more oxygen by weight and/or may be derived from sources other than those listed in paragraph (e)(3)(i)(A)(*5*) of this section.

* * * * *

(ii) * * *

(A) * * *

(*5*) Derived only from conventional petroleum, heavy oil deposits, coal, tar sands, and/or oil sands.

(B) The Non-Baseline Diesel category is comprised of diesel fuels and associated additives which conform to the specifications in paragraph (e)(3)(ii)(A) of this section for the Baseline Diesel category except that they contain 1.0 percent or more oxygen by weight and/or may be derived from sources other than those listed in paragraph (e)(3)(ii)(A)(*5*) of this section.

* * * * *

(4) * * *

(ii) * * *

(A) * * *

(*3*) Separate non-baseline gasoline groups shall also be defined for gasoline formulations derived from each particular petroleum source not listed in paragraph (e)(3)(i)(A)(*5*) of this section.

(*i*) Such groups may include, but are not limited to, those derived from shale, used oil, waste plastics, and other recycled chemical/petrochemical products.

* * * * *

(B) * * *

(*1*) For diesel fuel and additive products which contain 1.0 percent or more oxygen by weight in the form of alcohol(s) and/or ether(s):

(*i*) A separate non-baseline diesel group shall be defined by each individual alcohol or ether listed as a component in the registration application or basic registration data of any such fuel or additive.

(*ii*) For each such group, the representative to be used in testing shall be a formulation consisting of the diesel base fuel blended with the relevant alcohol or ether in an amount equivalent to the highest actual or recommended concentration-in-use of the alcohol or ether recorded in the basic registration data of any member fuel or additive product.

(*2*) A separate non-baseline diesel group is also defined for each of the following classes of oxygenating compounds: mixed nitroso-compounds; mixed nitro-compounds; mixed alkyl nitrates; mixed alkyl nitrites; peroxides; furans; mixed alkyl esters of plant and/or animal origin (biodiesel). For each such group, the representative to be used in testing shall be formulated as follows:

* * * * *

(*ii*) The selected compound shall be the one recorded in any member product's registration application with the highest actual or recommended maximum concentration-in-use.

* * * * *

(*iv*) The compound thus selected shall be the group representative, and shall be used in testing at the following concentration:

(*A*) For biodiesel groups, the representative shall be 100 percent biodiesel fuel.

(*B*) Otherwise, the group representative shall be the selected compound mixed into diesel base fuel at the maximum recommended concentration-in-use.

(*3*) Separate non-baseline diesel groups shall also be defined for diesel formulations derived from each particular petroleum source not listed in paragraph (e)(3)(i)(A)(*5*) of this section.

(*i*) Such groups may include, but are not limited to, those derived from shale, used oil, waste plastics, and other recycled chemical/petrochemical products.

* * * * *

5. Section 79.58 is amended by revising the last sentence of paragraph (d)(1) and adding paragraph (d)6), to read as follows:

§ 79.58 Special provisions.

* * * * *

(d) * * *

(1) * * * *Total annual sales* means the average of the manufacturer's total sales revenue, excluding any revenue which represents the collection of federal, state, or local excise taxes or sales taxes, in each of the three years prior to such manufacturer's submittal to EPA of the basic registration information pursuant to § 79.59(b)(2) through (b)(5).

* * * * *

(6) In the case of an additive for which the manufacturer is not required to meet the requirements of Tier 2 pursuant to paragraph (d)(3) of this section:

(i) A fuel manufacturer which blends such an additive into fuel shall not be required to meet the requirements of Tier 2 with respect to such additive/fuel mixture.

(ii) An additive manufacturer which blends such an additive with one or more other registered additive products and/or with substances containing only carbon and/or hydrogen shall not be required to meet the requirements of Tier 2 with respect to such additive or additive blend.

* * * * *

§ 79.59 [Amended]

6. Section 79.59 is amended by removing paragraph (c)(4)(iii) and by removing and reserving paragraph (c)(7)(iii).

[FR Doc. 97–6023 Filed 3–14–97; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 79 and 80

[FRL–5701–8]

Registration of Fuels and Fuel Additives: Extension of Specified Deadlines for Atypical Additives and Biodiesel Fuels; and, Reformulated Gasoline Complex Model: Modification of Survey Precision Requirements

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: In a document published July 11, 1996, EPA proposed to modify specific provisions of the fuels and fuel additives (F/FA) registration and testing program which, if finalized, would change the applicability of certain requirements to specified F/FAs. In the case of that document, EPA proposed changes affecting testing requirements for ''atypical'' and biodiesel F/FAs. The effect of that proposal has been to make the current testing requirements uncertain for potentially affected F/FAs, and to make the current compliance schedules unreasonable for such F/FAs. Therefore, related deadline adjustments are appropriate. Accordingly, this direct final rule extends Tier 1 deadlines for biodiesel fuels and Tier 2 deadlines for atypical F/FAs. These short delays are not expected to have a substantial impact on the benefits of the F/FA testing program, and may prevent certain manufacturers from making unnecessary expenditures.

In this direct final rule, EPA is also modifying the survey precision requirements under the reformulated gasoline (RFG) complex model. This action will permit survey managers to submit a proposed sample size based upon the precision with which means of emission parameters can be estimated, subject to EPA approval. This approach is expected to provide significant cost savings to respondents, without adverse environmental impact.

DATES: This action will be effective on May 16, 1997, unless EPA receives adverse comment or a request for a public hearing by April 16, 1997. If the Agency receives adverse comment or a request for a public hearing, EPA will withdraw this action by publishing timely notice in the Federal Register.

ADDRESSES: Any persons wishing to submit comments should send them (in duplicate, if possible) to the docket address listed below and to Jim Caldwell, U.S. Environmental Protection Agency, Fuels and Energy Division, 401 M Street, S.W. (6406–J), Washington, D.C. 20460. Materials relevant to this direct final rule have been placed in Public Docket A–90–07 located at U.S. Environmental Protection Agency, Air Docket Section, Room M–1500, 401 M Street, S.W., Washington, D.C. 20460. The docket is open for public inspection from 8:00 a.m. until 5:30 p.m., Monday through Friday, except on Federal holidays. A reasonable fee may be charged for photocopying services.

FOR FURTHER INFORMATION CONTACT: For further information, or to notify EPA of an intent to submit an adverse comment or public hearing request, contact Jim Caldwell, (202) 233–9303, or Joseph Fernandes, (202) 233–9016.

SUPPLEMENTARY INFORMATION: Electronic copies of this direct final rule, the regulatory text of this direct final rule, and earlier rulemaking documents related to the F/FA registration program are available free of charge on EPA's Technology Transfer Network Bulletin Board System (TTNBBS, phone access 919–541–5742) and on the Internet (http://www.epa.gov/omswww). Parties requiring assistance may call Mr. Fernandes at (202) 233–9016.

I. Regulated Entities

Regulated categories and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry	Manufacturers of atypical fuels/fuel additives. Manufacturers of biodiesel fuels/fuel additives. Reformulated gasoline survey participants.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity would be regulated by this action, you should carefully examine this preamble and the proposed changes to the regulatory text. You should also carefully examine all provisions of the F/FAs registration program at 40 CFR part 79 and the RFG program requirements at 40 CFR part 80.

II. Extension of Tier 2 Deadline for Atypical F/FAs

On July 11, 1996, EPA published a Federal Register notice proposing several changes to the F/FA registration and testing regulations.[1] One proposal was a *de minimis* provision which, if finalized, would delete standard Tier 2 requirements for certain atypical F/FAs.[2] This proposal was based on certain conservative judgments and considering available data which indicated that some F/FAs may be reasonably anticipated to have no adverse effects on public health or the environment when they are present at very low concentrations in fuel. F/FAs qualifying for this special provision were proposed to be those containing no atypical elements other than aluminum, boron, calcium, sodium, zinc, magnesium, phosphorus, potassium, and/or iron, where the total of these elements would not exceed 25 parts per million when the additive is mixed in

[1] The F/FA testing requirements are located in 40 CFR Part 79-Subpart F. A detailed discussion of the program, including Tiers 1, 2, and 3 test requirements, may be found in the preamble to the final rule that promulgated these testing requirements (59 FR 33042, June 27, 1994).

[2] Under the grouping provisions of the F/FA health effects testing program, atypical F/FAs are those which contain chemical elements other than carbon, hydrogen, oxygen, nitrogen, and sulfur.

fuel at the maximum recommended concentration.[3]

Significant public comment was submitted about all aspects of this proposal, and EPA has not yet completed its analysis and consideration of the suggestions therein. Nevertheless, EPA is aware that further delay in resolving the *de minimis* issue might leave some manufacturers of atypical additives in an awkward position with respect to upcoming regulatory deadlines. In particular, by May 27, 1997, all F/FA manufacturers (except some small businesses and others qualifying for specific exemptions or alternative deadlines), are required to either complete Tier 2 testing or to demonstrate the existence of suitable contractual arrangements with a laboratory for completion of Tier 2 by May 27, 2000.[4] However, depending on the final construct of the *de minimis* provision, some atypical manufacturers may eventually be excused from these Tier 2 responsibilities altogether.

EPA promulgated the Tier 1 and Tier 2 testing requirements under the authority provided by sections 211(b) and 211(e) of the CAA. Section 211(b) gives EPA broad authority ''for the purpose of registration of fuels and fuel additives'' to require manufacturers ''to conduct tests to determine potential public health effects of such fuel or fuel additive.'' Section 211(b) does not specify deadlines for submission of the results of such testing, leaving the timing requirements to EPA's discretion. However, the timing for submission of test results is affected by section 211(e). This subsection directs EPA to issue regulations to implement section 211(b)(2), and states that such regulations shall require that ''the requisite information'' be provided to EPA within 3 years from the date of promulgation of the regulations. The term ''requisite information'' is not defined in the Act; EPA has interpreted the term to mean either data required by Tiers 1 and 2, or data required by Tier 1 and a contract to complete Tier 2 testing. This interpretation was based, in part, on EPA's conclusion that, as a practical matter, Tier 2 tests for all F/FAs could not be completed by May 27, 1997 (i.e., within 3 years of the date of promulgation of the regulations). See 59 FR at 33047, June 27, 1994, for a more detailed analysis of EPA's interpretation of ''requisite information.''

Since the time EPA adopted this interpretation of ''requisite information'' for all fuels and fuel additives, EPA proposed to exempt some atypical additives from Tier 2 testing. As stated above, EPA is not at this time able to take final action on that proposal. EPA's proposal has resulted in significant uncertainty for manufacturers of atypical additives, who do not know whether EPA will finalize the proposed exemption, or what the scope of the final exemption will be. This uncertainty makes it extremely impractical for such manufacturers to conduct Tier 2 testing, because the costs of conducting such testing would not have to be incurred if EPA finalizes an exemption that encompasses their additive. Moreover, the uncertainty caused by EPA's proposal also makes it impractical for such manufacturers to enter into contracts with laboratories to conduct Tier 2 testing; if EPA finalizes an exemption that covers their additive, the manufacturer would either have to break the contract (adversely affecting the laboratory) or incur the cost of conducting testing that it is not required by regulation to undertake. For these reasons, EPA is exercising its discretion under § 211(b) and § 211(e) to interpret the ''requisite information'' which manufacturers of atypical additives must submit to EPA by May 27, 1997 to include Tier 1 testing only.

As stated above, EPA adopted the Tier 1 and Tier 2 testing requirements under the authority of sections 211(b) and 211(e). While the submission deadlines for tests required under § 211(e) are governed by the language described above, EPA has discretion under § 211(b) to set timing requirements for tests required under § 211(b). Pursuant to this discretion, EPA is establishing a deadline of November 27, 1998, for manufacturers of atypical additives to submit Tier 2 requirements (i.e., either data required by Tier 2, or a contract to complete Tier 2 testing by November 27, 2001. Specifically, for all F/FAs containing ''atypical elements'' (as defined in § 79.50), the Tier 2 compliance deadlines in §§ 79.51(c)(1)(ii) (A) and (B) are respectively extended from May 27, 1997 to November 27, 1998 and from May 27, 2000 to November 27, 2001.[5] These extensions will permit EPA to consider all issues raised in response to the proposal, without any unnecessary adverse impact on the affected manufacturers. EPA estimates that the 18-month extension will be adequate for the Agency to complete its analysis and publish a final rule (or other action as appropriate), while still leaving sufficient time for manufacturers of atypical F/FAs to comply with the requirement (if applicable) to secure contractual arrangements for timely completion of Tier 2 testing. Deadlines for requirements not proposed to be affected by the *de minimis* provision (i.e., Tier 1 and potential Alternative Tier 2 and/or Tier 3 requirements) are not affected by these extensions.

This action is expected to prevent some manufacturers from making unnecessary expenditures while EPA completes its determination of the most appropriate disposition of the *de minimis* proposal. The limited extension in the Tier 2 compliance deadlines for this relatively small category of F/FAs amounts to a very short and reasonable delay that is not expected to have a substantial adverse impact on the public health or environmental benefits of the testing program.

III. Extension of Tier 1 Deadlines for Biodiesel Manufacturers

As described above, section 211(b) does not specify deadlines for the submission of test results required under this provision; however, section 211(e) directs EPA to issue regulations to implement section 211(b)(2), and states that such regulations shall require that ''the requisite information'' be provided to EPA within 3 years of promulgation of the regulations. EPA has interpreted the term ''requisite information'' to mean either data required by Tiers 1 and 2, or data required by Tier 1 and a contract to complete Tier 2 testing.

In July 1996, EPA proposed to revise the existing regulations applying to biodiesel F/FAs, including changes to the grouping regulations and to the requirements for selecting the group representative for biodiesel F/FA testing.[6] These proposals raised significant uncertainties for manufacturers of biodiesel F/FAs. For example, EPA solicited public comment

[3] For further information on the *de minimis* proposal, see ''Registration of Fuels and Fuel Additives: Changes in Requirements, and Applicability to Blenders of Deposit Control Additives,'' Notice of Proposed Rulemaking, 61 FR 36535, July 11, 1996.

[4] Compliance with Tier 1 requirements is also required by May 27, 1997.

[5] Generally, F/FA manufacturers must either comply with all Tier 2 requirements under 40 CFR 79.51(c)(ii)(A) or submit evidence to EPA of a contract with a qualified laboratory, or other suitable arrangement to complete Tier 2 testing, by May 27, 1997 under paragraph (c)(ii)(B). Manufacturers who proceed under paragraph (c)(ii)(B) are required to comply with all Tier 2 requirements by May 27, 2000.

[6] Biodiesel F/FAs are mixed alkyl esters of plant and/or animal origin. See discussion of biodiesel provisions in ''Registration of Fuels and Fuel Additives: Changes in Requirements and Applicability,'' which appears elsewhere in this issue of the Federal Register.

on whether the group representative selection criteria should be revised from a requirement that the group representative for testing purposes contain the highest actual or recommended maximum concentration-in-use of the biodiesel product to a requirement that it contain a specified amount (anywhere between 20 and 100 percent) of the biodiesel product. Because EPA proposed these revisions in July 1996, less than one year before the current deadline for submission of Tier 1 test results and, at a minimum, a contract for completion of Tier 2 testing, the manufacturers of biodiesel F/FAs did not know what group representative they should be testing in light of EPA's proposal. If they conducted testing of a fuel with the highest registered concentration of biodiesel product, and EPA promulgated a revision to the regulations that changed the criteria for an acceptable group representative, the manufacturers would have incurred the costs of testing the wrong product.

For these reasons, the date of promulgation of regulations requiring testing of biodiesel F/FAs is the effective date of today's regulations, rather than the effective date of the pre-existing testing regulations (May 27, 1994). The changes EPA proposed were such that the manufacturers of such F/FAs could not know the specific product that would be required to be tested once EPA took final action on the July 1996 proposal. While a minor revision or technical amendment to the pre-existing testing regulations would not be adequate to conclude that the ''date of promulgation'' under 211(e)(2) is affected, a change of the nature that EPA proposed for biodiesel F/FAs would have altered the basic testing requirement that manufacturers must meet, and is therefore an appropriate basis for adjusting the date of promulgation for purposes of determining when manufacturers must comply with the testing requirements.

Therefore, EPA is revising the F/FA regulations to allow the deadline for biodiesel manufacturers until March 17, 1998 to comply with Tier 1 and to submit information showing a contract with a qualified laboratory, or other suitable arrangement to conduct Tier 2 testing on biodiesel fuels. These deadlines will ensure that the requisite information under section 211(e) is submitted within three years of promulgation of today's rule. All other deadlines for compliance, including the deadline for compliance with Tier 2 testing, remain unaffected by this action. EPA believes that this limited extension, which is short in duration, will not have any substantial impact on the public health or environmental goals of the F/FAs testing program.

IV. Satisfaction of Survey Precision Requirements Under the Complex Model for Reformulated Gasoline (RFG)

The regulations for RFG surveys [in § 80.68(c)(13)(iii) (A) and (B)] prescribe the width of the largest allowable 95% confidence interval when estimating parameter means. Under the simple model, such widths are provided for oxygen, benzene, RVP, and aromatic hydrocarbons. With the complex model, widths are provided for the additional parameters that must be estimated in order to determine emission levels for VOC's, NO_X, and toxics, i.e., olefins, T–50, T–90, and sulfur. The reason for these prescribed precision limits for survey estimates was to ensure that organizations conducting surveys provided large enough samples to make erroneous pass/fail decisions on survey results very unlikely.

The specification of precision limits for individual chemical parameters was appropriate under the simple model, since pass/fail decisions mostly involved such individual parameters. With the complex model, though, the pass/fail decisions are made on emission parameters that are functions of several chemical parameters. EPA believes survey managers should be afforded the flexibility to determine sample sizes based upon the precision with which the means of emission parameters can be estimated, so long as the final result is at least as precise as would have resulted from the originally prescribed limits on individual chemical parameters.

Such an approach may be particularly appropriate where sulfur is concerned. The large variability of sulfur was not fully appreciated when the regulations were developed and has not been an issue under the simple model. The addition of sulfur to the parameters subject to survey precision limits under the complex model would result in a substantial increase in sample sizes, possibly increasing survey costs by a factor of three or more. EPA believes that determining survey precision from the complex model's emission level outputs will be welcomed by the industry as a cost saving measure and will not result in sacrificing the precision needed to make survey pass/fail decisions with confidence.

EPA is thus amending the complex model survey precision requirements set forth at § 80.68(c)(13)(iii)(B) to allow a survey manager to satisfy the requirements either by conforming to the original precision limits on each measured parameter or by providing a level of precision for the model-determined emission parameters that is equivalent. Use of the latter approach requires that a detailed explanation be included in or attached to the annual survey plan demonstrating that the proposed sample size provides precision in estimating the emissions parameters that is equivalent to that which would result from strict adherence to the originally prescribed limits for measured parameters. The explanation must be approved by EPA, along with the remainder of the survey plan, before survey operations can proceed.

V. Environmental and Economic Impacts

The relatively short extensions granted to manufacturers of atypical F/FAs and manufacturers of biodiesel F/FAs are not expected to have a substantial impact on the public health and environmental benefits of the F/FAs testing program. No adverse environmental impact is expected as a result of today's action related to RFG surveys as the emission reduction standards are unchanged.

Today's direct final action will have a positive economic impact. Manufacturers of atypical F/FAs may face special compliance burdens because they have limited opportunity to conduct joint testing or cost sharing with other manufacturers. Extending the deadline for this unique category of regulated parties to permit the Agency to consider all comments received on the July 11, 1996 Notice of Proposed Rulemaking and to issue appropriate final regulations may reasonably prevent unnecessary economic hardship and will provide certainty with regard to compliance dates. Until issuance of a separate final rule published elsewhere in this issue of the Federal Register, manufacturers of biodiesel F/FAs faced some uncertainties with regard to the grouping of their additives and representative concentrations for sampling. The relatively short deadline extension granted by this action will provide affected manufacturers with reasonable time to comply with Tier 1 testing requirements and to make arrangements for the timely completion of Tier 2 testing requirements. With regard to the change related to RFG survey satisfaction, EPA expects a substantial cost savings for regulated parties or consortia of regulated parties who elect to follow the emissions parameters-based approach to planning for complex model survey precision included in today's direct final rule.

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule will not have a significant impact on a substantial number of small entities because it will provide greater flexibility to affected industries, including small businesses.

VI. Executive Order 12866

Pursuant to Executive Order 12866(58 FR 51735 [October 4, 1993]), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant'' regulatory actions as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rulemaking is not a ''significant regulatory action''. Today's action is expected to reduce compliance costs associated with certain F/FA and RFG survey requirements and will not result in any additional regulatory burden for affected parties.

VII. Paperwork Reduction Act

Per the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR Part 1320, the F/FA-related portion of this action, does not involve the collection of information as defined therein. An Information Collection Request (ICR No. 1591) was prepared for the reformulated gasoline program and addresses aspects of that program, including surveys. A copy may be obtained from Sandy Farmer, Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W. Washington, DC 20640 or by calling (202) 260–2740. Today's direct final rule related to survey design does not create any new information collection requirements.

VIII. Unfunded Mandates Act

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

EPA has determined that the action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This final rule does not establish regulatory requirements that may significantly or uniquely affect small governments. In fact, this final rule has the net effect of reducing the burden of the fuel and fuel additive registration program and RFG survey program on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

IX. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 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. 804(2).

List of Subjects

40 CFR Part 79

Environmental protection, Fuel additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: March 4, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, parts 79 and 80 of chapter I of title 40 of the Code of Federal Regulations are amended as follows:

PART 79—[AMENDED]

1. The authority citation for Part 79 continues to read as follows:

Authority: 42 U.S.C. 7414, 7524, 7545, and 7601.

2. Section 79.51 is amended by revising paragraph (c)(1)(ii) introductory text and by adding paragraphs (c)(1)(vi) and (c)(1)(vii), to read as follows:

§ 79.51 General requirements and provisions.

* * * * *

(c) * * *

(1) * * *

(ii) Except as provided in paragraphs (c)(1)(vi) and (vii) of this section, the manufacturer of such products must also satisfy the requirements and time schedules in either of the following paragraphs (c)(1)(ii) (A) or (B) of this section:

* * * * *

(vi) In regard to atypical fuels or additives in the gasoline and diesel fuel families (pursuant to the specifications in § 79.56(e)(4)(iii)(A) (*1*) and (*2*)):

(A) All applicable Tier 1 requirements, pursuant to §§ 79.52 and 79.59, must be submitted to EPA by May 27, 1997.

(B) Tier 2 requirements, pursuant to §§ 79.53 and 79.59, must be satisfied according to the deadlines in either of the following paragraphs (c)(1)(vi)(B) (*1*) or (*2*) of this section:

(*1*) All applicable Tier 2 requirements shall be submitted to EPA by November 27, 1998; or

(*2*) Evidence of a contract with a qualified laboratory (or other suitable arrangement) for completion of all applicable Tier 2 requirements shall be submitted to EPA by November 27, 1998. For this purpose, a qualified laboratory is one which can demonstrate the capabilities and credentials specified in § 79.53(c)(1). In addition, all applicable Tier 2 requirements must be submitted to EPA by November 27, 2001.

(vii) In regard to nonbaseline diesel products formulated with mixed alkyl esters of plant and/or animal origin (i.e., ''biodiesel'' fuels, pursuant to § 79.56(e)(4)(ii)(B)(*2*)):

(A) All applicable Tier 1 requirements, pursuant to §§ 79.52 and 79.59, must be submitted to EPA by March 17, 1998.

(B) Tier 2 requirements, pursuant to §§ 79.53 and 79.59, must be satisfied according to the deadlines in either of the following paragraphs (c)(1)(vii)(B) (*1*) or (*2*) of this section:

(*1*) All applicable Tier 2 requirements shall be submitted to EPA by March 17, 1998; or

(*2*) Evidence of a contract with a qualified laboratory (or other suitable arrangement) for completion of all applicable Tier 2 requirements shall be submitted to EPA by March 17, 1998. For this purpose, a qualified laboratory is one which can demonstrate the capabilities and credentials specified in § 79.53(c)(1). In addition, all applicable Tier 2 requirements must be submitted to EPA by May 27, 2000.

* * * * *

3. Section 79.59 is amended by revising the last sentence of paragraph (c) introductory text to read as follows:

§ 79.59 Reporting requirements.

* * * * *

(c) * * * In addition, manufacturers complying with Tier 2 requirements according to one of the time schedules specified in § 79.51(c)(1)(ii)(B), § 79.51(c)(1)(vi)(B)(*2*), or § 79.51(c)(1)(vii)(B)(*2*) must submit evidence of a suitable arrangement for completion of Tier 2 (e.g., a copy of a signed contract with a qualified laboratory for applicable Tier 2 services) by the date specified in the applicable time schedule.

* * * * *

PART 80—[AMENDED]

4. The authority citation for Part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545 and 7601(a)).

5. Section 80.68, paragraph (c)(13)(iii)(B) is revised to read as follows:

§ 80.68 Compliance surveys.

* * * * *

(c) * * *

(13) * * *

(iii) * * *

(B) In the case of complex model surveys, the average levels of oxygen, benzene, RVP, aromatic hydrocarbons, olefins, T–50, T–90 and sulfur are determined with a 95% confidence level, with error of less than 0.1 psi for RVP, 0.05% for benzene (by volume), 0.1% for oxygen (by weight), 0.5% for olefins (by volume), 5° F. for T–50 and T–90, and 10 ppm for sulfur; or an equivalent level of precision for the complex model-determined emissions parameters; and

* * * * *

[FR Doc. 97–6022 Filed 3–14–97; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 62, No. 51
Monday, March 17, 1997

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[CN–97–001]

Revision of User Fees for 1997 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to reduce user fees for cotton producers for 1997 crop cotton classification services under the Cotton Statistics and Estimates Act in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 1996 user fee for this classification service was $1.50 per bale. This proposal would reduce the fee for the 1997 crop to $1.40 per bale. The proposed reduction in fees resulted from increased efficiency in classing operations. The fee is sufficient to recover the costs of providing classification services, including costs for administration, supervision, and development and maintenance of standards.

DATES: Comments must be received by April 16, 1997.

ADDRESSES: Comments and inquiries should be addressed to Lee Cliburn, Cotton Division, AMS, USDA, room 2641–S, P.O. Box 96456, Washington, DC 20090–6456. Comments will be available for public inspection during regular business hours at the above office in Rm. 2641-South Building, 14th & Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lee Cliburn, 202–720–2145.

SUPPLEMENTARY INFORMATION: This proposed rule has been determined to be not significant for purposes of Executive Order 12866, and it has not been reviewed by the Office of Management and Budget (OMB).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would 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.

The Administrator, Agricultural Marketing Service (AMS), has considered the economic impact of this proposal on small entities pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). It has been determined that the implementation of this proposed rule would not have a significant economic impact on a substantial number of small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be disproportionately burdened. There are an estimated 40,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR § 121.601). The Administrator of AMS has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the RFA because:

(1) The fee reduction reflects a decrease in the cost-per-unit currently borne by those entities utilizing the services (the 1996 user fee for classification services was $1.50 per bale; the fee for the 1997 crop would be reduced to $1.40 per bale; the 1997 crop is estimated at 17,587,000 bales);

(2) The cost reduction will not affect competition in the marketplace; and

(3) The use of classification services is voluntary.

In compliance with OMB regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in the provisions to be amended by this proposed rule have been previously approved by OMB and were assigned OMB control number 0581–0009 under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

It is anticipated that the proposed changes, if adopted, would be made effective July 1, 1997, as provided by the Cotton Statistics and Estimates Act.

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

The user fee charged to cotton producers for High Volume Instrument (HVI) classification services under the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was $1.50 per bale during the 1996 harvest season as determined by using the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The fees cover salaries, costs of equipment and supplies, and other overhead costs, including costs for administration, supervision, and development and maintenance of cotton standards.

This proposed rule establishes the user fee charged to producers for HVI classification at $1.40 per bale during the 1997 harvest season.

Public Law 102–237 amended the formula in the Uniform Cotton Classing Fees Act of 1987 for establishing the producer's classification fee so that the producer's fee is based on the prevailing method of classification requested by producers during the previous year. HVI classing was the prevailing method of cotton classification requested by producers in 1996. Therefore, the 1997 producer's user fee for classification service is based on the 1996 base fee for HVI classification.

The fee was calculated by applying the formula specified in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The 1996 base fee for HVI classification exclusive of adjustments, as provided by the Act, was $2.04 per bale. A two percent, or four cents per bale increase due to the implicit price deflator of the gross domestic product added to the $2.04 would result in a 1997 base fee of $2.08 per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, this has been replaced by the gross domestic product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of

Agriculture from the 1997 crop is estimated at 17,587,000. The 1997 base fee was decreased 15 percent based on the estimated number of bales to be classed (one percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum adjustment of 15 percent). This percentage factor amounts to a 31 cents per bale reduction and was subtracted from the 1997 base fee of $2.08 per bale, resulting in a fee of $1.77 per bale.

With a fee of $1.77 per bale, the projected operating reserve would be 41.93 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of $1.77 must be reduced by 37 cents per bale, to $1.40 per bale, to provide an ending accumulated operating reserve for the fiscal year of 25 percent of the projected cost of operating the program. This would establish the 1997 season fee at $1.40 per bale.

Accordingly, § 28.909, paragraph (b) would be revised to reflect the reduction in the HVI classification fees.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a five cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909 (c).

Growers or their designated agents would continue to incur no additional fees if only one method of receiving classification data was requested. The fee for each additional method of receiving classification data in § 28.910 would remain at five cents per bale, and it would be applicable even if the same method was requested. The fee in § 28.910 (b) for an owner receiving classification data from the central database would remain at five cents per bale, and the minimum charge of $5.00 for services provided per monthly billing period would remain the same. The provisions of § 28.910 (c) concerning the fee for new classification memoranda issued from the central database for the business convenience of an owner without reclassification of the cotton will remain the same.

The fee for review classification in § 28.911 would be reduced from $1.50 per bale to $1.40 per bale.

The fee for returning samples after classification in § 28.911 would remain at 40 cents per sample.

List of Subjects in 7 CFR Part 28

Administrative practice and procedures, Cotton, Cotton samples, Grades, Market news, Reporting and recordkeeping requirements, Standards, Staples, Testing, Warehouses.

For the reasons set forth in the preamble, 7 CFR Part 28 is proposed to be amended as follows:

PART 28—[AMENDED]

1. The authority citation for Part 28 would continue to read as follows:

Authority: 7 U.S.C. 471–476.

2. Section 28.909, paragraph (b) would be revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is $1.40 per bale.

* * * * *

3. In Section 28.911, the last sentence of paragraph (a) would be revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is $1.40 per bale.

* * * * *

Dated: March 10, 1997.

Lon Hatamiya,

Administrator.

[FR Doc. 97–6648 Filed 3–14–97; 8:45 am]

BILLING CODE: 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–7]

Modification of Class E Airspace; Manitowish, WI, Manitowish Waters Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Manitowish, WI. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 32 has been developed for Manitowish Waters Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before April 30, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 97–AGL–7, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AGL–7.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at Manitowish, WI; this proposal would provide adequate Class E airspace for operators executing the GPS Runway 32 SIAP at Manitowish Waters Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Manitowish, WI [Revised]

Manitowish Waters Airport
(Lat. 46°07′19″ N, long. 89°52′56″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Manitowish Waters Airport and within 4 miles each side of the 141° bearing from the airport extending from the 7-mile radius to 9 miles southeast of the airport, excluding that airspace within the Minocqua-Woodruff Class E airspace.

* * * * *

Issued in Des Plaines, Illinois on February 27, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–6619 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 97N–0075]

Food Labeling; Timeframe for Final Rules Authorizing Use of Health Claims

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations to provide a timeframe in which it will issue final rules in rulemakings on health claims announcing whether it will authorize the use of the claim at issue. FDA is also providing for extensions of that timeframe for cause. The agency is issuing this proposal in response to a recent judicial decision.

DATES: Written comments by April 16, 1997. The agency is proposing that any final rule that may issue based on this proposal become effective 30 days after the date of its publication.

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

FOR FURTHER INFORMATION CONTACT: Joyce J. Saltsman, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5483.

SUPPLEMENTARY INFORMATION:

I. Background

Section 403(r) of the Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(r)), which was added by the Nutrition Labeling and Education Act of 1990 (the 1990 amendments), provides for claims on the label and in the labeling of food that characterize the relationship of nutrients to a disease or health-related condition. In providing for these claims, called ''health claims,'' the act treats conventional foods differently than dietary supplements. For conventional foods, the act sets out the procedure and standard that FDA is to use in deciding whether to authorize health claims. For dietary supplements, the act states that health claims for these products are to be subject to a procedure and standard established by regulation of the Secretary of Health and Human Services (the Secretary), and by delegation FDA (section 403(r)(5)(D) of the act).

In January 1994, FDA completed a rulemaking to implement the health claim provisions of the act for dietary supplements. FDA decided to adopt the procedure and standard established in the act for health claims for conventional foods as the procedure and standard for dietary supplements (59 FR 395 at 405, January 4, 1994). Thus, health claims can be made for dietary supplements if FDA determines that the relationship between the substance and disease that are the subjects of the claim is scientifically valid, as well as truthful and not misleading. The standard that

FDA uses in determining scientific validity is set out in 21 CFR 101.14(c) of the agency's regulations, as well as in section 403(r)(3)(B)(i) of the act. It requires that the agency determine, based on the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner which is consistent with generally recognized scientific procedures and principles), that there is significant scientific agreement, among experts qualified by scientific training and experience to evaluate such claims, that the claim is supported by such evidence.

People interested in having the agency authorize health claims about a particular nutrient-disease relationship may petition the agency to do so (see § 101.70 (21 CFR 101.70)). Under the procedure adopted by FDA, which parallels that in section 403(r)(4)(A)(i) of the act and, thus, applies to both conventional foods and dietary supplements, within 100 days of the date that it receives the petition, the agency will notify the petitioner by letter that the petition has either been filed for comprehensive review or denied. If the agency files the petition, within 90 days of filing, FDA will either deny it or advise the petitioner that a proposal to authorize the use of health claims about the subject substance/disease relationship will be published in the Federal Register. However, consistent with section 403(r)(4)(A)(i) of the act, FDA made no mention in its regulations of when a final rule on the health claim would be issued, even though it was asked to do so by a number of comments (59 FR 395 at 420).

In the wake of its adoption of the regulations on health claims for dietary supplements, FDA was sued several times by dietary supplement trade associations, manufacturers, retailers, and individuals, on the grounds that the agency regulations violate the First Amendment to the United States Constitution. One of these cases, *Nutritional Health Alliance* v. *Shalala,* 95 Civ. 4950 (RO) (S.D.N.Y.), was recently decided by Judge Richard Owen. In its decision, the District Court reviewed FDA's regulations under the four prong test, established in *Central Hudson Gas & Electric Corp.* v. *Public Service Commission of New York,* 447 U.S. 557 (1980) (*Central Hudson* test), for determining whether a particular regulation of commercial speech survives scrutiny under the First Amendment.

After finding that not all potential health claims are inherently misleading, and thus that such claims are entitled to some First Amendment protection (slip op. at 7), the court concluded that FDA's regulations were supported by a substantial governmental interest: ''preventing the spread of unsubstantiated health claims on labels so that consumers may not be deceived and follow unsound health practices; ensuring the reliability of scientific information disseminated in connection with the sale of dietary supplements; and protecting consumers from being induced to purchase products by misleading information on labels.'' (Slip op. at 8.) The court also found that FDA's regulation directly and materially advanced the substantial governmental interest. Thus, the court found no problem for FDA's regulations under the first three parts of the *Central Hudson* test.

However, under the fourth part of the test, that the regulation be narrowly tailored to advance the governmental interest, the court found a vulnerability. While the District Court found that the regulations did not cover more speech than necessary (slip op. at 8–9), it found that, once the agency had proposed to allow a particular health claim, the absence of a timeframe for the issuance of a final rule on whether a health claim would be authorized failed to meet *Central Hudson's* fourth prong and, thus, violated the First Amendment (slip op. at 9).

Accordingly, the court ordered FDA to establish a reasonable time limit for the issuance of a final rule for a health claim on dietary supplement labels. The court directed the agency to, within 90 days of the date of its order (January 31, 1997), submit such a regulation to the court for review of its reasonableness and for the entry of such further orders as may be appropriate (slip op. at 12).

While FDA does not agree with aspects of the court's opinion, it has decided that, on balance, given the general affirmance of the agency's regulations in the court's opinion, the most efficient course is to proceed to develop the regulation required by the court, to submit it to the court for review, and not to appeal at this time. Moreover, given the parallel procedures for dietary supplements and conventional foods, FDA has decided to propose to establish a timeframe for final rules on health claims for conventional foods as well as for dietary supplements.

II. The Proposal

A. Time for Review

FDA has carefully considered how much time to provide for itself between the issuance of a proposal to authorize a particular health claim and the issuance of a final rule. On the one hand, it is important that the agency establish a timeframe that it can reasonably expect to meet on a regular basis. On the other hand, the agency should not provide itself with so much time that authorization of a health claim will be unreasonably delayed.

In 1994, in rejecting comments that requested the establishment of such a timeframe, FDA expressed concern about various factors, including work priorities, the availability of personnel, and limitations on agency resources. It is significant to note that each of these factors has been a problem in the health claim rulemakings that FDA has completed since 1994. Thus, each of the above concerns continues to cause the agency to question its ability to set a timeframe to which it can reasonably expect, and can reasonably be expected, to adhere. This is particularly the case because FDA has no control over the number of petitions that are filed, and it is obligated to review and act on the petitions that it receives. Nonetheless, based on its experience since 1994 in issuing final rules on folic acid and neural tube defects, sugar alcohols and dental caries, and soluble fiber from whole oat products and coronary heart disease, FDA finds that it can delineate the steps involved in the production of a final rule and provide a reasonable estimate of how long each step is likely to take.

The steps in the production of a final rule include:

1. *A comment period*—FDA generally provides 75 days for comments on proposals. Because of the broad interest in health claims, however, FDA provided 90 days or more for comments in the sugar alcohols and oat bran and oatmeal rulemakings. To ensure that a final rule is issued as quickly as practicable, FDA intends to adhere to a 75-day limit on comment periods in future health claim rulemakings and to not consider comments that are received after the close of the comment period.

2. *Reviewing and responding to comments and developing a draft final rule*—The number of letters that FDA has received on health claim proposals issued in response to petitions has ranged from as high as approximately 1,500 letters, in response to the proposal on oatmeal and oat bran and the risk of coronary heart disease, to as few as 20 letters in response to the proposal on sugar alcohols and the risk of dental caries. The number of letters, however, understates the agency's task in developing a final rule because many letters comment on more than one issue. Thus, it is necessary for FDA to review the letters, catalogue all the comments,

group related comments together, and then formulate a response to each issue raised. This would seem to be a fairly straightforward process, given that FDA has already made a tentative determination to authorize the claim. In practice, however, this process has proven not to be a simple one.

In the oat proceeding, FDA received a large number of comments that requested that the agency authorize the claim for a substance not covered by its tentative determination, whole oat flour. In deciding how to respond to these requests, FDA had to balance the interest in a prompt decision against the value to the public health of taking the time to decide whether the important health information provided by the health claim could appropriately appear on a broader range of foods. To make this choice, development of the document had to be delayed while the agency evaluated the scientific evidence supporting the request and the import of that evidence. FDA ultimately chose to authorize the health claim on a broader range of foods, but the time involved in choosing this course added months to the time that it took FDA to develop the final rule.

In addition, limitations on the agency's resources and the competing priorities to which the agency is often subject can combine to cause interruptions in the development of a final rule. For example, the development of the final rule on sugar alcohols was interrupted on two occasions because of the filing of new health claim petitions and the agency's desire to conform to the statute's requirement that action be taken on petitions within 190 days. The same people who were charged with drafting the final rule also were responsible for drafting the responses to the new petitions. Thus, the development of the final rule on sugar alcohols was significantly delayed.

Moreover, in the development of final rules, FDA considers it important to obtain input from other parts of the Department of Health and Human Services (the Department) (such as from the National Institutes of Health or from the Centers for Disease Control and Prevention) and from other parts of the Federal Government (e.g. the U.S. Department of Agriculture) that have relevant expertise. There is a widespread expectation among the public, including the regulated industry, that FDA will solicit this input, and given the public health significance of the issues in a health claim proceeding, FDA considers it important that it do so. Yet, obtaining the input of the experts involved can add at least weeks to the process of developing a final rule because the scientists that are consulted have their own work, and FDA's request for review is in competition with that work. Moreover, there sometimes are disagreements among the scientists consulted, and these disagreements must be resolved before a final rule can issue.

For all these reasons, drafting a final rule involves much more than reading comments, summarizing them, and preparing answers. FDA tentatively concludes that, given the problems associated with this task, it is reasonable to provide 5 months (150 days) between the close of the comment period and the completion of a draft final rule that can be forwarded to the Commissioner of Food and Drugs (the Commissioner) for his or her signature.

3. *Review and endorsement by the Commissioner*—FDA tentatively finds that it is appropriate to allow 1 month (30 days) for clearance of the final rule for publication. Although the Commissioner has generally been delegated sign off authority under the act by the Secretary (21 CFR 5.10 of FDA's regulations), other factors, such as final legal and policy review, require that 30 days be provided for this aspect of the process.

For example, given the public health significance of health claims and the involvement of various parts of the Department in the development of health claim documents, there is continuing interest from the Office of the Secretary in health claim matters. Thus, time must be reserved to accommodate the Secretary, should he or she desire to review the final rule. In addition, under Executive Order 12866, the Office of Management and Budget (OMB) may choose to review a health claim final rule although it has generally not done so. Given the potential involvement of these other entities, FDA tentatively concludes that it is appropriate to reserve 1 month for the review and endorsement of any draft health claim final rule.

Taken together, these estimated timeframes total approximately 255 days. Based on these estimates, and the fact it is reasonable to allow 15 days for the inevitable slippage that occurs in the rulemaking process, FDA is proposing to adopt § 101.70(j)(4)(i), which states that within 270 days of the publication of the proposal, FDA will publish a final rule either authorizing the use of a health claim or explaining why it has decided not to authorize one.

FDA notes that the 270 days that it is proposing for production of a final rule is approximately 90 days less than the time that it took from proposal to final rule in both the whole oat products and sugar alcohols rulemakings. It is also 90 days less than the agency was granted by the 1990 amendments between the proposals and final rules on the 10 health claim topics that it was required to address. Nonetheless, FDA is committed, as it told the court (slip op. at 10), to issue final regulations as quickly as possible. Therefore, it is proposing to abide by a 9-month timeframe.

B. Extension of Time

In its opinion, the District Court recognized that FDA may receive information during the comment period that could require that the agency rethink whether to authorize a health claim. The court stated that such circumstances could be handled by an extension, founded on a showing of cause (slip op. at 10 n. 14).

Consistent with the court's statement, FDA is providing in proposed § 101.70(j)(4)(ii) that it could grant itself an extension beyond 270 days if cause exists to justify such an extension. For example, there may be circumstances in which the comments are of such volume (e.g., the soluble fiber from whole oats rulemaking) or the controversy surrounding an aspect of the health claim is so great (e.g., the folic acid rulemaking) that the agency simply finds that it cannot meet the 270 day deadline. In such cases, under proposed § 101.70(j)(4)(ii), FDA will publish notice of the extension in the Federal Register. The notice will explain the basis for the extension, the length of the extension, and the date by which the final rule will be published. The extension would be for no longer than necessary, and FDA would have to explain the length of the extension. FDA expects to grant itself such extensions only on rare occasions.

III. Analysis of Impacts

A. Economic Impact

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant

regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The agency is proposing only to provide firms with a timeframe in which they can expect health claim final rules to issue. Thus, in accordance with the Regulatory Flexibility Act, the agency certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

B. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act

FDA tentatively concludes that this proposed rule contains no reporting recordkeeping, labeling, or other third party disclosure requirements. Thus there are no ''information collection'' requirements necessitating clearance by OMB. However, to ensure the accuracy of this tentative conclusion, FDA is seeking comment on whether this proposed rule imposes any paperwork burden.

V. Effective Date

FDA is proposing to make the amendment to § 101.70, contained herein, effective 30 days after the publication of a final rule that may issue based on this proposal.

VI. Comments

Interested persons may, on or before April 16, 1997, submit to the Docket Management Branch (address above) written comments regarding this proposal. FDA is limiting the comment period to 30 days because it is necessary to do so if the agency is to comply with the District Court's order of January 31, 1997, that it establish a timeframe for issuance of final rules on health claims within 90 days of that order. FDA could not publish a final rule within that timeframe if it permitted the normal 75-day comment period.

Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments my be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 101

Food Labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 101 be amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 501, 502, 505, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 351, 352, 355, 371).

2. Section 101.70 is amended by adding new paragraph (j)(4) to read as follows:

§ 101.70 Petitions for health claims.

* * * * *

(j) * * *

(4)(i) Within 270 days of the date of publication of the proposal, FDA will publish a final rule that either authorizes use of the health claim or explains why the agency has decided not to authorize one.

(ii) For cause, FDA may extend the period in which it will publish a final rule. FDA will publish notice of the extension in the Federal Register. The document will explain the basis for the extension, the length of the extension, and the date by which the final rule will be published.

Dated: March 4, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–6710 Filed 3–13–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–208172–91]

RIN 1545–AU71

Basis Reduction Due to Discharge of Indebtedness; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rule; change of date and location of public hearing.

SUMMARY: This document changes the date and location of the public hearing on the notice of proposed rulemaking relating to basis reduction due to discharge of indebtedness under sections 108 and 1017 of the Internal Revenue Code of 1986.

DATES: The public hearing is being held on Thursday, May 29, 1997, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by April 3, 1997.

ADDRESSES: The public hearing originally scheduled in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC is changed to the Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Evangelista Lee of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing appearing in the Federal Register on Tuesday, January 7, 1997, (62 FR 955) announced that a public hearing on proposed regulations relating to the basis reduction due to discharge of indebtedness under sections 108 and 1017 would be held on Thursday, April 24, 1997, beginning at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC and that requests to speak and outlines of oral comments should be received by Thursday, April 3, 1997.

The date and location of the public hearing has changed. The hearing is scheduled for Thursday, May 29, 1997, beginning at 10 a.m. in the Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. We must receive requests to speak and outlines of oral comments by Thursday, April 3, 1997. Because of the controlled access restrictions, attenders are not admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

The Service will prepare an agenda showing the scheduling of the speakers after the outlines are received from the persons testifying and make copies available free of charge at the hearing.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 97–6674 Filed 3–14–97; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL–5710–7]

RIN 2060–AG70

Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of 16 Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to revise EPA's definition of volatile organic compounds (VOC) for purposes of preparing State implementation plans (SIP's) to attain the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (Act) and for any Federal implementation plan (FIP) for an ozone nonattainment area. This proposed revision would add 16 compounds (shown in Table 3) to the list of compounds excluded from the definition of VOC on the basis that these compounds have negligible contribution to tropospheric ozone formation. These compounds have potential for use as refrigerants, aerosol propellants, fire extinguishers, blowing agents and solvents. Several of these compounds may be used as alternatives to chlorofluorocarbons (CFC's) which are being phased out of production as stratospheric ozone depleters.

DATES: Comments on this proposal must be received by April 16, 1997. Requests for a hearing must be submitted by April 16, 1997.

ADDRESSES: Comments should be submitted in duplicate (if possible) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–96–36, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Comments should be strictly limited to the subject matter of this proposal, the scope of which is discussed below.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at Research Triangle Park, NC. Persons wishing to request a public hearing/wanting to attend the hearing or wishing to present oral testimony should notify Mr. William Johnson, Air Quality Management Division (MD–15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–5245. The EPA will publish notice of a hearing, if requested, in the Federal Register. Any hearing will be strictly limited to the subject matter of the proposal, the scope of which is discussed below. The EPA has established a public docket for this action, A–96–36, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center, (6102), 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: William Johnson, Office of Air Quality Planning and Standards, Air Quality Management Division (MD–15), Research Triangle Park, NC 27711, phone (919) 541–5245. Interested persons may call Mr. Johnson to see if a hearing will be held and the date and location of any hearing.

SUPPLEMENTARY INFORMATION:

Regulated entities. Entities potentially regulated by this action are those which use and emit VOC and States which have programs to control VOC emissions.

Category	Examples of regulated entities
Industry	Industries that use refrigerants, blowing agents, or solvents.
States	States which have regulations to control volatile organic compounds.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability criteria in § 51.100 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Background

On September 25, 1995 the Alliance for Responsible Atmospheric Policy submitted to the EPA a petition which requested that the compounds shown in Table 1 be added to the list of compounds which are considered to be negligibly reactive in the definition of VOC at 40 CFR 51.100(s). (The original petition also included five other compounds (CFC–111, CFC–112, CFC–112A, CFC–113a, and CFC–114a) not shown in Table 1, but the petitioner later requested that these compounds be removed from consideration.)

Potential uses for these compounds are also shown in Table 1. Blowing agent refers to products used in the manufacture of foamed plastic. The compounds for which no use is shown have no currently recognized commercial end-use. They may be either intermediates or unintentional byproducts resulting from the manufacture of other compounds. The petition points out that the use of HCFC and HFC compounds can be substituted for CFC's and can thereby reduce potential chlorine effects on stratospheric ozone.

TABLE 1.—COMPOUNDS PETITIONED FOR VOC EXCLUSION (ALONG WITH POTENTIAL USES OF COMPOUNDS)

Compound	Potential use
HFC–32	Refrigerant.
HFC–161	Aerosol propellant, blowing agent.
HFC–236fa	Fire extinguishant, refrigerant.
HFC–245ca	Refrigerant, blowing agent.
HFC–245eb	Refrigerant, blowing agent.
HFC 245fa	Refrigerant, blowing agent.
HFC 245ea	Solvent.
HFC–236ea	Refrigerant, blowing agent.
HFC–365mfc	Blowing agent.
HCFC–31.	
HCFC–150a.	
HCFC–151a.	
HCFC–123a	Blowing agent.
$C_4F_9OCH_3$	Solvent.
$(CF_3)_2CFCF_2OCH_3$	Solvent.
$C_4F_9OC_2H_5$	Solvent.
$(CF_3)_2CFCF_2OC_2H_5$	Solvent.

In support of the petitions, the Alliance for Responsible Atmospheric Policy supplied information on the photochemical reactivity of the individual compounds. This information consisted mainly of the rate constant for the reaction of the compound with the hydroxyl (OH) radical. This rate constant (k_{OH} value) is commonly used as one measure of the photochemical reactivity of compounds. The petitioner compared the rate constants with that of ethane which has already been listed as photochemically negligibly reactive (ethane is the compound with the highest k_{OH} value which is currently regarded as negligibly reactive). The compounds under consideration are listed in Table 2 along with their reported k_{OH} rate constants. The scientific information which the petitioner has submitted in support of the petition has been added to the docket for this rulemaking. This information includes references for the

journal articles where the rate constant values are published.

TABLE 2.—REACTION RATE CONSTANTS WITH OH RADICAL REPORTED RATE CONSTANT AT 25°C

Compound	cm^3/molecule/sec	CAS number
Ethane	2.4×10^{-13}	
HFC–32	1.0×10^{-14}	75–10–5
HFC–161	17×10^{-14}	353–36–6
HFC–236fa	0.034×10^{-14}	690–39–2
HFC–245ca	0.91×10^{-14}	679–86–7
HFC–245ea	1.6×10^{-14}	
HFC–245eb	1.5×10^{-14}	431–31–2
HFC–245fa	0.66×10^{-14}	690–39–1
HFC–236ea	0.66×10^{-14}	431–63–0
HFC–365mfc	0.87×10^{-14}	406–58–6
HCFC–31	4.5×10^{-14}	593–70–4
HCFC–123a	1.23×10^{-14}	354–23–4
HCFC–150a	2.6×10^{-13}	75–34–3
HCFC–151a	6.9×10^{-14}	1615–75–4
$C_4F_9OCH_3$	1.4×10^{-14}	163702–07–6
$(CF_3)_2CFCF_2OCH_3$	1.4×10^{-14}	163702–08–7
$C_4F_9OC_2H_5$	6.4×10^{-14}	163702–05–4
$(CF_3)_2CFCF_2OC_2H_5$	6.4×10^{-14}	163702–06–5

II. The EPA Response to the Petitions

For the petition submitted by the Alliance for Responsible Atmospheric Policy, the existing data support that the reactivities of the compounds submitted (except for HCFC–150a), with respect to reaction with OH radicals in the atmosphere, are lower than that of ethane.

In the petition, the petitioner did not submit reactivity data with respect to other VOC loss reactions (such as reaction with O-atoms, nitrogen trioxide (NO_3)-radicals, and ozone (O_3), and for photolysis). However, there is ample evidence in the literature that halogenated paraffinic VOC, such as the compounds listed above, do not participate in such reactions significantly.

The information submitted by the petitioner for HCFC–150a does not justify the petitioners request that this compound be declared ''negligibly reactive.'' The reactivity of HCFC–150a with respect to reaction with OH is higher than that of ethane (i.e., 26×10^{-14} cm^3 $molecule^{-1}$ s^{-1} vs. 24×10^{-14} cm^3 $molecule^{-1}$ s^{-1}, for reaction rate constants). This suggests, but in the absence of detailed information on the atmospheric chemistry of HCFC–150a does not prove, a higher ozone-forming reactivity. In the cases of such VOC species, for which conclusive scientific evidence is not available, the EPA policy has been to assume the VOC species to have significant ozone-forming reactivity unless and until additional specific evidence is produced that attests the contrary position. At this time, therefore, a ''negligibly reactive'' rating for HCFC–150a cannot be justified.

The EPA is responding to the petition by proposing in this notice to add the compounds in Table 3 to the list of compounds appearing in 40 CFR 51.100(s).

TABLE 3.—COMPOUNDS PROPOSED TO BE ADDED TO THE LIST OF NEGLIGIBLY REACTIVE COMPOUNDS

Compound	Chemical name or formula
HFC–32	Difluoromethane.
HFC–161	Ethylfluoride.
HFC–236fa	1,1,1,3,3,3-hexafluoropropane.
HFC–245ca	1,1,2,2,3-pentafluoropentane.
HFC–245ea	1,1,2,3,3-pentafluoropropane.
HFC–245eb	1,1,1,3,4-pentafluoropentane.
HFC–245fa	1,1,1,3,3-pentafluoropentane.
HFC–236ea	1,1,1,2,3,3-hexafluoropropane.
HFC–365mfc	1,1,1,3,3-pentafluorobutane.
HCFC–31	chlorofluoromethane.
HCFC–123a	1,2-dichloro-1,1,2-trifluoroethane.
HCFC–151a	1 chloro-1-fluoroethane.
$C_4F_9OCH_3$	1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane.
$(CF_3)_2CFCF_2OCH_3$	2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane.
$C_4F_9OC_2H_5$	1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane.
$(CF_3)_2CFCF_2OC_2H_5$	2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane.

III. Proposed Action

Today's proposed action is based on EPA's review of the material in Docket No. A–96–36. The EPA hereby proposes to amend its definition of VOC at 40 CFR 51.100(s) to exclude the compounds in Table 3 as VOC for ozone SIP and ozone control purposes. The revised definition will also apply in Federal Implementation Plans for ozone nonattainment areas pursuant to the 40 CFR 52.741(a)(3) definition of volatile organic material or VOC. States are not obligated to exclude from control as a

VOC those compounds that EPA has found to be negligibly reactive. However, if this action is made final, States should not include these compounds in their VOC emissions inventories for determining reasonable further progress under the Act (e.g., section 182(b)(1)) and may not take credit for controlling these compounds in their ozone control strategy.

IV. Administrative Requirements

A. Docket

The docket is an organized and complete file for all information submitted or otherwise considered by EPA in the development of this proposed rulemaking. The principle purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process; and, (2) to serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A)).

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not ''significant'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

C. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) (signed into law on March 22, 1995) requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector of $100 million or more in any 1 year. Section 204 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Since this proposed rule is deregulatory in nature and does not impose a mandate upon any source, this rule is not estimated to result in the expenditure by State, local and tribal governments or the private sector of $100 million in any 1 year. Therefore, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of an RFA analysis in those instances where the regulation would impose a substantial impact on a significant number of small entities. Because this proposed rulemaking imposes no adverse economic impacts, an analysis has not been conducted. Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that the proposed rule will not have an impact on small entities because no additional costs will be incurred.

E. Paperwork Reduction Act

This proposed rule does not change any information collection requirements subject to OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 10, 1997.

Carol M. Browner,

Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS.

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401–7641q.

2. Section 51.100 is proposed to be amended by revising paragraph (s)(1) to read as follows:

§ 51.100 Definitions.

* * * * *

(s) ''Volatile organic compounds (VOC)'' means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC–113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (HCFC–22); trifluoromethane (HFC–23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC–114); chloropentafluoroethane (CFC–115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC–123); 1,1,1,2-tetrafluoroethane (HFC–134a); 1,1-dichloro 1-fluoroethane (HCFC–141b); 1-chloro 1,1-difluoroethane (HCFC–142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC–124); pentafluoroethane (HFC–125); 1,1,2,2-tetrafluoroethane (HFC–134); 1,1,1-trifluoroethane (HFC–143a); 1,1-difluoroethane (HFC–152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; 3,3-

dichloro-1,1,1,2,2-pentafluoropropane (HCFC–225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC–225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43–10mee); difluoromethane (HFC–32); ethylfluoride (HFC–161); 1,1,1,3,3,3-hexafluoropropane (HFC–236fa); 1,1,2,2,3-pentafluoropentane (HFC–245ca); 1,1,2,3,3-pentafluoropropane (HFC–245ea); 1,1,1,3,4-pentafluoropentane (HFC–245eb); 1,1,1,3,3-pentafluoropentane (HFC–245fa); 1,1,1,2,3,3-hexafluoropropane (HFC–236ea); 1,1,1,3,3-pentafluorobutane (HFC–365mfc); chlorofluoromethane (HCFC–31); 1 chloro-1-fluoroethane (HCFC–151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC–123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$); and perfluorocarbon compounds which fall into these classes:

(i) cyclic, branched, or linear, completely fluorinated alkanes;

(ii) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(iii) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(iv) sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

* * * * *

[FR Doc. 97–6653 Filed 3–14–97; 8:45 am]

BILLING CODE: 6560–50–P

40 CFR Part 52

[AZ 059–0005b; FRL–5697–4]

Approval and Promulgation of State Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Arizona State Implementation Plan (SIP) which concerns the control of volatile organic compound (VOC) emissions from Commercial Bread Bakeries.

The intended effect of proposing approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this Federal Register, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by April 16, 1997.

ADDRESSES: Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office (Air-4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012

Maricopa County Department of Environmental Services, 2406 South 24th Street, Suite E–204, Phoenix, AZ 85034–6822.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Officer (Air-4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1197).

SUPPLEMENTARY INFORMATION: This document concerns Maricopa County Environmental Services Department Rule 343, Commercial Bread Bakeries, submitted to EPA on August 31, 1995 by the Arizona Department of Environmental Quality. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 19, 1997.

Nora L. McGee,

Acting Regional Administrator.

[FR Doc. 97–5973 Filed 3–14–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 80

[FRL–5710–6]

Fuels and Fuel Additives; Elimination of Oxygenated Gasoline Program Reformulated Gasoline (OPRG) Category From the Reformulated Gasoline Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to amend the reformulated gasoline (RFG) regulations to eliminate the separate treatment for a category of gasoline used in oxygen averaging. This category, oxygenated gasoline program reformulated gasoline (OPRG), includes gasoline intended for use in a state oxygenated gasoline program control area during the winter time. Under the current RFG regulations, a refiner must meet the oxygen content standards for the entire pool of gasoline they produce, and for the pool of gasoline they produce that is non-OPRG. EPA is proposing this action because it no longer believes a distinction between OPRG and non-OPRG is necessary and because removal of the OPRG category would add flexibility and reduce compliance costs for regulated parties, without producing a negative environmental impact.

DATES: Comments on this proposed rule must be received by April 16, 1997. EPA does not plan to hold a public hearing on this proposed rule, unless one is requested. If a request is received by April 1, 1997, a public hearing will be held. If such a hearing is held, comments must be received within 30 days of the date of such hearing.

ADDRESSES: Written comments on this proposed action should be addressed to Public Docket # A–97–01, Air Docket Section (Room M–1500, Waterside Mall), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Documents related to this proposed rule have been placed in the public docket and may be inspected between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket material. Those wishing to notify EPA of their intent to request an opportunity for a public hearing on this action should contact Anne-Marie

Pastorkovich, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233–9013.

FOR FURTHER INFORMATION CONTACT: Anne-Marie Pastorkovich, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233–9013.

SUPPLEMENTARY INFORMATION:

I. Regulatory Entities

Regulatory categories and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry	Refiners, importers, oxygenate blenders of reformulated gasoline.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the existing provisions at 40 CFR sections 80.2, 80.65, 80.67, 80.69, 80.75, 80.77, 80.78, and 80.128, dealing specifically with OPRG. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

A. The Oxygen Standard Under the RFG Program

The federal RFG program is designed for the control of harmful ground level ozone and toxic air pollutants through reformulation of gasoline in ways that reduce emissions of air pollutants from motor vehicles. Federal RFG is required by section 211(k) of the Clean Air Act (''the Act'') in the nine largest cities with the worst ozone problems beginning in January, 1995. In addition, other ozone nonattainment areas are permitted to join the program (i.e., to ''opt in'') at the request of the Governor of the state wherein the nonattainment area(s) are located. EPA published final regulations for the RFG program in the Federal Register on February 16, 1994.[1] The covered areas for the RFG regulations are specified at 40 CFR section 80.70.

Section 211(k) of the Act requires that RFG must contain at least 2.0 weight percent oxygen and further requires that the RFG regulations issued by EPA allow for oxygen credit trading. These oxygen credit provisions must ensure that each RFG area does not receive RFG with less oxygen than it would without such averaging.[2] Consistent with the requirements of the Act, the final RFG regulations issued by EPA allow refiners the option of electing to meet the oxygen standard on average, and allow the generation, sale, purchase, and use of oxygen credits.

Compliance with the RFG standards, including the oxygen standard, is met on a refinery basis. A refiner who elects to meet the oxygen standard on an averaging basis must meet an average oxygen content of ≥2.1 weight percent across all of the RFG he produces in an averaging period,[3] and the minimum oxygen content for an individual gallon of gasoline is ≥1.5 weight percent oxygen, for each of its refineries. In short, the average is met on a refinery-by-refinery basis rather than on an RFG covered area-by-area basis. This type of averaging permits maximum operational flexibility for refiners. However, this type of averaging by a number of refiners also means that a substantial amount of RFG may be produced with an oxygen content that is higher than the standard, and a substantial amount that is lower than the standard. Although the fungible distribution system for gasoline means that the higher and lower oxygen content gasoline should generally produce the same average oxygen content throughout the covered areas where RFG is required, a general risk exists that one or more areas might end up receiving RFG that has a lower oxygen content on average than would occur if no averaging were allowed. To address this concern, the requirements for averaging also require that refiners who average must conduct gasoline quality surveys in each area where their gasoline is distributed. If a survey is failed (i.e., the average oxygen content in the area is less than 2.0 weight percent), the minimum oxygen standard is made more stringent. The combination of a survey requirement and tightening of the minimum standard upon a survey failure provides an incentive for refiners to avoid conduct that could lead to a survey failure, and reduces the likelihood of a problem continuing once a survey is failed.[4]

The gasoline quality survey provisions require refiners who elect to meet RFG standards on average, including the oxygen standard, to either conduct surveys themselves or to participate in a consortium with other refiners. The consortium sponsors a series of gasoline quality surveys in each RFG area each year. If a survey shows that the average oxygen content for an area is < 2.0 weight percent, an additional 0.1 weight percent minimum would be applied to the per-gallon minimum applicable to the averaging refiner. Therefore, although the oxygen average standard would still be 2.1 weight percent, the minimum oxygen standard for all refiners serving that failed area would be increased from 1.5 weight percent oxygen to 1.6 weight percent oxygen. Future survey failures would result in additional increases of the minimum standard to the 2.0 weight percent standard.[5] Based upon preliminary survey data received for 1996, EPA is aware that several RFG cities are reasonably expected to experience survey failures for oxygen and, therefore, would experience a required ''ratcheting'' of the minimum oxygen standard for averaging from 1.5 weight% to 1.6 weight%.

The Agency acknowledges that, if the separate averaging category for OPRG is dropped, there is some marginal increase in the risk that an area might receive RFG with too low oxygen content. This is because oxygen credits generated in an oxygenated gasoline program area could now be transferred to a non-oxygenated gasoline program area, resulting in a lower ''actual'' oxygen content for the RFG used in that non-oxygenated gasoline program area. However, the Agency believes that the oxygen surveys are adequately designed to address this type of concern and ''ratcheting'' of the minimum oxygen standard will be implemented in failing areas as appropriate. The ratcheting of the minimum oxygen standard should provide a strong incentive, over time, against conduct leading to survey failures. Given this incentive, the marginal increase in risk noted above does not warrant the regulatory burden from retraining OPRG as a separate RFG category.

[1] 59 FR 7812 (February 16, 1994).

[2] *See* section 211(k)(2)(B) of the Act (2.0 percent oxygen by weight standard) and section 211(k)(7) of the Act (provisions dealing with averaging/credits).

[3] The averaging period for oxygen credits corresponds with the calendar year of January 1–December 31. S*ee* 40 CFR section 80.67(f)(1).

[4] *See* 40 CFR 80.68 for gasoline quality survey requirements.

[5] The regulations provide that the standard would be changed to be more stringent, based on minimum oxygen survey failures. The standard would subsequently be made less stringent, based on a pattern of successful surveys.

B. State Oxygenated Gasoline Programs and the Purpose of the OPRG Category for RFG

Section 211(m) of the Act required that certain states implement oxygenated gasoline programs by not later than November 1, 1992. The control period for these oxygenated gasoline programs are based upon the time period during which each area is prone to high ambient concentrations of carbon monoxide (CO) and must be at least four months in length. The oxygen content for gasoline in these areas is 2.7 weight percent minimum, higher than the levels required for RFG. Because CO tends to be a cold weather problem, the control periods tended to fall during the winter months. Control periods are adopted by each individual state as part of its oxygenated gasoline regulations. Four of the original East coast oxygenated gasoline program Consolidated Metropolitan Statistical Areas (CMSAs)/Metropolitan Statistical Areas (MSAs) were also RFG covered areas. The Baltimore, Maryland MSA (including areas within Maryland), the Washington DC–MD–VA CMSA (including areas within the District of Columbia, Maryland, and Virginia), and the Philadelphia, Pennsylvania, DE–MD–NJ–PA CMSA (including areas within Pennsylvania, Maryland, and Southern New Jersey [6]) have redesignated to attainment for CO and are no longer required to implement oxygenated gasoline programs. The New York/New Jersey/ Connecticut CMSA (which includes the several New York City and State counties, Northern New Jersey, and Southern Connecticut areas) is the only oxygenated gasoline/RFG overlap area that still exists. [7]

Although the survey requirements, discussed above, were designed to reduce a risk that some areas might receive relatively low oxygen RFG, EPA believed, at the time it issued the final RFG regulation, that the overlap of these several winter oxygenated gasoline programs and the RFG program presented an additional risk that allowing averaging for oxygen might lead to certain RFG areas receiving, on average, RFG with lower oxygen content than they would if averaging were not allowed. Specifically, in developing the RFG regulations, EPA was concerned that the requirement that refiners supply RFG with 2.7 weight percent oxygen to oxygenated gasoline/RFG areas would lead, through the use of transferable credits and averaging, to the use of RFG in non-oxygenated gasoline/RFG areas with oxygen content significantly lower than would occur without such averaging. To prevent this, the final RFG regulations require refiners to designate all RFG as either OPRG (intended for use in an oxygenated gasoline/RFG area during an oxygenated gasoline control period), or as non-OPRG (gasoline other than OPRG, e.g., non-oxygenated gasoline program reformulated gasoline). Refiners are required to meet the oxygen standard separately for non-OPRG, as well as for all RFG.[8] In addition, OPRG and non-OPRG oxygen credits must be identified and kept separate. OPRG and non-OPRG also have physical segregation requirements and must be used consistently with their designations.[9]

C. Why the OPRG Category May Be Eliminated Now

Between 1993, when the final RFG rule was issued, and 1995, when the RFG program was implemented, the number of overlapping oxygenated gasoline program and RFG areas significantly decreased. Several areas were redesignated to attainment with the National Ambient Air Quality Standards (NAAQS) for CO and were no longer required to comply with the winter oxygenated gasoline program requirements. There is now only one area outside of California (see note 7), the New York/New Jersey/Connecticut CMSA, that is still an oxygenated gasoline program/RFG overlapping program area.

Although EPA is concerned that the statutory mandate for 2.0 weight percent oxygen for RFG is met, the Agency feels that the specific risk of uneven RFG quality due to overlapping oxygenated gasoline/RFG program areas is significantly less than was expected when the RFG regulations were promulgated. There is still some risk that an area might receive relatively low oxygen RFG because of averaging, but the risk is no longer as likely to be specifically caused by program overlap.

There is only one oxygenated gasoline overlap area left outside of California and the volume of gasoline expected to fall under the OPRG category has been greatly reduced. Based upon EPA estimates made prior to the beginning of the first year of the RFG program, approximately one-third (33%) of all gasoline nationwide was predicted to be RFG. Oxygenated gasoline program overlap areas outside of California accounted for approximately one-third (33%) of the total RFG pool, with approximately 19% going to the New York CMSA.[10] EPA believes that any risk that an area might receive low oxygen RFG is significantly less than it appeared in 1993 or 1994. In 1994, roughly one-third of RFG was expected to be destined for several oxygenated gasoline overlap cities outside of California. In 1996, there is only one of these oxygenated gasoline overlap areas left (i.e. the New York City CMSA). Clearly, the New York CMSA consumes a large volume of RFG—based on 1994 estimates, 19% of the total RFG was expected to be destined for New York—but this is still a significantly lower volume of gasoline than the 33% that was originally estimated to be destined for all non-California oxygenated gasoline overlap areas. Under these circumstances, EPA believes that the risk that an area might receive low oxygen RFG can be adequately addressed through another existing compliance mechanism—the RFG surveys, discussed above, and the additional restrictions based on the OPRG category do not provide enough additional protection to warrant the burden they place on the regulated community.

III. Description of Today's Proposed Rule

EPA is proposing today to amend the Federal RFG regulations to remove the use of a separate OPRG category and to eliminate the distinction between OPRG and non-OPRG. The following sections would be affected by today's proposal. In most cases, the changes are minor and would remove references to, and distinctions between, the eliminated OPRG category and RFG which is non-OPRG.

[6] Delaware did not contain any CO nonattainment areas and was not required to implement an oxygenated gasoline program.

[7] The OPRG distinction does not apply in California areas required to implement both the federal RFG and state oxygenated gasoline programs.

[8] Under the simple model, the oxygen average must be met separately for VOC-controlled RFG.

[9] See 59 FR 7772, footnote 56.

[10] It should be noted that, since these estimates were made in 1994, some areas have opted out of the RFG program and Sacramento, California joined the program as a required covered area, and comparative volume totals will have changed somewhat as a result. These estimates are not based upon the comparative volume of OPRG to RFG. Rather, they are ''straight'' estimates of program area's share of the total RFG ''pool'' and are not broken down into compliance categories. The reader should be aware that OPRG gasoline likely represents a smaller, subset of the total volume represented for each area. The document from which the volume estimates were taken has been placed in the public docket at the location indicated in the **ADDRESSES** section of this notice.

40 CFR part 80, section	Description of change
Section 80.2—Definitions. 80.2(nn)	Definition of ''Oxygenated gasoline program reformulated gasoline,'' or OPRG'' is proposed to be deleted.
Section 80.65—General requirements for refiners, importers, and oxygenate blenders. 80.65(d)(2)(iii) (A) and (B).	Requirements for designation of gasoline as OPRG or non-OPRG are proposed to be deleted.
Section 80.67—Compliance on average. 80.67(f)(2)(ii), 80.67(h)(v) (A) and (B).	Propose to delete requirements to meet oxygen average separately and to segregate credits for non-OPRG, since the OPRG versus non-OPRG distinction would be eliminated.
Section 80.69—Requirements for downstream oxygen blending. 80.69(f) (1) and (2).	Propose to delete these sub-sections, as there would no longer be a category known as ''OPRG.''
Section 80.75—Reporting requirements. 80.75(f)(2)(ii)(A) (1) through (4) and (B) (1) and (2); 80.75 (f)(2)(iii)(B); 80.75(h)(2) (i) and (ii).	For 80.75 (f)(2)(ii)(A) (1) through (4), propose to eliminate the OPRG and non-OPRG distinction. Thus, the only categories remaining would be VOC-controlled (divided into subcategories 1 and 2) and non-VOC-controlled RFG. Propose to delete 80.75 (f)(2)(ii)(B) (1) and (2) and to eliminate to OPRG and non-OPRG distinction. Propose to delete 80.75(f)(2)(iii)(B), which refers to gasoline designated as non-OPRG.
Section 80.77—Product transfer documentation. 80.77 (g)(1)(ii)	Propose to delete requirement to identify gasoline as OPRG or non-OPRG.
Section 80.78—Controls and prohibitions on reformulated gasoline. 80.78(a)(6).	The existing section prohibits addition of oxygen to finished RFG, unless such RFG is designated as OPRG used in an oxygenated gasoline control area during the oxygenated gasoline control period. Propose to amend this OPRG ''exception'' to allow for elimination of the OPRG/non-OPRG categories. Specifically, the proposed amended section would allow for addition of oxygenate to RFG intended for and used in an oxygenate gasoline program area.
Sections 80.128 and 80.129— Agreed upon procedures for refiners and importers and Agreed upon procedures for oxygenate blenders. 80.128(d)(2) and 80.129 (d)(3)(iv).	Propose to remove requirement to compare PTD designation consistency for OPRG versus non-OPRG. Propose to remove similar requirement for downstream oxygenate blenders.

IV. Statutory Authority

Section 114, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

V. Environmental Impact

This rule is expected to have no environmental impact. The original reason for the OPRG category was concern that RFG quality might suffer in areas that were not both oxygenated gasoline program and RFG areas. There were several such areas when the RFG rules were promulgated. However, there is only one area, the New York/New Jersey/Connecticut CMSA, which has overlapping programs during the winter months.

VI. Economic Impact

Today's proposed regulation would have a positive economic impact on parties covered by the RFG regulation. The elimination of the OPRG/non-OPRG distinction would result in increased flexibility for regulated parties. Specifically, elimination of this distinction from the RFG regulations would alleviate the burden and cost associated with maintenance of separate recordkeeping, reporting, and product transfer documentation category for OPRG and non-OPRG gasoline. Elimination of the OPRG/non-OPRG distinction may also be expected to result in a general reduction of compliance costs associated with the need to meet the oxygen average separately for two classes of RFG.

VII. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant economic impact on a substantial number of small entities because it is not expected to result in any additional compliance costs to regulated parties. It should instead reduce costs and increase flexibility allowed under the regulations by removing one category of gasoline for oxygen averaging, the OPRG category, and eliminating in large part the distinction between OPRG and non-OPRG gasoline. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

VIII. Executive Order 12866

Under Executive Order 12866,[11] the Agency must determine whether a regulation is ''significant'' and therefore subject to interagency review under the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments of communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.[12]

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to interagency review under the Order.

IX. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''UMRA''), P.L. 104–4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a Federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate,

[11] 58 FR 51735 (October 4, 1993).

[12] *Id.* at section 3(f) (1)–(4).

or to the private sector, of $100 million or more. Under Section 205, for any rule subject to Section 202 EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under Section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that the rule proposed today does not include a federal mandate as defined in UMRA. The rule does not include a Federal mandate that may result in estimated annual costs to State, local or tribal governments in the aggregate, or to the private sector, of $100 million or more, and it does not establish regulatory requirements that may significantly or uniquely affect small governments.

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: March 10, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR part 80 is proposed to be amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

§ 80.2 [Amended]

2. Section 80.2 is proposed to be amended by removing and reserving paragraph (nn).

§ 80.65 [Amended]

3. Section 80.65 is proposed to be amended by removing and reserving paragraph (d)(2)(iii).

4. Section 80.67 is proposed to be amended by removing and reserving paragraph (f)(2)(ii) and by revising paragraphs (h)(1)(v)(A)(*1*) and (h)(1)(v)(A)(*2*) and by removing and reserving paragraph (h)(1)(v)(B) to read as follows:

§ 80.67 Compliance on average.

* * * * *

(f) * * *

(2) * * *

(ii) [Reserved]

* * * * *

(h) * * *

(1) * * *

(v) * * *

(A) * * *

(*1*) VOC controlled; and

(*2*) Non-VOC controlled.

(B) [Reserved]

* * * * *

§ 80.69 [Amended]

5. Section 80.69 is proposed to be amended by removing paragraph (f).

6. Section 80.75 is proposed to be amended by revising paragraphs (f)(2)(ii)(A)(*1*), (f)(2)(ii)(A)(*2*), (h)(2)(i)(A) and (h)(2)(i)(B) and by removing paragraphs (f)(2)(ii)(A)(*3*), (f)(2)(ii)(A)(*4*), (h)(2)(i)(C), (h)(2)(i)(D), and removing and reserving (h)(2)(ii) to read as follows:

§ 80.75 Reporting requirements.

* * * * *

(f) * * *

(2) * * *

(ii) * * *

(A) * * *

(*1*) Gasoline designated as VOC-controlled; and

(*2*) Gasoline designated as non-VOC-controlled.

* * * * *

(h) * * *

(2) * * *

(i) * * *

(A) VOC-controlled; and

(B) Non-VOC-controlled.

* * * * *

§ 80.77 [Amended]

7. Section 80.77 is proposed to be amended by removing and reserving paragraph (g)(1)(ii).

8. Section 80.78 is proposed to be amended by revising paragraph (a)(6) to read as follows:

§ 80.78 Controls and prohibitions on reformulated gasoline.

(a) * * *

(6) No person may add any oxygenate to reformulated gasoline, except that such oxygenate may be added to reformulated gasoline provided that such gasoline is used in an oxygenated fuels program control area during an oxygenated fuels control period.

* * * * *

9. Section 80.128 is proposed to be amended by revising paragraph (d)(2) to read as follows:

§ 80.128 Agreed upon procedures for refiners and importers.

* * * * *

(d) * * *

(2) Compare the product transfer documents designation for consistency with the time and place, and compliance model designations for the tender (VOC-controlled or non-VOC-controlled, VOC region for VOC-controlled, summer or winter gasoline, and simple or complex model certified); and

* * * * *

10. Section 80.129 is proposed to be amended by revising paragraph (d)(3)(iv) to read as follows:

§ 80.129 Agreed upon procedures for downstream oxygenate blenders.

* * * * *

(d) * * *

(3) * * *

(iv) Review the time and place designations in the product transfer documents prepared for the batch by the blender, for consistency with the time and place designations in the product transfer documents for the RBOB (e.g. VOC-controlled or non-VOC-controlled, VOC region for VOC-controlled, and simple or complex model).

* * * * *

[FR Doc. 97–6647 Filed 3–14–97; 8:45 am]

BILLING CODE: 6560–50–P

Notices

Federal Register
Vol. 62, No. 51
Monday, March 17, 1997

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

Federal Crop Insurance Corporation

Request for Public Comment on Information Collections Related to Crop Insurance Policies

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice announces a public comment period on the information collection requests (ICRs) associated with crop insurance policies administered by Federal Crop Insurance Corporation (FCIC). As part of the renewal of OMB approval for these collections, FCIC will review and combine all current ICRs approved by the Office of Management and Budget (OMB) under 23 separate dockets into one ICR. Only the docket related to the non-insured disaster assistance program, OMB Number 0563–0016, will be excluded from this merger. Establishing one OMB docket permits FCIC to better organize, monitor and revise its collections as programs change, and helps FCIC identify opportunities to streamline collections.

FCIC is soliciting comments concerning its information collections.

DATES: Written comments on this notice will be accepted until close of business May 16, 1997.

ADDRESSES: Interested persons are invited to submit written comments to the Acting Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture (USDA), 9435 Holmes Road, Kansas City, MO 64131. Written comments will be available for public inspection and copying in room 6741, South Building, USDA, 14th and Independence Avenue, S.W., Washington, D.C., 8:15 a.m. to 4:45 p.m., est., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Bill Smith, Supervisory Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO address listed above, telephone (816) 926–7743.

SUPPLEMENTARY INFORMATION:

Title: Federal Crop Insurance Policies.

Respondents/Affected Entities: Parties affected by the information collection requirements included in this Notice are producers, insurance companies reinsured by FCIC, insurance agents, and loss adjustment contractors.

Abstract: FCIC is conducting a thorough review of information collections associated with its crop insurance policies. As part of this review, FCIC is reorganizing and renewing currently approved information collections, and identifying any current collections that have not been approved by OMB. The ICRs affected by this review have been approved by OMB at different times under 23 different docket numbers. They are currently up for renewal and extension for three years. Establishing one common OMB docket number permits FCIC to maintain one ICR and to submit a single request once every three years when OMB approval must be renewed. Combining the agency's ICRs into one package also provides FCIC an opportunity to analyze the need for each of its forms, identify duplication, and plan streamlining of collections.

FCIC seeks public comment regarding the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden 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 gathering technology.

Background: The information collected by FCIC allows it to provide an actuarially sound insurance program for producers and increases producers' risk management options. The information is collected by Farm Service Agency personnel, crop insurance agents and loss adjusters. Various forms are used in gathering the information required by FCIC for the application, acceptance, and issuance of crop insurance policies and determining insurance coverage, premium, and the amount of production and loss. The information on these forms is then electronically transmitted to FCIC by the insurance provider. This data is used to administer the Federal crop insurance program in accordance with the Federal Crop Insurance Act, as amended.

The collections identified in this notice also provide FCIC with data for establishing new and different types of insurance coverage or crop options to increase insurance protection. Policy provisions and options permit producers to personalize their insurance coverage through written agreements, which allow deviations from the written policy, providing exclusions for hail and fire or high-risk land, etc.

Insurance providers must use the FCIC guidelines if they want to develop similar forms that fit their individual needs. Forms developed and produced on paper or electronically-generated by insurance providers will contain all required data and must be approved by FCIC.

Since crops differ significantly, FCIC customizes its required information collections for each crop that it insures. The type and amount of information determined by FCIC as necessary to establish and maintain the crop insurance program must also be reasonable, and FCIC must take into consideration the time and cost to producers, insurance providers, insurance agents, and loss adjusters. FCIC is reviewing the burden calculations in preparation of applying for renewal of OMB approval of its information collections. FCIC is also identifying and reducing duplication of its forms.

Burden Statement: FCIC has conducted a careful estimate of its current information collection burden. FCIC must estimate a burden for its forms that includes the time to complete the form and for the representative to explain the benefits of the program to the producer. Various activities of the loss adjuster (e.g., measuring acreage and making appraisals) must also be considered in the burden estimates.

FCIC has reviewed burden estimates for all of its forms, and the new burden estimates are lower for 52 forms and unchanged for 42 forms. FCIC is seeking approval from OMB for the burden associated with 30 additional forms that are also described below. FCIC used the 1996 crop year Summary of Business totals and computer generated reports to determine a total number of policyholders.

Total Burden: Burden hours and costs to respondents are described individually in the 23 currently-approved OMB dockets. FCIC is proposing to combine these dockets into one. Under the combined docket, FCIC estimates a total burden of 1,341,259 hours for all crop policy information collections.

Frequency of Reporting: Some sales forms are completed only when a producer applies for crop insurance, e.g., the application and most coverage options. Canceling and reinstating insurance coverage, transferring insurance coverage to a different reinsured company, and changing the amount of insurance coverage are instances when these forms would have to be completed again. Other forms are completed annually, such as forms used to collect crop acreage data, production data used to establish the insurance guarantee, and administrative forms such as the assignment of indemnity and certain coverage options. More than one crop may be reported on one form and producers may need to complete more than one form per year, for example when planting both spring and winter wheat which have different reporting dates. Some acreage reports may need to be revised which will require an additional report to be submitted during the crop year. Notice of damage and claim forms are completed by crop year, crop, and unit when a crop has been damaged or destroyed.

FCIC reviewed each form and estimated the proportion of insureds who complete each form in a given year, recognizing that some insureds complete the forms more than once in any given year. This proportion was multiplied by the number of insureds for each crop for the 1996 crop year to determine the total annual number of responses. To determine the average number of completed Claim for Indemnity forms FCI–74, FCI–8, and FCI–63, FCIC generated indemnity records by crop and by unit for the 1993 through the 1996 crop years. The total annual responses for these claim forms were calculated by averaging the number of units indemnified during this period. Certain forms are used for each loss. FCIC estimated the proportion of losses requiring specific forms and multiplied that value times the average number of units indemnified to determine the total annual responses for such forms.

Recordkeeping Requirements: FCIC requires records to be kept for three years, but all records required by FCIC are retained as part of normal business practice. Therefore, FCIC is not estimating additional burden related to recordkeeping.

Nature and Purpose of Information Collected: The various categories of forms, the nature of the information collected, and the purpose for the information are described below.

Sales documents provide the information required to issue a crop insurance policy, such as the insured's name, address, social security number, crops to be insured, dollar amount of insurance or price election and level of coverage selected by the producer, crop condition reports for perennial crops, assignment or transfer of indemnity, power of attorney, or other information affecting policy benefits.

Yield Reports establish an individual insured's actual production history yield and provide the basis for calculating the insured's production guarantee. The production guarantee is the simple average of a minimum of four yearly yields up to a maximum of ten yields.

Option forms allow an insured to modify the insurance coverage contained in the provisions in the crop insurance policy. An option may provide additional insurable causes of loss or limit those causes of loss, provide different methods of determining losses, or provide different types of unit division to increase an insured's protection, etc.

Acreage reports indicate the location, number of acres, dates planted, share (percent of interest), and other information by unit for each crop to be insured. The reports includes such information as plant inventory and container reports for nursery crops, planting records for some crops, and tonnage reports for raisins. These reports are used to determine premium and liability and must be submitted on or before the final acreage reporting date specified in the Special Provisions.

Notice of Damage and Claim Forms notify an insurance provider of damage to the crop. Appraisal worksheets for each individual crop are used in the field by the loss adjuster to determine the production to be counted in establishing the loss. Other forms in this category are various inspection, appraisal, production records, and claim for indemnity documents. The claim for indemnity form summarizes information determined by the loss adjuster and is required to compute the amount of an indemnity. The loss adjuster will determine from records, appraisals, and measurements, the amount of harvested and unharvested production, primary and secondary (when applicable) causes of loss, number of units (when applicable), number of planted and harvested acres and any other information necessary to determine the amount of loss.

Forms and Previous OMB Docket Numbers: The following lists have been compiled by grouping the various forms by the type and intended use of the information required on each form.

Form No.	Form title	Current OMB No.
	Sales Documents	
FCI–5	Request for Actuarial Change	0563–0042
FCI–5A	Request for Actuarial Change	0563–0042
FCI–6	Statement of Facts	0563–0003
FCI–12	Crop Insurance Application	0563–0003
FCI–12A	Contract Changes	0563–0003
FCI–12P	Pre-Acceptance Perennial Crop Inspection Report	0563–0031
FCI–19C	Texas Citrus Grove inspection Report	0563–0003
FCI–20	Application for Assignment of Indemnity	0563–0014
FCI–21	Transfer of Right to Indemnity	0563–0014
FCI–513	Waiver To Transfer Segregation II and III—Peanuts To Quota Loan	0563–0026
FCI–518*	Florida Citrus Grove Inspection Report	0563–
FCI–532	Power of Attorney	0563–0030

Form No.	Form title	Current OMB No.
FCI–544	Underwriting Questionnaire (Container Stock Only)	0563–0034
FCI–554	Macadamia Orchard Inspection Report	0563–0015
FCI–575	Social Security Number (SSN) and Employer Identification (EIN) Reporting Form	0563–0047
FCI–576	Disclaimer	0563–0049
FCI–583*	Authorization to Obtain Prune Records	0563–
FCI–587*	Request to Waive Administrative Fees for Catastrophic Crop Coverage	0563–
FCI–588*	Producer's Pre-Acceptance Worksheet	0563–
FCI–589*	Pre-Acceptance Inspection Report—Peach Addendum Worksheet	0563–
FCI–590*	Pre-Acceptance Inspection Report—Apple Addendum Worksheet	0563–
FCI–591*	Pre-Acceptance Inspection Report—Almonds, Citrus, Figs, Fr. Plums, Stonefruit, Walnuts, Addendum Worksheet.	0563–
FCI–592*	Pre-Acceptance Inspection Report—Blueberry Addendum Worksheet	0563–
FCI–*	Pre-Acceptance Inspection Report—Cranberry Addendum Worksheet	0563–
FCI–*	Pre-Acceptance Inspection Report—Grape/Table Grape Addendum Worksheet	0563–
FCI–*	Pre-Acceptance Inspection Report—Pear Addendum Worksheet	0563–
FCI–*	Block Production Worksheet	0563–
FCI–*	Unit Summary Worksheet	0563–
Yield Report Forms		
FCI–19A	Actual Production History Review	0563–0016
FCI–19A	Production and Yield Report	0563–0003
FCI–555	Peach Producer's Picking Records	0563–0022
FCI–595*	Hybrid Corn Seed Approved Yields	0563–
Option Forms		
FCI–9	Late Planting Agreement	0563–0023
FCI–78	Request To Exclude Hail and Fire	0563–0032
FCI–505	Potato Crop insurance Policy—Certified Seed Potato Option Amendment	0563–0020
FCI–506	Apple Fresh Fruit Option	0563–0020
FCI–523	Potato Crop Insurance Policy—Potato Quality Option	0563–0020
FCI–539	Apple Sunburn Option	0563–0020
FCI–547	Potato Crop Insurance Policy—Processing Potato Quality Option	0563–0020
FCI–548	Potato Crop Insurance Policy—Frost/Freeze Potato Option	0563–0020
FCI–549	High-Risk Land Exclusion Option	0563–0003
FCI–550	Fresh Market Tomato Minimum Value Option	0563–0020
FCI–553	Unit Division Option	0563–0003
FCI–577	Nursery Frost, Freeze, and Cold	0563–0050
Acreage Report Forms		
FCI–19	Crop Insurance Acreage Report	0563–0003
FCI–527	Fresh Sweet Corn Planting Record	0563–0022
FCI–528	Peppers—Planting Record	0563–0022
FCI–529	Tomatoes—Planting Record	0563–0022
FCI–544	Underwriting Questionnaire (Container Stock Only)	0563–0034
FCI–545	Nursery Container Report	0563–0034
FCI–546	Nursery Provisions Plant Inventory Summary	0563–0034
FCI–819	Raisin Supplement—Tonnage Report	0563–0035
Notice of Damage and Claim Forms		
FCI–8	Notice of Damage or loss.	
FCI–63	Claim for Citrus Indemnity	0563–0016
FCI–63	Claim for Raisin Indemnity	0563–0016
FCI–63A	Adjuster's Florida Citrus Worksheet	0563–0016
FCI–63A	Notice of Damage and Inspection—Raisins	0563–0035
FCI–63B	Tabulation of Production Records From Individual Load Certificates FL. Citrus	0563–0044
FCI–63C	Florida Citrus Production Sheet	0563–0044
FCI–73	Certification Form	0563–0033
FCI–74	Field Inspection and Claim for Indemnity	0563–0016
FCI–74 (Continuation Sheet)	Field Inspection and Claim for Indemnity (Continuation Sheet)	0563–0016
FCI–74T–P–C	Field Inspection and Claim for Indemnity (Tobacco, Peanuts, and Cotton)	0563–0016
FCI–74T–P–C (Continuation Sheet).	Field Inspection and Claim for Indemnity (Tobacco, Peanuts, and Cotton-Continuation Sheet)	0563–0016
FCI–74T–P–C*	AUP Cotton Quality Adjustment Worksheet	0563–
FCI–74T–P–C*	ELS Cotton Quality Adjustment Worksheet	0563–
FCI–74A	Adjuster's Apple Worksheet	0563–0016
FCI–74A	Avocado Appraisal Worksheet	0563–0016
FCI–74A	Beans and Peas Appraisal Worksheet	0563–0016
FCI–74A	Canning & Processing Beans—Stand Reduction and Hail Appraisal Worksheet	0563–0016
FCI–74A	Blueberry Appraisal Worksheet	0563–0016
FCI–74A	Lowbush Blueberry Appraisal Worksheet	0563–0016

Form No.	Form title	Current OMB No.
FCI–74A	Canola Appraisal Worksheet	0563–0016
FCI–74A	Citrus Appraisal Worksheet—(AZ/CA)	0563–0016
FCI–74A	Citrus Appraisal Worksheet—(Texas)	0563–0016
FCI–74A	Texas Tree Citrus Appraisal Worksheet	0563–0016
FCI–74A (Continuation Sheet)	Appraisal Worksheet (Texas Citrus Tree Damage Continuation Sheet)	0563–0016
FCI–74A	Sweet Corn—Fresh/Canning & Freezing Appraisal Worksheet	0563–0016
FCI–74A	Corn, Grain Sorghum, and Silage Appraisal Worksheet	0563–0016
FCI–74A	Cotton Appraisal Worksheet	0563–0016
FCI–74A	Fig Appraisal Worksheet	0563–0016
FCI–74A	Flax Appraisal Worksheet	0563–0016
FCI–74A	Florida Fruit Tree Pilot Appraisal Worksheet	0563–0016
FCI–74A (Continuation Sheet)	Florida Fruit Tree Pilot Appraisal Worksheet (Continuation Sheet)	0563–0016
FCI–74A	Forage Appraisal Worksheet	0563–0016
FCI–74A	Grape/Table Grape—Appraisal Worksheet	0563–0016
FCI–74A	Macadamia Trees Appraisal Worksheet	0563–0016
FCI–74A (Continuation Sheet)	Macadamia Tree Appraisal Worksheet (Continuation Sheet)	0563–0016
FCI–74A	Millet Appraisal Worksheet (Does not require OMB approval)	0563–0016
FCI–74A	Nut Trees (Nut Count) Appraisal Worksheet	0563–0016
FCI–74A*	Onion Appraisal Worksheet	0563–
FCI–74A	Peach Appraisal Worksheet	0563–0016
FCI–74A	Peanuts Appraisal Worksheet	0563–0016
FCI–74A	Pear Appraisal Worksheet	0563–0016
FCI–74A	Peppers/Fresh Tomatoes Appraisal Worksheet (Planting to Fruit Set/Replant)	0563–0016
FCI–74A	Fresh Plums Appraisal Worksheet	0563–0016
FCI–74A	Potatoes Appraisal Worksheet	0563–0016
FCI–74A	Prune Appraisal Worksheet	0563–0016
FCI–74A	Random Path Appraisal Worksheet	0563–0039
FCI–74A	Safflower Appraisal Worksheet	0563–0016
FCI–74A	Small Grains Appraisal Worksheet (Wheat-Barley-Rye-Rice)	0563–0016
FCI–74A	Soybeans Appraisal Worksheet	0563–0016
FCI–74A	Stonefruit Appraisal Worksheet	0563–0016
FCI–74A	Sugar Beets Appraisal Worksheet	0563–0016
FCI–74A	Sugarcane Appraisal Worksheet	0563–0016
FCI–74A	Sunflowers Appraisal Worksheet	0563–0016
FCI–74A	Tobacco Appraisal Worksheet	0563–0016
FCI–74A	C&P Tomatoes Appraisal Worksheet	0563–0016
FCI–74B	Apple Appraisal Worksheet	0563–0016
FCI–74B	Peanut Computation Sheet	0563–0041
FCI–74B	Pepper Appraisal Worksheet (Fruit Set to Maturity)	0563–0016
FCI–74B	Corn & Grain Sorghum—Stand Reduction Appraisal Worksheet	0563–0016
FCI–74B	Fresh Tomatoes Appraisal Worksheet (After Fruit Set)	0563–0016
FCI–74C	Summary of Harvested Avocado Production Worksheet	0563–0016
FCI–74C	Corn & Grain Sorghum Hail Damage Appraisal Worksheet	0563–0016
FCI–74C	Peppers/Fresh Tomatoes/Fresh Sweet Corn—Summary of Harvested Production	0563–0040
FCI–74C–VC*	Peanut Computation Sheet	0563–
FCI–551	Raisin Reconditioning Pool Production to Count	0563–0035
FCI–552	Self-Certification Replant Worksheet	0563–0037
FCI–578*	Raisin Packer's Release of Insured Raisins	0563–
FCI–579*	Raisin Release to an Alternative Use Market	0563–
FCI–580*	Raisin Release to Disk	0563–
FCI–581*	Raisin Reconditioning Authorization	0563–
FCI–582*	Raisin Appraisal Worksheet	0563–

*Seeking OMB approval.

Signed in Washington, D.C., on March 11, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–6649 Filed 3–14–97; 8:45 am]

BILLING CODE 3410–FA–P

Rural Utilities Service

Municipal Interest Rates for the Second Quarter of 1997

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of municipal interest rates on advances from insured electric loans for the second quarter of 1997.

SUMMARY: The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the second calendar quarter of 1997.

DATES: These interest rates are effective for interest rate terms that commence during the period beginning April 1, 1997, and ending June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Carolyn Dotson, Loan Funds Control Assistant, U.S. Department of Agriculture, Rural Utilities Service, room 2234–S, 1400 Independence Avenue, SW., Stop 1522, Washington, DC 20250–1522. Telephone: 202–720–1928. FAX: 202–690–2268. E-mail: CDotson@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the second calendar quarter of 1997 for municipal rate electric loans. Pursuant to RUS regulations at 7 CFR 1714.4, each advance of funds on a municipal rate

loan shall bear interest at a single rate for each interest rate term. Pursuant to 7 CFR 1714.5, the interest rates on these advances are based on indexes published in the ''Bond Buyer'' for the four weeks prior to the second Friday of the last month before the beginning of the quarter.

In accordance with 7 CFR 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the second calendar quarter of 1997.

Interest rate term ends in (year)	RUS rate (0.000 percent)
2018 or later	5.500
2017	5.500
2016	5.500
2015	5.500
2014	5.375
2013	5.375
2012	5.250
2011	5.250
2010	5.250
2009	5.125
2008	5.000
2007	4.875
2006	4.875
2005	4.750
2004	4.625
2003	4.500
2002	4.375
2001	4.375
2000	4.125
1999	4.000
1998	3.625

Dated: March 11, 1997.

Adam Golodner,

Deputy Administrator, Program Operations, Rural Utilities Service.

[FR Doc. 97–6652 Filed 3–14–97; 8:45 am]

BILLING CODE 3410–15–P

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 service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 14, 1997.

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 January 10, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (62 F.R. 1426) of proposed addition to the Procurement List. Comments were received from a contractor which provided the service on an interim basis between the default of the last long-term contractor in February 1996 and the current purchase of the service from the nonprofit agency which will provide it under the Javits-Wagner-O'Day (JWOD) Program. The contractor indicated that losing the contract would have a severe adverse impact on the company and its employees, as there are few other employment opportunities in the area.

The Government contracting activity for this service has informed the Committee that, following an unexpected default by a firm in the Small Business Administration's 8(a) Program, the commenting contractor was asked to perform this service on an interim basis pending its addition to the JWOD Program. The contracting activity also informed the Committee that it would offer to retain the service in the 8(a) Program if the service is not added to the Procurement List, and that the commenting contractor is no longer eligible for participation in the 8(a) Program. Consequently, the commenting contractor would not be able to receive future contracts for the service because it would be reserved for another firm under the 8(a) Program, and any impact on the contractor would occur whether or not the Committee added the service to the Procurement List. Under these circumstances, the Procurement List addition in itself cannot be said to have a severe adverse impact on the contractor.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service 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 service to the Government.

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

3. The action will result in authorizing small entities to furnish the service 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 service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List:

Janitorial/Custodial

Sierra Army Depot, Herlong, California

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. 97–6533 Filed 3–14–97; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Additions

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

ACTION: Additions to the procurement list.

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

EFFECTIVE DATE: April 14, 1997.

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 August 23, December 30, 1996 and January 24, 1997 the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 F.R. 43523, 68706 and 62 F.R. 3658) of proposed additions to the Procurement List.

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

I certify that the following action will not have a significant impact on a

substantial number of small entities. The major factors considered for this certification were:

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

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

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

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

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

Document Processing

U.S. Coast Guard Institute, Oklahoma City, Oklahoma

Janitorial/Custodial

Basewide, Keesler Air Force Base, Mississippi

Mailroom Operation

Department of Housing and Urban Development, Richmond, Virginia

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. 97–6534 Filed 3–14–97; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Proposed Additions

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

ACTION: Proposed additions to procurement list.

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

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 14, 1997.

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

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

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

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

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

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

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

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

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

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

Commodities

Gasket
5330–00–599–4230
NPA: Goodwill Industries—Knoxville, Inc., Knoxville, Tennessee

Tape, Electronic Data Processing
7045–01–354–3517
NPA: North Central Sight Services, Inc., Williamsport, Pennsylvania

Flat Trays and Lids
P.S. 1257T
P.S. 1257L
(Remaining Government requirement)
NPA: Minnesota Diversified Industries, St. Paul, Minnesota

Service

Customer Service Representatives, FISC SERVMART Division, Norfolk, Virginia
NPA: Virginia Industries for the Blind, Richmond, Virginia

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–6535 Filed 3–14–97; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Proposed Addition

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

ACTION: Proposed addition to procurement list.

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

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 14, 1997.

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

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

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

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

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

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

2. The action will result in authorizing small entities to furnish the service to the Government.

3. 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 service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification

on which they are providing additional information.

The following service has been proposed for addition to Procurement List for production by the nonprofit agency listed:

Grounds Maintenance

Miramar Naval Air Station, San Diego, California

NPA: Association for Retarded Citizens—San Diego, San Diego, California

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–6536 Filed 3–14–97; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Illinois Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m. on Thursday, April 3, 1997, at the Ralph H. Metcalfe Federal Building, 77 W. Jackson, Room 328, Chicago, Illinois 60604. The purpose of the meeting is to update the Committee's September 1993 report, Police Protection of the African American Community in Chicago.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joseph Mathewson, 847–446–8372, or Constance Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 6, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–6566 Filed 3–14–97; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Utah Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on Tuesday, April 8, 1997, at the Shiloh Hotel, 206 South West Temple, Salt Lake City, Utah 84101. The purpose of the meeting is to brief the Committee on Commission and regional activities. The Committee will discuss current civil rights issues, and plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Michael N. Martinez, 801–261–8169, or John F. Dulles, Director of the Rocky Mountain Regional Office, 303–866–1400 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 10, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–6567 Filed 3–14–97; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Wyoming Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on Saturday, May 3, 1997, at the Holiday Inn, 204 West Fox Farm Road, Cheyenne, Wyoming 82007. The purpose of the meeting is to brief the Committee on Commission and regional programs. The Committee will review implementation of recommendations contained in its report, The Employment of Minorities and Women in Wyoming State Government.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Oralia G. Mercado, 307–472–2105, or John F. Dulles, Director of the Rocky Mountain Regional Office, 303–866–1400 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 10, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–6568 Filed 3–14–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Estimates of the Voting Age Population for 1996

Under the requirements of the 1976 amendment to the Federal Election Campaign Act, Title 2, United States Code, Section 441a(e), I hereby give notice that the estimates of the voting age population for July 1, 1996, for each state and the District of Columbia are as shown in the following table.

I have certified these counts to the Federal Election Commission.

Dated: March 10, 1997.

William M. Daley,

Secretary of Commerce.

ESTIMATES OF THE POPULATION OF VOTING AGE FOR EACH STATE AND THE DISTRICT OF COLUMBIA: JULY 1, 1996

[In thousands]

Area	Population 18 and over
United States	196,235
Alabama	3,197
Alaska	423
Arizona	3,278
Arkansas	1,850
California	23,012
Colorado	2,825
Connecticut	2,476
Delaware	549
District of Columbia	434
Florida	10,977
Georgia	5,401
Hawaii	877
Idaho	841
Illinois	8,691
Indiana	4,342
Iowa	2,132
Kansas	1,885
Kentucky	2,915
Louisiana	3,117
Maine	944
Maryland	3,785
Massachusetts	4,670
Michigan	7,057
Minnesota	3,411
Mississippi	1,960
Missouri	3,964
Montana	647
Nebraska	1,210
Nevada	1,186
New Hampshire	867
New Jersey	6,001
New Mexico	1,212
New York	13,644
North Carolina	5,489
North Dakota	475
Ohio	8,325

ESTIMATES OF THE POPULATION OF VOTING AGE FOR EACH STATE AND THE DISTRICT OF COLUMBIA: JULY 1, 1996—Continued

[In thousands]

Area	Population 18 and over
Oklahoma	2,420
Oregon	2,395
Pennsylvania	9,161
Rhode Island	755
South Carolina	2,761
South Dakota	528
Tennessee	3,997
Texas	13,676
Utah	1,322
Vermont	442
Virginia	5,044
Washington	4,096
West Virginia	1,404
Wisconsin	3,817
Wyoming	348

Source: Population Estimates Program, Population Division, Bureau of the Census, Washington, D.C. 20233.

For a description of methodology see Current Population Reports, P25–1127.

[FR Doc. 97–6636 Filed 3–12–97; 3:13 pm]

BILLING CODE 3510–07–P

International Trade Administration

[A–588–703]

Certain Internal-Combustion Industrial Forklift Trucks From Japan: Amended Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of amended final results of antidumping duty administrative review.

SUMMARY: On February 6, 1997, the Department of Commerce published the final results of administrative review of the antidumping duty order on certain internal-combustion industrial forklift trucks from Japan (62 FR 5592). The review covers three manufacturers/exporters. The period of review is June 1, 1994, through May 31, 1995. Based on the correction of a clerical error, we have changed the antidumping duty rate for Toyota Motor Corporation.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas O. Barlow or Kris Campbell, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On February 6, 1997, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on certain internal-combustion industrial forklift trucks from Japan (62 FR 5592) (final results). The review covers three manufacturers/exporters and the period of review (POR) is June 1, 1994, through May 31, 1995.

After publication of our final results, we received timely allegations from NACCO Materials Handling Group, Inc. (petitioners), and respondent, Toyota Motor Corporation (Toyota), that we had made clerical errors in calculating the final results. Based on our analysis of the clerical-error allegations, we have made a change to the final margin calculations for Toyota which resulted in a change to the weighted-average percentage margin for the POR (*see Amended Final Results* section of this notice).

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff 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).

Clerical-Error Allegations and Responses

Toyota

On February 19, 1997, Toyota alleged that the Department improperly added the differences-in-merchandise (difmer) adjustment (home market variable cost of manufacturing minus U.S. variable cost of manufacturing) to normal value (NV) instead of subtracting it from NV.

Department's Response

We agree with Toyota that this was a clerical error. Therefore, we have subtracted the difmer amount from NV for these amended final results.

Petitioners

On February 21, 1997, petitioners alleged that the Department neglected to implement its twenty-percent difmer test in the final-results calculations. Petitioners claim that adding the test to the calculations will prevent sales that fail the test from being used in the margin analysis.

Department's Response

We disagree with petitioners that we made a clerical error in our matching process. For the final results, we performed the twenty-percent difmer test using Toyota's variable cost of manufacture (VCOM) data from the sales and concordance listings. We then used Toyota's cost information, as contained in the cost of production (COP) and constructed value (CV) portions of its response, to calculate the difmer adjustment that we made to NV. We fully addressed this issue in response to petitioners' comment 2 in the final results. Because we made a decision in our final results that applying the difmer test at the concordance stage was appropriate, given the circumstances of the review, we reject petitioners' position that this is a clerical error.

Amended Final Results

As a result of our correction for the clerical error, we determine that the following percentage weighted-average margin exists for the period June 1, 1994, through May 31, 1995:

Company	Rate (percent)
Toyota	47.79

We will direct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the final results of the review (62 FR 5592) and as amended by this determination.

The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative

protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply is a violation of the APO.

These amended final results of review and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.28 (1996).

Dated: March 7, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–6546 Filed 3–14–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–122–401]

Red Raspberries From Canada; Preliminary Results of New Shipper Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of new shipper review antidumping duty administrative review.

SUMMARY: In response to a request from one exporter/processor, Berryhill Foods, Inc. (Berryhill), the Department of Commerce (the Department) is conducting a new shipper administrative review of the antidumping duty order on red raspberries from Canada. The review covers sales during the period June 1, 1995 through May 31, 1996. We have preliminarily determined that Berryhill sold subject merchandise at less than normal value (NV) during the period of review. Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: James Doyle, Lisa Yarbrough or Abdelai Elouaradia, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). 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).

Background

By letter dated June 28, 1996, Berryhill requested a new shipper review pursuant to section 751(a)(2)(B) of the Act and 19 CFR 353.22(h) of the Department's interim regulations, which govern determinations of antidumping duties for new shippers. These provisions state that, among other requirements, a producer or exporter requesting a new shipper review must include with its request the date on which the merchandise was first entered, or withdrawn from warehouse, for consumption, or, if it cannot certify as to the date of first entry, the date on which it first shipped the merchandise for export to the United States (interim regulations, section 353.22(h)(2)(i)).

Berryhill provided a certification identifying the first date of shipment of subject merchandise to the United States. In addition, in accordance with section 751(a)(2)(B)(i), Berryhill certified that it is not affiliated with any other firm nor did it export subject merchandise to the United States during the period of investigation. Based on this information, we determined that the requirements cited above were adequately fulfilled.

On September 11, 1996, the Department published a notice of initiation of a new shipper review of Berryhill (61 FR 47872). The Department is now conducting this review in accordance with section 751 of the Act and section 353.22 of its interim regulations.

Scope of the Agreement

The products covered by this order are shipments of fresh and frozen red raspberries packed in bulk containers and suitable for further processing. These products are currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 0810.20.90, 0810.20.10, and 0811.20.20. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Verification

As provided in section 776(b) of the Act, we conducted verification of information provided by the respondent by using standard verification procedures, including on-site inspection of the respondent's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report.

Export Price

We calculated the export price (EP) based on the price from Berryhill to unaffiliated parties where these sales were made prior to importation into the United States, in accordance with section 772(a) of the Act. We calculated EP based on packed, F.O.B. cold storage prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for inland freight, brokerage and handling, U.S. Customs duties, and pre-sale warehouse expense, in accordance with section 772(c)(2) of the Act. No other adjustments were claimed or allowed.

We calculated the constructed export price (CEP) based on the price from Berryhill to unaffiliated purchasers where these sales were made after importation into the United States, in accordance with section 772(b) of the Act. We calculated CEP based on packed, F.O.B. U.S. cold storage prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for inland freight, brokeage and handling, U.S. Customs duty, pre-sale warehouse expense, U.S. commissions, U.S. credit, U.S. inventory carrying costs, and profit allocable to the selling and distribution incurred in the United States in accordance with sections 772(c)(2), 772(d)(1) and 772(d)(3) of the Act.

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, and absent any information that a particular market situation in the exporting country does not permit a proper comparison, we determined pursuant to section 773(a)(1)(C) of the Act that the quantity of foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States. Therefore, in accordance with section 773(a)(1)(B) of the Act, we based NV on sales in Canada, the home market.

We calculated NV based on packed F.O.B. Canadian cold storage prices to unaffiliated customers, and made deductions, where applicable, for home market inland freight, pre-sale warehouse expense, home market packing costs, home market credit, and home market commissions. When EP was used as the United States price, in accordance with section 773(a)(6) of the Act, and sections 353.56 and 57 of the Departments regulations, we made a circumstance of sale adjustment for credit, and commissions. In addition, we added U.S. packing costs and made an adjustment for differences in the physical characteristics of the merchandise. When CEP was used as the United States price, we added U.S. packing costs and made an adjustment for differences in the physical characteristics of the merchandise.

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. 316, Vol. 1, 103d Cong., at 829–831 (1994), to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Berryhill did not request an adjustment for LOT. To ensure that no such adjustment was necessary, we requested and examined information on the selling activities associated with each phase of marketing in each of Berryhill's markets; since there were no differences in such selling activities in either market, and since all sales in both markets were at a single LOT, we compared sales at this sole LOT.

Preliminary Results of the Review

As a result of our comparison of EP and CEP to NV, we preliminarily determine that the following weighted-average dumping margin exits:

Exporter/ processor	Period	Margin
Berryhill	06/01/95–05/31/96	1.56

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 34 days after the date of publication or the first business day thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 20 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed no later than 27 days after the date of publication of this notice. The Department will issue the final results of this new shipper administrative review, including the results of its analysis of issues raised in any such written comments, within 90 days of issuance of these preliminary results.

Upon completion of this new shipper review, the Department will issue appraisement instructions directly to the U.S. Customs Service. The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties.

Furthermore, upon completion of this review, the posting of a bond or security in lieu of a cash deposit, pursuant to section 751(a)(2)(B)(iii) of the Act and section 353.22(h)(4) of the Department's interim regulations, will no longer be permitted and, should the final results yield a margin of dumping, a cash deposit will be required for each entry of the merchandise. The following deposit requirements will be effective upon publication of the final results of this new shipper antidumping duty administrative review for all shipments of red raspberries from Canada exported/processed by Berryhill, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of this new shipper administrative review; (2) for exporters not covered in these reviews, but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 2.41 percent, the all others rate established in the LTFV investigation (50 FR 19772, May 10, 1985). These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper administrative review and this notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR 353.22(h).

Dated: March 7, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–6547 Filed 3–14–97; 8:45 am]

BILLING CODE 3510–DS–M

A–538–802

Shop Towels From Bangladesh; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On December 10, 1996, the Department of Commerce (the Department) published the preliminary results of its 1995–1996 administrative review of the antidumping duty order on shop towels from Bangladesh (61 FR 65025). The review covers four shop towel producers that exported this merchandise to the United States during the period March 1, 1995, through February 29, 1996. We gave interested parties an opportunity to comment on our preliminary results. We did not receive any comments. Therefore, the final results are the same as the preliminary results.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Matthew Rosenbaum, Kristie Strecker or Kris Campbell, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round

Agreements Act (URAA). 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).

Background

On December 10, 1996, the Department published in the Federal Register the preliminary results of its 1995–1996 administrative review of the antidumping duty order on shop towels from Bangladesh (61 FR 65025). We gave interested parties an opportunity to comment on our preliminary results. We did not receive any comments. There was no request for a hearing. The Department has conducted this review in accordance with section 751 of the Act.

Scope of Review

The product covered by this administrative review is shop towels. Shop towels are absorbent industrial wiping cloths made from a loosely woven fabric. The fabric may be either 100-percent cotton or a blend of materials. Shop towels are currently classifiable under item numbers 6307.10.2005 and 6307.10.2015 of the *Harmonized Tariff Schedules* (HTS). Although HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding remains dispositive.

Final Results of Review

We determine that the following percentage weighted-average margins exist for the period March 1, 1995, through February 29, 1996:

Manufacturer/exporter	Margin (percent)
Greyfab (Bangladesh) Ltd	0.00
Hashem International	0.00
Khaled Textile Mills Ltd	0.00
Shabnam Textiles	0.00

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be those rates established above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation (LTFV), but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the original investigation, the cash deposit rate will be 4.60 percent, the ''All Others'' rate established in the *LTFV Final Determination* (57 FR 3996). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 27, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–6548 Filed 3–14–97; 8:45 am]

BILLING CODE 3510–DS–P

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Department of Interior

Fish and Wildlife Service

[I.D. 021497A]

Development of the Commencement Bay Natural Resource Damage Assessment Restoration Plan, Pierce County, WA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; and Fish and Wildlife Service (FWS), Interior.

ACTION: Notice of availability of a Restoration Plan and Final Programmatic Environmental Impact Statement (RP/FEIS).

SUMMARY: This notice advises the public that the Restoration Plan and Final Programmatic Environmental Impact Statement (RP/FEIS) for the Commencement Bay Natural Resource Damage Assessment (CB/NRDA) restoration planning process is available for public review.

DATES: Written comments are requested by April 16, 1997.

ADDRESSES: Written comments on the RP/FEIS, requests for inclusion on the RP/FEIS mailing list, and requests for copies of any documents associated with the RP/FEIS should be directed to: Judy Lantor, U.S. Fish and Wildlife Service, 3704 Griffin Lane SE., Suite 102, Olympia, WA 98501–2192, phone (360) 753–6056/9440, or Dr. Robert Clark Jr., NOAA/NMFS Restoration Center NW, 7600 Sand Point Way NE., Seattle, WA 98115–0070, phone (206) 526–4338.

FOR FURTHER INFORMATION CONTACT: Judy Lantor, FWS, phone (360) 753–6056/9440, or Dr. Robert Clark Jr., NOAA/NMFS, phone (206) 526–4338.

SUPPLEMENTARY INFORMATION: A notice of availability (NOA) will be mailed to all agencies, organizations, and individuals who participated in the scoping process or were identified during the RP/EIS process. Copies of the RP/FEIS have been sent to all participants who have already requested copies.

A. Background

A Notice of Intent (NOI) to prepare the RP/EIS was published in the Federal Register (59 FR 44711–2, August 30, 1994). Formal and informal scoping meetings were held to provide the

public with an early opportunity to engage in discussions regarding the RP/EIS and to provide oral and written comments. The NOA of the draft RP/EIS was published in the Federal Register (61 FR 41383–41384, August 8, 1996) with the comment period ending on October 8, 1996. Based on comments received, modifications were made to the documents and a RP/FEIS was prepared. The final RP will become part of the Record of Decision. The background and rationale for this action were discussed in the NOA and are not repeated here.

B. RP/FEIS

The purpose of preparing the RP/EIS is to coordinate and implement restoration projects under the CB/NRDA. Since this is a programmatic EIS, the management alternatives reflect general approaches to the restoration of natural resources and services injured as a result of releases of hazardous substances and discharges of oil in the Commencement Bay environment. The five alternatives subjected to detailed analysis were: (1) No action; (2) species-specific; (3) habitat function; (4) acquisition of equivalent natural resources and services; and, (5) integrated approach. The integrated approach, which is a comprehensive plan based on the habitat function alternative, but supplemented with the best features of the other alternatives, is the FWS and NMFS/NOAA's preferred alternative. This alternative best meets the needs of the CB/NRDA restoration goals and principles by maximizing ecological benefits to a wider range of natural resources and their associated services.

Dated: February 24, 1997.

Thomas J. Dwyer,

Acting Regional Director, U.S. Fish and Wildlife Service.

Dated: March 4, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–6543 Filed 3–14–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021097A]

Gulf of Maine Aquaculture-Pinniped Interaction Task Force

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

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), the Gulf of Maine Aquaculture-Pinniped Interaction Task Force (Task Force) was established to advise NMFS of issues and problems regarding pinnipeds interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. The Task Force's final report to NMFS was made available for public review and comment on February 20, 1996. A summary of the comments received on the final report of the Task Force and NMFS' response to those comments is provided in this notice.

The MMPA requires that NMFS consider recommendations from the Task Force and prepare a report to Congress recommending alternatives to mitigate the effects of aquaculture-pinniped interactions. NMFS has completed a draft report to Congress, and it is available to the public upon request for review and comment (see **ADDRESSES**).

DATES: Comments on the draft report to Congress must be submitted on or before April 16, 1997.

ADDRESSES: Copies of the report are available from, and written comments should be sent to, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: LTJG. Daniel Morris (508) 281–9388, or Dr. Thomas Eagle (301) 713–2322.

SUPPLEMENTARY INFORMATION:

Background

The salmon aquaculture industry in the northeastern United States has grown substantially in the last decade, as have regional populations of harbor seals (*Phoca vitulina*) and gray seals (*Halichoerus grypus*). The industry claims that losses caused by seals attacking the salmon pens are substantial and that the frequency of attacks has increased in recent years. Seals are protected under the MMPA, and the actions that salmon growers can take to protect their pens from seals are limited to non-lethal deterrence measures by the MMPA.

Pursuant to section 120(h) of the MMPA, a Task Force was established by NMFS to examine the issues and problems associated with pinniped-aquaculture interactions in the Gulf of Maine. Task Force members were selected from the aquaculture industry, state government, the scientific community, and conservation organizations. The Task Force convened three times for multi-day meetings, visited pen-sites, conducted public hearings, met with salmon growers, conducted surveys, and reviewed literature related to the issue, prior to completion of its report. The report contained Task Force recommendations to mitigate the seal predation, all of which represent the consensus of the Task Force. NMFS is required to consider recommendations of the Task Force's and draft a report to Congress recommending options available to mitigate the interaction. After opportunity for public review and comment of the draft report, NMFS must submit its recommendations to Congress.

Comments Received by NMFS on the Task Force Report

NMFS received six letters from the public regarding the Task Force report. All of these comments supported generally the Task Force findings and recommendations. The Task Force recommended against lethal deterrence measures.In general, NMFS expects to concur with that recommendation; however, NMFS is considering recommending that Congress reexamine the prohibition on intentional lethal taking of pinnipeds that was enacted in the MMPA Amendments of 1994 so that NMFS could authorize intentional lethal methods on a case-by-case basis, including the limited purpose of removing pinnipeds that are inside net-pens.

Comment: Is there anything known about the age, sex, and health of the seals that attack pens? Would lethal removal of that population segment have an adverse effect on the population at large?

Response: Little is know about the biology of seals that attack pens. The impacts of lethal removal on affected stocks, if the MMPA were amended for such authority, would have to be considered in granting an authorization.

Comment: In the typical attack scenario, growers claim, ''A seal would not be caught in the act of attacking but would be targeted as it approached the vicinity of a previously attacked pen.'' Identification of individual animals in the wild is especially difficult, and it is doubtful that the perpetrator of an attack can be distinguished from others.

Response: Identifying animals for lethal removal would be one of the issues that would have to be addressed if such an authority were included in the MMPA.

Comment: A paper recently published in *Conservation Biology* offers some insight into the issue of lethal removal of predators. This paper provides a decision matrix for assessing the need to kill abundant wildlife to protect endangered species prey. The paper concludes that unless the interaction situation is caused by a limited number of individuals, and no other preventative measures are available, lethal control of the abundant native species should not be considered. If culling cannot be supported as a measure contributing to the recovery of endangered species, it surely cannot be justified to mitigate losses of farm stock.

Response: NMFS is not considering the merits of culling pinniped populations to protect farm stock.

Comment: All letters included specific mention of the Task Force's deliberations regarding the use of lethal force to control/prevent seal depredation. Commenters supported the Task Force's three criteria that should be met to justify the lethal taking of individual seals presumed to be depredating salmon pens. It was noted that current conditions in the industry would not fit the criteria included in the Task Force Report.

Response: Comment noted.

Comment: During the interim exemption program of the MMPA, the killing of depredating seals was allowed under certain conditions if the lethal taking was reported to NMFS. Popular news media reports suggest that fishers admitted killing an estimated 300 animals per year; however, only two official reports of kills were filed with NMFS during the 5-year program. Given the potential under-reporting of intentional lethal takes of seals during the interim exemption period, a letter suggested that any program authorizing growers under certain conditions to shoot seals within cages is likely to be abused. Furthermore, some growers demonstrate an impressive array of deterrents, while others employ relatively few measure; therefore, non-lethal deterrence has not received a valid test of effectiveness. Intentional lethal deterrence is not warranted at this time.

Response: Comment noted.

Comment: The Task Force Report states that seal-fish farm interactions seem to be most frequent during February when harbor seals have redistributed to the south of Maine. Ice seals may be the actual culprits during this season, and their behavior might warrant different predator control strategies than would harbor and gray seals. Although a portion of the harbor seal population shifts southward during winter, harbor seals remain the most abundant seal species in Maine during February.

Response: Ice seals (harp, hooded, and ringed seals) occur in the Downeast region in winter, but attacks on the pens by these species have not been reported. It is conceivable that a seal may be misidentified; for example, a juvenile harp seal may be mistaken for a harbor seal. Although deterrence of ice seals may require different strategies, specific measures have not been explored.

Comment: One economic consideration related to predator control that is not addressed in the Task Force Report is the cost of rehabilitating wounded seals. Costs include fees for personnel, transportation, feed, veterinary supplies, and services.

Response: Section 101(a)(4) of the MMPA authorizes the deterrence of marine mammals to prevent damage to private and public property, including fishing gear and catch, so long as deterrence measures do not result in the death or serious injury of marine mammals. Minor injury that may result from deterrence measures would not require rehabilitation.

Comment: Under the Interim Exemption for Commercial Fisheries (MMPA section 114), intentionally killing depredating seals was used to classify fisheries. Incidental takes of seals should also be considered. Predator nets pose a risk of injury and mortality through entanglement of harbor and gray seals.

Response: Aquaculture facilities are classified in Category III in the current list of fisheries under MMPA section 118 because the likelihood of serious injury or mortality of marine mammals incidental to net pen operations is considered remote.

Comment: Avian predators, such as loons and cormorants, are frequently observed near the net pens, and their attacks may contribute to the stresses experienced by the penned fish.

Response: Comment noted.

Comment: More needs to be known about the effects of acoustic deterrence devices on harbor porpoises. No additional acoustic devices should be permitted in the area until more is known about how harbor porpoises use the inshore waters.

Response: Comment noted. NMFS is currently trying to develop a consistent policy for activities that introduce noise in the oceans.

Comment: California sea lions are numerous and can be easily trained. Individual sea lions could be trained to refrain from attacking the salmon in the pens while protecting the pens from rival pinnipeds. The sea lion could be domesticated to serve the growers. Also, the Task Force report states that the presence of dogs is of no benefit with regard to predation control; however, some breeds of water dogs may be trained enter the water to deter would-be predators.

Response: NMFS acknowledges the need for creative approaches to mitigate pinniped damage at fish farms.

Comment: Several salmon pen sites established near traditional seal haulouts report having no remarkable seal predation problems. There seems to be no correlation between the location of pens with respect to haul-outs and the levels of predation.

Response: The Task Force discerned no significant relationship between predation rates and proximity to haulouts. Site fidelity, prey availability, and other uncontrollable factors would confound any attempt to restrict siting of net-pens with respect to haulouts. The Task Force recommended research to investigate relationships between predation rates and location of haul-outs but made no recommendations regarding the siting of aquaculture operations.

Comment: Government assistance, such as low-rate loans, grants, and practical incentives, is necessary: 1) To ensure non-lethal predator control devices are employed and maintained optimally: and (2) remove the unfair advantage foreign salmon growers appear to have.

Response: If growers formed cooperatives as suggested in the Task Force Report, these organized efforts would facilitate marketing and other business-related aspects related to aquaculture without government assistance. Many variables, such as labor costs, veterinary treatment, environmental regulation, and shipping costs, affect competitiveness in international markets. Thus, governmental funding for predator control devices may not be a complete, or even effective, option.

Dated: March 11, 1997.

Hilda Diaz-Soltero,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–6545 Filed 3–14–97; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 030597E]

South Atlantic Fishery Management Council; Public Meeting.

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

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Executive Committee.

DATES: The meeting will be held from March 24-25, 1997. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at NMFS Southeast Regional Office, 9721 Executive Drive North, St. Petersburg, FL; telephone: (813) 570-5301.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (803) 571-4366; fax: (803) 769-4520; email: susan_buchanan@safmc.nmfs.gov.

SUPPLEMENTARY INFORMATION:

Meeting Dates

March 24, 1997, 1:30 p.m. to 5:00 p.m.

The Executive Committee will meet to hear the status of the NMFS Sustainable Fisheries Act General Implementation Plan, develop an implementation schedule for Sustainable Fisheries Act Provisions and Magnuson-Stevens Fishery Conservation and Management Act Amendments, and discuss how the Council and NMFS can work together to improve data collection.

March 25, 1997, 9:00 a.m. to 5:00 p.m.

The Executive Committee will hear a presentation on a Department of the Navy request to the Council, establish guidelines for holding informal meetings with fishermen, review and modify the Council Statement of Organizational Practices and Procedures, discuss the function of Council staff, discuss the status of the calendar year 1997 budget and the calendar year 1999 budget request, discuss planning for future meetings, and address other business.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by March 17, 1997.

Dated: March 7, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–6544 Filed 3–14–97; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Intent to Renew Information Collection #3038–0031: Procurement Contracts.

SUMMARY: The Commodity Futures Trading Commission is planning to renew information collection 3038–0031, Procurement Contracts, which is due to expire on June 30, 1997. The information collected consists of procurement activities relating to solicitations, amendments to solicitations, requests for quotations, construction contracts, award of contracts, performance bonds and payment information for individuals (vendors) or contractors engaged in providing supplies or services. In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the 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 the 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.

DATES: Comments must be received on or before May 16, 1997.

ADDRESSES: Persons wishing to comment on this information collection should contact the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, (202) 418–5160.

Title: Procurement Contracts.

Control Number: 3038–0031.

Action: Extension.

Respondents: Businesses.

Estimated Annual Burden: 604 hours.

Issued in Washington, D.C. on March 11, 1997.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 97–6592 Filed 3–14–97; 8:45 am]

BILLING CODE 6351–01–M

Public Information Collection Requirement

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of intent to renew information collection #3038–0019: Stocks of grain in licensed warehouses.

SUMMARY: The Commodity Futures Trading Commission is planning to renew information collection 3038–0019, Stocks of Grain in Licensed Warehouses, which is due to expire on May 31, 1997. The information collected is used to detect potential problem market situations. Without this information the Commission would not be aware of the amount of deliverable grain and ungraded grains in federally licensed warehouses. In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the 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 the 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.

DATES: Comments must be received on or before May 16, 1997.

ADDRESSES: Persons wishing to comment on this information collection should contact the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, (202) 418–5160.

Title: Information Concerning Warehouses.

Control Number: 3038–0019

Action: Extension.

Respondents: Contract Markets.

Estimated Annual Burden: 1,768 hours.

Issued in Washington, D.C. on March 11, 1997.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 97–6593 Filed 3–14–97; 8:45 am]

BILLING CODE 6351–01–M

Public Information Collection Requirement

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of intent to renew information collection #3038–0018—Information Concerning Warehouses.

SUMMARY: The Commodity Futures Trading Commission is planning to renew information collection 3038–0018, Information Concerning Warehouses, which is due to expire on May 31, 1997. The collection enables the Commission to obtain information on the amount of a commodity available for delivery from approved contract markets who are required to file information concerning delivery notices issued and stopped and warehouses regular for delivery. In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the 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 the 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.

DATES: Comments must be received on or before May 16, 1997.

ADDRESSES: Persons wishing to comment on this information collection should contact the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, (202) 418–5160.

Title: Information Concerning Warehouses.

Control Number: 3038–0018.

Action: Extension.

Respondents: Contract Markets.

Estimated Annual Burden: 31 hours.

Issued in Washington, D.C. on March 11, 1997.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 97–6594 Filed 3–14–97; 8:45 am]

BILLING CODE 6351–01–M

Public Information Collection Requirement

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of intent to renew information collection #3038–0046—risk assessment for holding company systems.

SUMMARY: The Commodity Futures Trading Commission is planning to renew information collection 3038–0046, Risk Assessment for Holding Company Systems, which is due to expire on May 31, 1997. The information collected enhances the Commission's financial surveillance program by providing access to information concerning the activities of affiliates of registered futures commission merchants (FCMs). The rules require registered FCM's to maintain certain records concerning the financial activities of such material affiliates, to file certain information with the Commission and to provide additional information to the Commission upon the occurrence of specified events. In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the 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 the 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.

DATES: Comments must be received on or before May 16, 1997.

ADDRESSES: Persons wishing to comment on this information collection should contact the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, (202) 418–5160.

Title: Risk Assessment for Holding Company Systems.

Control Number: 3038–0046.

Action: Extension.

Respondents: FCMs, IBs.

Estimated Annual Burden: 1524 hours.

Issued in Washington, D.C. on March 11, 1997.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 97–6600 Filed 3–14–97; 8:45 am]

BILLING CODE 6351–01–M

Public Information Collection Requirement

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of intent to renew information collection # 3038–0017: Market Surveys.

SUMMARY: The Commodity Futures Trading Commission is planning to renew information collection 3038–0017, Market Surveys, which is due to expire on June 30, 1997. Section 8(a) (i) and (ii) of the Commodity Exchange Act (''Act'') provide that for the efficient execution of the provisions of the Act and in order to inform Congress, the Commission may make investigations concerning futures markets and may publish general statistical information from such investigations. In certain instances in response to abrupt and substantial changes in market prices, Congressional inquiry or other reasons, the Commission may conduct full market investigation requiring that all persons holding futures positions on the date in question in a specific market be identified. In such cases the Commission issues its call for survey information pursuant to rule 21.02. In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the 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 the 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.

DATES: Comments must be received on or before May 16, 1997.

ADDRESSES: Persons wishing to comment on this information collection should contact the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, (202) 418–5160.

Title: Market Surveys.

Control Number: 33038–0017.

Action: Extension.

Respondents: Businesses.

Estimated Annual Burden: 700 hours.

Issued in Washington, D.C. on March 11, 1997.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 97–6601 Filed 3–14–97; 8:45 am]

BILLING CODE 6351–01–M

Applications of the Chicago Board of Trade for Designation as a Contract Market in Futures and Options on Italian Government Bonds

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in Italian government bond futures and option contracts. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before April 16, 1997.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the CBT Italian government bond futures and options contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, 20581, telephone (202) 418–5277. Facsimile number: (202) 418–5527. Electronic mail: ssherrod@cftc.gov.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 C.F.R. Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 C.F.R. 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 C.F.R. 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on March 11, 1997.

Blake Imel,

Acting Director.

[FR Doc. 97–6603 Filed 3–14–97; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Notice and Request for Comments Regarding a Proposed Extension of an Approved Information Collection Requirement

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Public Law 104–13), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. 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 estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through June 30, 1997. DoD proposes that OMB extend its approval for use through June 30, 2000.

DATES: Consideration will be given to all comments received by May 16, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection requirement should be sent to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350. Please cite OMB Control Number 0704–0187 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, at (703) 602–0131. A copy of this information collection requirement is available electronically via the INTERNET at: http://www.dtic.mil/dfars/

Paper copies may be obtained from Ms. Amy Williams, PDUSD (A&T) DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

Title, Associated Form, and OMB Number: Information Collection in Support of the DoD Acquisition Process (Solicitation Phase), OMB Control Number 0704–0187.

Needs and uses: This information collection requirement pertains to information that an offeror must submit to DoD in response to a request for proposals or invitation for bids. This information is used by DoD to (1) evaluate offers, (2) determine which offeror should be selected for contract award, and (3) determine whether the offered price is fair and reasonable. This information is also used to determine whether the Government should furnish precious metals as Government-furnished material; to determine whether to accept alternative preservation, packaging, or packing; to determine whether to trade in existing personal property towards the purchase of new items; to verify compliance with requirements for labeling of hazardous material; to evaluate requests for price adjustment on stevedoring contracts; and to monitor compliance with the U.S.-flag vessel shipping requirements.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 43,544,644.

Number of Respondents: 250,121.

Responses per Respondent: Approximately 11.

Number of Responses: 2,808,197.

Average Burden per Response: 15.51 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This information collection pertains to information, not separately covered by another Office of Management and Budget clearance, that an offeror must submit to DoD in response to a request for proposals or invitation for bids. In particular, the information collection covers the following DFARS requirements:

- 215.613–70, Four-step source selection procedures. Paragraph (e)(5) of

this subsection requires a technical proposal to include identification, when appropriate, of trade-offs among performance, production costs, operating and support costs, schedule and logistics support factors; and information showing that the goals for design to cost and operating support costs (when used) will be achieved when the applicable item enters production.

• 217.70, Exchange of Personal Property. Section 217.7004, paragraph (9a), of this subpart requires that solicitations which contemplate exchange (trade-in) of personal property and application of the exchange allowance to the acquisition of similar property, shall include a request for offerors to state prices for the new items being acquired both with and without any exchange (trade-in allowance).

• 217.72, Bakery and Dairy Products. Section 217.7201, paragraph (b)(2), of this subpart requires a contractor's list of cabinet equipment in the schedule of the contract, when the contractor is required to furnish its own cabinets for dispensing milk from bulk containers.

• 217.74, Undefinitized Contract Actions. Unless an exception in 217.7404–5 of this subpart applies, paragraph (b) of subsection 217.7404–3 requires the contractor to submit a qualifying proposal in accordance with the definitization schedule of the undefinitized contract action. A ''qualifying proposal'' is defined in paragraph (c) of 217.7401 as a proposal containing sufficient information for DoD to do complete and meaningful analyses and audits of the information in the proposal and any other information that the contracting officer has determined that DoD needs to review in connection with the contract.

• 217.75, Acquisition of Replenishment Parts. Paragraph (d) of section 217.7504 of this subpart permits contracting officers to include in sole source solicitations, that include acquisition of replenishment parts, a provision requiring an offeror to supply with its proposal, price and quantity data on any Government orders for the replenishment part issued within the most recent 12 months.

• 252.208–7000, Intent to Furnish Precious Metals as Government-Furnished Material. Paragraph (b) of this clause requires an offeror to cite the type and quantity of precious metals required in performance of the contract. Paragraph (c) requires the offeror to submit two prices for each deliverable item which contains precious metals-one based on the Government furnishing the precious metals, and the other based on the contractor furnishing the precious metals.

• 252.209–7001, Disclosure of Ownership or Control by the Government of a Terrorist Country. Paragraph (c) of this provision requires an offeror to provide a disclosure with its offer if the government of a terrorist country has a significant interest in the offeror, in a subsidiary of the offeror, or in a parent company of which the offeror is a subsidiary.

• 252.211–7004, Alternate Preservation, Packaging, and Packing. Paragraph (b) of this provision requires an offeror to submit information sufficient to allow evaluation of alternate packaging, only if the offeror chooses to propose alternate packaging.

• 252.219–7000, Small Disadvantaged Business Concern Representation (DoD Contracts). This provision requires an offeror that is a Small Disadvantaged Business (SDB) concern to indicate, by checking a block, (1) its category of ownership, (2) its status as an SDB concern, and (3) whether the Small Business Administration (SBA) has made a determination regarding its status as an SDB concern. If the SBA has made a determination, the offeror must provide the date and indicate the result of the determination by checking the appropriate block.

• 252.219–7008, Notice of Evaluation Preference for Small Disadvantaged Business Concerns—Construction Acquisitions—Test Program. Paragraph (b)(1) of this clause requires an offeror to separately state bond costs in its offer. Paragraph (c) permits small disadvantaged businesses, historically black colleges or universities, and minority institutions to waive the evaluation preference by checking a block. The advantage of waiver is that the firm need not comply with paragraph (d) which requires that, for general construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern. For construction by special trade contractors, the percentage is 25%.

• 252.223–7001, Hazard Warning Labels. Paragraph (c) of this clause requires all offerors to list which hazardous materials will be labeled in accordance with one of the Acts listed in paragraphs (b) (1) through (5) of the clause instead of the Hazard Communication Standard. Paragraph (d) requires only the successful offeror to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of the clause.

• 252.225–7003, Information for Duty-Free Entry Evaluation. Paragraph (a) of this provision requires an offeror to check the appropriate block to indicate whether the offer is based on furnishing any supplies of foreign origin, other than those which are qualifying country end items or components. If the answer to paragraph (a) is positive, then paragraph (b) requires the offeror to check the appropriate block to indicate whether such foreign supplies are now in the United States, and whether duty has been paid. Paragraph (c) requires the awardee to identify, at the request of the contracting officer, the foreign supplies which are subject to duty-free entry.

• 252.225–7018, Notice of Prohibition of Certain Contracts with Foreign Entities for the Conduct of Ballistic Missile Defense RDT&E. Paragraph (e) of this provision requires an offeror to check the appropriate block to indicate whether it is or is not a U.S. firm.

• 252.226–7000, Notice of Historically Black College or University and Minority Institution Set-Aside. Paragraph (c)(2) of this clause requires that, upon request of the contracting officer, the offeror will provide evidence prior to award that the Secretary of Education has determined the offeror to be a historically black college or university or minority institution.

• 252.226–7001, Historically Black College or University and Minority Institution Status. Paragraph (b) of this provision requires an offeror that is a historically black college or university or minority institution to check the appropriate block to indicate its status as such.

• 252.237–7000, Notice of Special Standards of Responsibility. Paragraph (c) of this provision requires the apparently successful offeror, under a solicitation for audit services, to give the contracting officer evidence that it is licensed by the cognizant licensing authority in the state or other political jurisdiction where the offeror operates its professional practice.

• 252.239–7009, Submission of Cost or Pricing Data—Common Carriers, 239.7406, and 239.7408–1, Special Construction. The clause at 252.239–7009 requires the contractor to provide cost or pricing data, under certain circumstances, upon request by the contracting officer. Although 239.7406 requires contracting officers to obtain certified cost or pricing data when unable to determine that prices are reasonable, 10 U.S.C. 2306a(b), as modified by the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355) and the Clinger-Cohen Act of 1996 (Pub. L. 104–106), prohibits requiring cost or pricing data if an exception applies. Paragraph (d) of 239.7408–1

requires a detailed special construction proposal, when a common carrier submits a proposal or quotation that has special construction requirements. One of the reasons for requesting cost or pricing data from a common carrier is to support the reasonableness of special construction and equipment charges.

• 252.247–7001, Price Adjustment. Paragraph (b) of this clause requires a contractor for stevedoring services to notify the contracting officer within 60 days of certain changes in the wage rates or benefits that apply to the contractor's direct labor employees. Paragraph (c) requires the contractor to include a proposal for adjustment in the contract prices and data, in such form as the contracting officer may require, explaining the causes, effective date, and amount of the increase or decrease in the contractor's proposal for the adjustment.

• 252.247–7002, Revision of Prices. Paragraph (c) of this clause permits either the contractor or the contracting officer, under a contract for stevedoring services, to deliver a written demand that the parties negotiate to revise the prices under the contract. Paragraph (d) specifies the data that the contractor shall submit. Paragraph (g) addresses requests for price adjustment in the event of a retroactive wage adjustment. In addition, the contractor is required to notify the contracting officer in writing of any request by or on behalf of the employees of the contractor which may result in a retroactive wage adjustment.

• 252.247–7022, Representation of Extent of Transportation by Sea; 247.527–1(c); and 252.212–7000, Offeror Representations and Certifications—Commercial Items. Paragraph (c) of subsection 247.572–1 requires the contracting officer to ask each offeror whether it will transport supplies by sea, referring to paragraph (a) of section 247.573, which is the prescription for the provision at 252.247–7022. Paragraph (b) of the provision at 252.247–7022 and paragraph (c)(2) of the provision at 252.212–7000 require an offeror check the appropriate block to indicate whether it anticipates that supplies will be transported by sea in the performance of any contract or subcontract resulting from the solicitation.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 97–6624 Filed 3–14–97; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs.

ACTION: Notice.

In accordance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed uniform public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received on or before May 16, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Fitzsimons U.S. Army Garrison, Program Development and Evaluation Directorate, ATTN: Mr. Joe Rhea, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call OCHAMPUS, Program Development and Evaluation Directorate, at (303) 361–1018.

Title, Associated Form, and OMB Number: TRICARE/CHAMPUS Provider Enrollment Application, HCFA–855, OMB Number 0938–0685.

Needs and Uses: This information is needed to enroll health care providers not enrolled by Medicare by identifying them, verifying their qualifications and eligibility to participate in TRICARE/CHAMPUS, and to price and pay their claims correctly.

Affected Public: Business or other for-profit; small businesses organizations, Federal Government.

Annual Burden Hours: 105,000.

Number of Respondents: 70,000.

Responses per Respondent: 1.

Average Burden per Response: 90 minutes.

Frequency: Initial Application.

SUPPLEMENTARY INFORMATION: Application is supported by photocopies of licensure, certification, and educational qualifications documents on a selected basis.

Summary of Information Collection

Respondents are health care providers who file claims seeking reimbursement directly or on behalf of eligible TRICARE/CHAMPUS beneficiaries for services and supplies which are authorized benefits of this health care program. The enrollment application and verification procedures will collect the information from providers needed to ensure that they can be uniquely identified and enumerated, and are qualified and eligible to participate in the TRICARE/CHAMPUS program. The use of the HCFA–855 Provider Enrollment Form makes uniform the information collection. Providers who have already been enrolled in Medicare will be required only to sign and submit the Form's certification statement and submit supplemental agreements for facsimile signatures and electronic claims submission which may remain specific and separate for Medicare and TRICARE/CHAMPUS. This application will implement the enrollment application for all TRICARE/CHAMPUS providers/suppliers, and collect information necessary to issue the National Provider Identifier. The National Provider Identifier (NPI) will be assigned to all current providers and to all incoming providers as part of the enrollment process. Periodic Re-Verification of Provider Data will ensure that, once enrolled, all providers/suppliers remain current under the Conditions of Enrollment.

Dated: March 12, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–6645 Filed 3–14–97; 8:45 am]

BILLING CODE 5000–04–M

Defense Intelligence Agency, Scientific Advisory Board Closed Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA

Scientific Advisory Board has been scheduled as follows:

DATES: 2–3 April 1997 (800am to 1600pm).

ADDRESS: The Defense Intelligence Agency, Bolling AFB, Washington, D.C. 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj. Michael W. Lamb, USAF, Executive Secretary, DIA Scientific Advisory Board, Washington, D.C. 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: March 12, 1997.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 97–6640 Filed 3–14–97; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the Historical Records Declassification Advisory Panel

AGENCY: Department of Defense, Historical Advisory Committee.

ACTION: Notice.

SUMMARY: Notice is hereby given of the forthcoming meeting of the Historical Records Declassification Advisory Panel. The purpose of this meeting is to discuss recommendations to the Department of Defense on topical areas of interest that, from a historical perspective, would be of the greatest benefit if declassified. Two public sessions will be held in 1997. The OSD Historian will chair these meetings.

DATES: Friday, April 11, 1995.

TIME: The HRDAP morning session will be closed to the public from 9:00 a.m. until 2:00 p.m. due to the necessity to hear classified and sensitive reports in accordance with 5 U.S.C., Sec. 552b(c)(1) (1982).The afternoon session will be open to the public from 2:00 p.m. to 4:00 p.m.

ADDRESS: The National Archives Building, Room 410, 7th and Pennsylvania Avenue, NW., Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Cynthia Kloss, Room 3C281, Office of the Deputy Assistant Secretary of Defense (Intelligence & Security), Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), 6000 Defense Pentagon, Washington, DC 20301–6000, telephone (703) 695–2289/2686.

Dated: March 12, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–6625 Filed 3–14–97; 8:45 am]

BILLING CODE 5000–04–M

National Defense Panel

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the meeting of the National Defense Panel on March 26 and 27, 1997. In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C. App. II, (1982)], it has been determined that this National Defense Panel meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1982), and that accordingly this meeting will be closed to the public in order for the Panel to discuss classified material.

DATES: March 26 and 27, 1997.

ADDRESSES: Suite 504, 1931 Jefferson Davis Hwy, Arlington, VA.

SUPPLEMENTARY INFORMATION: The National Defense Panel was established on January 14, 1997, in accordance with the Military Force Structure Review Act of 1996, Public Law 104–201. The mission of the National Defense Panel is to provide the Secretary of Defense and Congress with an independent, non-partisan assessment of the Secretary's Quadrennial Defense Review and an Alternative Force Structure Analysis. This analysis will explore innovative ways to meet the national security challenges of the twenty-first Century.

PROPOSED SCHEDULE AND AGENDA: The National Defense Panel will meet in closed session from 8:30 AM until 5:00 PM on March 26 and 27, 1997. The Panel will discuss classified national intelligence information to assess the international security environment and make recommendations to the Secretary of Defense for further study. They will also discuss the Quadrennial Defense Review actions of the seven QDR panels dealing with Infrastructure, Modernization, Readiness, Force Structure, Human Resources, Information Operations and Intelligence, and Strategy and make recommendations on areas of further study. These discussions are based upon classified information provided by the DoD QDR Panels.

FOR FURTHER INFORMATION CONTACT: Please contact the National Defense Panel at (703) 602–4175.

Dated: March 12, 1997.

L.M. Bynum,

Alternate OSD Federal Register, Department of Defense.

[FR Doc. 97–6643 Filed 3–14–97; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Stealth Technology and Future S&T Investments

ACTION: Change in date of advisory committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Stealth Technology and Future S&T Investments scheduled for April 1–2, 1997 as published in the Federal Register (Vol. 62, No. 32, Page 7217–8, Tuesday, February 18, 1997, FR Doc. 97–3880) will be held on April 8–9, 1997. In all other respects the original notice remains unchanged.

Dated: March 12, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–6642 Filed 3–14–97; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary of Defense

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on April 1, 1997; April 8, 1997; April 15, 1997; April 22, 1997 and April 29, 1997; at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: March 12, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–6641 Filed 3–14–97; 8:45 am]

BILLING CODE 5000–04–M

Defense Logistics Agency

Cooperative Agreement Procedures

AGENCY: Defense Logistics Agency (DLA), DoD.

ACTION: Cooperative Agreements; Technical Revisions to Procedures.

SUMMARY: These procedures implement Title 10, United States Code, Chapter 142, as amended, which authorizes the Secretary of Defense, acting through the Director, Defense Logistics Agency, to enter into cost sharing cooperative agreements to support procurement technical assistance programs established by state and local governments, private nonprofit organizations, Tribal organizations, and Indian-owned economic enterprises. Subpart III of this issuance establishes the administrative procedures to be implemented by DLA to enter into such agreements for this purpose. These technical revisions expand and clarify these procedures.

EFFECTIVE DATE: April 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Sim Mitchell, Program Manager, Office of Small and Disadvantaged Business Utilization (DDAS), Defense Logistics Agency, 8725 John J. Kingsman Rd., Suite 2533, Fort Belvoir, VA 22060–6221, Telephone (703) 767–1650.

Sim C. Mitchell,

Program Manager, Office of Small and Disadvantaged Business Utilization.

I. Background Information

The Procurement Technical Assistance Cooperative Agreement Program (PTACAP) was established by the Fiscal Year (FY) 1985 Department of Defense (DoD) Authorization Act, Public Law 98–525. The Public Law amended Title 10, United States Code (U.S.C.), by adding Chapter 142. Title 10, U.S.C., as amended, continues to authorize the Secretary of Defense, acting through the Director, Defense Logistics Agency (DLA), to enter into cost sharing cooperative agreements to support procurement technical assistance (PTA) programs established by eligible entities.

DoD's efforts to increase competition in the private sector have been supplemented by many state and local governments, and other entities that operate PTA programs. The DoD PTACAP provides assistance to eligible entities by sharing the cost of establishing new and/or maintaining existing PTA programs.

The enabling legislation placed the following limitation on the use of funds allocated to the program:

A. DoD's share of an eligible entity's net program cost shall not exceed 50%, unless the eligible entity proposes to cover a distressed area. If the eligible entity proposes to cover a distressed area, the DoD share may be increased to an amount not to exceed 75%. In no event shall DoD's share the net program cost exceed $150,000 for programs providing less than statewide coverage or $3000,000 for programs providing statewide coverage.

B. For the American Indian program, DoD's share of net program cost shall not exceed 75% or $150,000, whichever is less, for programs providing services on reservations within one Bureau of Indian Affairs (BIA) service area. For programs providing services to 100% of the reservations located within one BIA service area and at least 50% of the reservations located within another BIA service area (multi-area coverage), DoD's share of net program cost shall not exceed 75% or $300,000, whichever is less.

C. No funds available to DoD may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

1. Entry to campuses or access to students (individuals who are 17 years of age or older) on campuses; or

2. Access to directory information pertaining to students.

D. No funds appropriated or otherwise available to the Department of Defense may be obligated by contract or by grant (including a grant of funds to be available for student aid) to any institution of higher education that, as determined by the Secretary of Defense, has an anti-ROTC policy and at which, as determined by the Secretary, the Secretary would otherwise maintain or seek to establish a unit of the Senior Reserve Officer Training Corps or at which the Secretary would otherwise enroll or seek to enroll students for participation in a unit of the Senior Reserve Officer Training Corps at another nearby institution of higher education. The term ''anti-ROTC policy'' means a policy or practice of an institution of higher education that—

1. Prohibits, or in effect prevents, the Secretary of Defense from maintaining or establishing a unit of the Senior Reserve Officer Training Corps at that institution, or

2. Prohibits, or in effect prevents, a student at the institution from enrolling in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.

The purpose of the proposed revised procedure is to make available to all eligible entities the prerequisites, policies and procedures that will govern the award of cooperative agreements by DLA. Also, this procedure establishes the guidelines that will govern the administration of cooperative agreements.

Although this procedure will affect all eligible entities desiring to enter into a DLA awarded cooperative agreement, DLA has determined that this procedure does not involve a substantial issue of fact or law, and that it is unlikely to have a substantial or major impact on the nation's economy or large numbers of individuals or businesses. This determination is based on the fact that these technical revisions of the cooperative agreement procedure implements policies already published by the Office of Management and Budget (OMB) pursuant to Title 31, U.S.C., Chapter 63, Using Procurement Contracts and Grants and Cooperative Agreements. In addition, DLA cooperative agreements will be entered into pursuant to the authorities and restrictions contained in the annual DoD Authorization and Appropriation Acts.

II. Other Information

The language contained in the current cooperative agreement procedure limited the period of coverage to the FY 96—98 Programs in that it addressed the FY 96 Authorization Act requirements in specific terms. These technical revisions to the procedures will expand and clarify the general guidance for cooperative agreements entered into by the DLA and will become a permanent document for the duration of the FYs 97 and 98 Programs.

III. Technical Revisions to DLA Procedure—Cooperative Agreements

3–1 Policy

A. Applications for cooperative agreements are obtained through the issuance of a DLA solicitation for cooperative agreement applications (hereafter referred to as a SCAA). The contents of this procedure shall be incorporated, in whole or in part, into

the SCAA to establish administrative requirements to execute and administer DLA awarded cooperative agreements. The SCAA may include additional administrative requirements that are not included herein.

B. The SCAA is issued by the PTACAP Manager (hereafter referred to as Program Manager) of the DLA Office of Small and Disadvantaged Business Utilization every third fiscal year, i.e., FY 96, FY 99, etc. The Program Manager will respond to any SCAA questions that may arise.

C. Only one application will be accepted from a single eligible entity. An entity that submits more than one application, or is listed as a subagreement applicant in another entity's application will not be considered for an award.

D. Applications will not be accepted from applicants that apply as coequal partners or joint ventures. Only one organization can take the lead and primary responsibility for the proposed program. In other words, only one eligible entity can submit an application.

E. Applications will not be accepted from applicants who propose to provide less than county or equivalent (i.e., parish, borough) coverage. For example, if an applicant proposes to service any part of a county or equivalent, the applicant must service the entire county or equivalent.

F. Cooperative agreements will be awarded on a competitive basis consistent with the SCAA. It is DLA's policy to encourage fair and open competition when awarding cooperative agreements.

G. Letters of support and recommendation from Members of Congress are not necessary and will not be considered in the evaluation and selection of applications to receive cooperative agreement awards.

H. The SCAA shall be given the widest practical dissemination. It will be made available to all known eligible entities and to those that request copies after its issuance. All eligible entities interested in submitting an application as a new start under the SCAA are invited to participate in a pre-application conference scheduled for 20 March 1997 at DLA Headquarters, 8725 John J. Kingman Road, Ft. Belvoir, Virginia, beginning at 9:00 AM. Potential attendees should notify Mr. Sim Mitchell, (703) 767–1663, if they plan on attending.

I. The SCAA shall not be considered to be an offer made by DoD. It will not obligate DoD to make any awards under this Program.

J. In the event that insufficient funds are available to award all applicants that meet the minimum requirements, only those applicants found to be the most meritorious will be funded for an award.

K. If selected for an award, the applicant is bound to perform the services described in its application when the application is incorporated into the cooperative agreement award document.

L. DoD is not responsible for any monies expended or expenses incurred by applicants prior to the award of a cost sharing cooperative agreement. However, actual travel expenses incurred by FYs 97 or 98 award recipients to participate in a FYs 97 or 98 pre-application and/or postaward training conference may be reimbursed under the appropriate cooperative agreement award (ie., Fys 97 or 98) subject to the provisions of the applicable cost principles.

M. The award of a cooperative agreement under this Program shall not, in any way, obligate DoD to enter into a contract or give preference for the award of a contract to a business or firm which is or becomes a client of a DLA cooperative agreement recipient.

N. Cooperative agreement recipients must give special emphasis to assisting small disadvantaged business (SDB) firms and any historically black colleges and minority institutions that participate or aspire to participate in DoD prime and subcontracting opportunities. A concerted effort must be made by recipients to identify SDB firms and provide them with marketing and technical assistance, particularly where such firms are referred for assistance by a DoD component, other Federal agencies, and state and/or local governments.

O. Award recipients are not required to obtain or retain private, profit and/or nonprofit consultants to support the program. Any subcontract costs being proposed for consulting services shall not exceed 10% of total program cost for the general program or 25% of total program cost under the American Indian program. Applications containing subcontracting costs for consultant services in excess of 10% of total program cost for the general program and 25% of total program cost for the American Indian program, will be removed from consideration for an award.

P. Reasonable quantities of government publications, such as ''Selling to the Military,'' may be furnished to award recipients at no cost, subject to availability. All requests for such publications must be submitted to the cognizant Deputy for Small Business.

Q. Each cooperative agreement recipient's area of performance will be limited to the county(ies) or equivalent specified in its cooperative agreement award. Recipients may voluntarily service clients outside their area of performance provided that the client's location is not being serviced by another PTA recipient. For the American Indian program, the recipient's area of performance will be limited to the reservation(s) specified in its cooperative agreement.

R. For the American Indian program, if a tribal organization is to perform services benefiting other Indian tribe(s), written approval must be obtained by the eligible entity from each Indian tribe it plans to service. Approval will consist of a written statement (signed by a responsible official authorized to legally bind the Indian tribe it plans to service) indicating that the Indian tribe approves and agrees to accept the services to be provided by the tribal organization.

S. Cooperative agreement awards shall not be made to entities listed in the General Services Administration's (GSA) ''Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.'' Cooperative agreements will not be awarded to entities who employ any person listed in GSA's ''Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.''

T. Applications submitted in response to the SCAA shall cover a 12 or 24-month period. All other applications proposing different periods will not be considered for an award.

U. To be considered during the evaluation process, part-time PTA program employees must be employed by the PTA program a minimum of three calendar months per year for the base year and each of the option years. Time employed must be performed continuously or incrementally for each 12-month period.

V. Cooperative agreement recipients shall not purchase nonexpendable tangible personal property with a delivery date later than 90 days prior to the expiration of the cooperative agreement's effective period. Cost of non-expendable tangible personal property delivered later than 90 days prior to the expiration of the cooperative agreement's effective period will be disallowed.

W. Cooperative agreement recipients will be authorized to use GSA's subscription schedules. Usage will be limited to subscription services only.

X. Cooperative agreement recipients are required to provide information to

their clients relating to the objectives of the Government's Electronic Commerce/Electronic Data Interchange (EC/EDI) initiatives which are as follow:

1. Exchange procurement information such as solicitations, offers, contracts, purchase orders, invoices, payments, and other contractual documents electronically between the private sector and the Federal government to the maximum practicable extent;

2. Provide businesses, including small, small disadvantaged, and women-owned businesses with greater access to Federal procurement opportunities;

3. Ensure that potential suppliers are provided simplified access to the Federal government's electronic commerce system;

4. Employ nationally and internationally recognized data formats that serve to broaden and ease the electronic interchange of data. (These formats are the ANSI X–12 and UNEDIFACT formats); and

5. Use agency and industry systems and networks to enable the Government and potential suppliers to exchange information and access Federal procurement data.

Y. The recipient may add funds to its program after all program funds are properly expended and before expiration of the cooperative agreement's effective period. In the event funds are added to the program, the reimbursable ratio will not be affected and the funds will not require allocation by object class category. However, total funds expended during the effective period must be reported on the DLA Form 1806, Procurement Technical Assistance Cooperative Agreement Performance Report. The expenditure of additional funds shall be made in accordance with the applicable cost principles.

Z. If the recipient charges or plans to charge a fee or service charge for PTA given to business firms/clients, or receives any other income as a result of operating the PTACAP, the amount of such reimbursement must be added to total program cost.

3–2 Scope

This procedure implements Title 10, U.S.C., Chapter 142, as amended, and establishes procedures and guidelines for the award and administration of cost sharing cooperative agreements entered into between DLA and eligible entities. Under these agreements, financial assistance provided by DoD to recipients will cover the DoD share of the cost of establishing new and/or maintaining existing PTA programs which furnish PTA to business entities.

3–3 Definitions

The following definitions apply for the purpose of this procedure.

A. Act. The enabling legislation that authorizes the establishment and continuation of the PTA Cooperative Agreement Program each fiscal year.

B. Administrative Grants Officer (AGO). A person with the authority to administer grants or cooperative agreements consistent with the authority delegated by the Grants Officer.

C. Agency. A field office, of one of the twelve service areas, as published by the Bureau of Indian Affairs (BIA), US Department of the Interior.

D. American National Standards Institute (ANSI) Standard. A document published by ANSI that has been approved through the consensus process of public announcement and review. Each of these standards must have been developed by an ANSI committee and must be revisited by that committee within five years after approval for update.

E. Cash contributions. The recipients cash outlay, including the outlay of money contributed to the recipient by third parties.

F. Civil jurisdiction. All cities with a population of at least 25,000 and all counties. Townships of 25,000 or more population are also considered as civil jurisdictions in four States (Michigan, New Jersey, New York, and Pennsylvania). In Connecticut, Massachusetts, Puerto Rico and Rhode Island where counties have very limited or no government functions, the classifications are done for individual towns.

G. Client. A recognized business entity, including a corporation, partnership, or sole proprietorship, organized for profit or nonprofit, which is small or other than small, that has the potential or is seeking to market its goods and/or services as a prime or subcontractor to DoD, other Federal agencies, state and/or local governments. For the American Indian program, the client must be located on a reservation.

H. Commercial Item.

1. Any item, other than real property, that is of a type customarily used for nongovernmental purposes and that—

a. Has been sold, leased, or licensed to the general public; or,

b. Has been offered for sale, lease, or license to the general public;

2. Any item that evolved from an item described in paragraph 1. of this definition through advances in technology or performances and that is not yet available in the commercial marketplace, but will be available in the commercial market place in time to satisfy the delivery requirements under a Government solicitation;

3. Any item that would satisfy a criterion expressed in paragraphs 1. or 2. of this definition, but for—

a. Modifications of a type customarily available in the commercial marketplace; or

b. Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. ''Minor'' modifications means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentage may be used as guideposts, but are not conclusive evidence that a modification is minor;

4. Any combinations of items meeting the requirements of paragraphs 1., 2., 3., or 5. of this definition that are of a type customarily combined and sold in combination to the general public;

5. Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in paragraphs 1., 2., 3., 4. of this definition, and if the source of such services—

a. Offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

b. Offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public;

6. Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rate without an established catalog or market price for a specific service performed;

7. Any item, combination of items, or service referred to in paragraphs 1. through 6., notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor; or

8. A nondevelopmental item, if the procuring agency determines the item was developed exclusively at private expense and sold in substantial

quantities, on a competitive basis, to multiple State and local governments.

I. Consultant services. Marketing and technical assistance obtained from private nonprofit and/or profit making individuals, organizations or otherwise qualified business entities to augment the capabilities of the PTA center.

J. Cooperative agreement. A binding legal instrument reflecting a relationship between DLA and the recipient of a cooperative agreement when the principal purpose of the relationship is to transfer a thing of value of the recipient to carry out a public purpose of support of stimulation authorized by a law of the United States instead of acquiring property or services for the direct benefit or use of the U.S. Government. Substantial involvement is expected between DLA and the recipient when carrying out the activity contemplated in the agreement.

K. Cooperative agreement Application. An applicant's response to the SCAA describing its planned PTA program.

L. Cooperative agreement award recipient. An organization receiving financial assistance directly from DLA to carry out a PTA program. Awards will only be made to legal entities recognize under the laws in the State in which the entity is organized.

M. Cost matching or sharing. The portion of project or program costs or borne by the Federal Government.

N. Counseling session. A documented counseling session (telephone call, correspondence or personal discussion) held with a business firm/client, where professional guidance is provided to assist the business firm/client in marketing its goods and/or services to DoD, other Federal agencies, and state and local government. This includes, but is not limited to, providing advice and assistance such as:

1. Assisting business firms by providing marketing and technical assistance in selling their goods and/or services to DoD, other Federal agencies, and state and local governments;

2. Assisting with understanding specifications;

3. Preparing applicants to be placed on solicitation mailing lists;

4. Preparing offers;

5. Providing postaward assistance in areas such as production, quality system requirements, finance, engineering, transportation and packaging; and

6. Providing information to business firms/clients on the DoD Mentor-Protege Pilot Program; Defense Conversion, Reinvestment and Transition Assistance Act of 1992; The Metric Conversion Act; Electronic Commerce/Electronic Data Interchange (EC/EDI); and commercial item acquisitions.

The distribution of publications, specifications, bid matches or simply referring business firms/clients to another source for advice or assistance is not a counseling session.

O. Direct cost. Any cost that can be identified specifically with a particular final cost objective. No final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included in any indirect cost pool to be allocated to that or any other final cost objective.

P. Distressed area. The geographical area to be serviced by an eligible entity in providing PTA to business firms physically located within an area that:

1. Has a per capita income of 80% or less of that State's average;

2. Has an unemployment rate that is one percent greater than the national average for the most recent 24-month period in which statistics are available; or

3. Is a ''reservation'' which includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

Q. Duplicate coverage. A situation caused by two or more applicants offering to provide marketing and technical assistance to clients located within the same county(ies) or equivalent within the same geographic area.

R. Electronic Commerce (EC). The end-to-end, paperless business environment that integrates electronic transfer and automated business systems. EC includes EDI, FAX, Bar Coding, Electronic Funds Transfer, etc.

S. Electronic Commerce in Contracting (ECIC). Refers to electronic procurement transactions.

T. Electronic Data Interchange (EDI). A subset of EC. EDI is the computer-to-computer exchange of routine business transactions.

U. Eligible entities. Organizations qualifying to submit an application as follows:

1. General Program:

a. State government. Any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, exclusive of local governments. The term does not include any public and Indian housing agency under the US Housing Act of 1937.

b. Local government. A county, municipality, city, town, township, local public authority (including any public and Indian Housing agency under the US Housing Act of 1937), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity (such as regional planning agencies), or any agency or instrumentality of a local government. The term does not include institutions of higher education and hospitals.

c. Private, nonprofit organizations.

(1) A business entity organized and operated exclusively for charitable, scientific, or educational purposes, of which no part of the earnings inure to the benefit of any private shareholder or individual, of which no substantial part of the activities is carrying on propaganda or otherwise attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office, and which are exempt from Federal income taxation under section 501 of the Internal Revenue Code.

(2) American Indian Program:

(a) Indian Economic enterprise. Any Indian-owned (as defined by the Secretary of the Interior) commercial, industrial, or business activity established or organized, whether or not such economic enterprise is organized for profit or nonprofit purposes: Provided, That such Indian ownership shall constitute not less than 51 per centum of the enterprise.

(b) Indian/Tribal Organization. The recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body, or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, that in any case where a cooperative agreement is made to an organization to perform services benefitting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such cooperative agreement.

V. Existing program. Any PTA program that had a cooperative agreement with DLA for one or more years.

W. Federal funds authorized. The total amount of Federal funds obligated by the Federal government for use by the recipient.

X. Follow-up counseling session. A counseling session held with a client subsequent to the initial counseling session.

Y. Grants officer. An official with the authority to enter to, administer, and/or terminate grants or cooperative agreements.

Z. Indian. Any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the BIA and any ''Native'' as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et. seq.*).

AA. Indian tribe. Any Indian tribe, band, group, pueblo, or community, including Native villages and Native groups (including corporations organized by Kenai, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C. Section 1601 *et seq.*), which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

AB. Indirect cost. Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or an intermediate cost objective. An indirect cost is not subject to treatment as a direct cost.

AC. Initial counseling session. The first counseling session held by a recipient with a business firm. The initial counseling session may determine that the business firm has no potential to do business with a Federal agency and/or state and local government.

AD. In-kind contributions. The value of noncash contributions provided by the eligible entity and non-Federal parties to the PTA Program. Only when authorized by Federal legislation may property or services purchased with Federal funds be considered as in-kind contributions. In-kind contributions may be in the form of charges for real property and nonexpendable personal property and the value of goods and services directly benefiting and specifically identifiable to the project or program.

AE. Integrated automated information environment. Computer-to-computer exchange of public standard formatted messages through use of a VAN.

AF. Multi-area coverage. A PTA program that proposes to service 100% of the reservations located within one BIA service area and at least 50% of the reservations located within another BIA service area.

AG. Net program cost. The total program cost from all authorized sources—less any program income and/or other Federal funds not authorized to be shared.

AH. Networking. A method of providing assistance throughout the area to be serviced. Examples include:

1. Locating assistance offices in area of industrial concentration;

2. Establishing and/or maintaining data links with other organizations; and

3. Creating data exchanges.

AI. New start. An eligible entity that is not an existing program.

AJ. Non-profit agencies representing the blind and severely disabled. A qualified nonprofit agency for the blind or the severely disabled which produces a commodity for, or provides a service to, the Government. For the PTACAP workshops may be treated as small businesses.

AK. Other Federal funds. Federal funds such as those provided by Federal agency(ies) other than the DoD PTA Cooperative Agreement Program. When authorized by statute, Federal funds received from other sources, including grants, may be used as cost sharing and/or cost matching contributions.

AL. Outlays/expenditures. Charges made to the PTA program. They may be reported on a cash or accrual basis.

1. Cash basis. For reports prepared on a cash basis, outlays are of the sum of:

a. Cash disbursements for direct charges for goods and services;

b. The amount of indirect expense charged;

c. The value of third party in-kind contributions applied; and

d. The amount of cash advances and payments made to subrecipients.

2. Accrual basis. For reports prepared on an accrual basis, outlays are the sum of:

A. Cash disbursements for direct charges for goods and services;

b. The amount of indirect expense incurred;

c. The value of in-kind contributions applied:

d. The net increase (or decrease) in the amounts owned by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees; and

e. Other amounts becoming owed under programs for which no current services or performance are required.

AM. Per capita income. The estimated average amount per person of total money income received during the calendar year for all persons residing in a given political jurisdiction as published by the U.S. Department of Commerce, Bureau of the Census.

AN. Prior approval. Written approval given by an authorized official evidencing prior consent as required by the cooperative agreement award document.

AO. Procurement Technical Assistance Cooperative Agreement Program (PTACAP). A program established to generate employment and improve the general economy of a locality by assisting business firms in obtaining and performing under DoD, other Federal agency and state and local government contracts.

AP. Program income. Gross income earned by the recipient or subrecipient from cooperative agreement-supported activities. Program income includes fees for services performed, and the use or rental of personal property acquired with cooperative agreement funds. Except as otherwise provided in program regulations or the terms and conditions of the award, program income does not include the receipt of principal, interest or loans, rebates, credits, discounts, refunds, etc., or interest earned on any of them.

AQ. Public Standard Format. A data exchange format which includes the ANSI format ASC X–12 and/or the United Nations Electronic Data Interchange for Administration, Commerce and Transport (UNEDIFACT).

AR. Reservation. Includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act [43 U.S.C.A., Section 1601 et seq.].

AS. Service area. Any one of twelve area offices, as published by the U.S. Department of the Interior, BIA, to include: Aberdeen, Albuquerque, Anardako, Billings, Eastern, Juneau, Minneapolis, Muskogee, Navajo, Phoenix, Portland and Sacramento.

AT. Small business (SB). As used in this solicitation, a business, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as SB under the criteria and size standards in 13 CFR 121.

AU. Small disadvantage business (SDB). As used in this solicitation, a SB concern that is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantage, or a publicly owned business that has at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals and that has its management and daily business controlled by one or more such

individuals. This term also means a SB concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian organization, or publicly owned business that has at least 51 percent of its stock unconditionally owned by one of these entities, that has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian organization that meets the requirement of 13 CFR 124.

AV. Solicitation for cooperative agreement applications (SCAA). A document issued by DLA containing provisions and evaluation factors applicable to all applicants which apply for a PTA cooperative agreement.

AW. Statewide coverage. A PTA program which proposes to service at least 50% of a State's counties or equivalent and 75% of the States's labor force.

AX. Subrecipent. The legal entity to which a written subagreement is awarded and which is accountable to the recipient of a cooperative agreement for DLA and any modification(s) thereto.

AY. Third party in-kind contributions. The value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the PTACAP.

AZ. Total program cost. All allowable costs as set forth in OMB Circular A–21, A–87 and A–122, as applicable.

A1. Total program outlays. All charges made to the PTA program. These charges include cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received for services performed by employees, contractors and other payees, and other amounts becoming owed under programs for which no current services or performances are required.

A2. Unliquidated obligations. For financial reports prepared on a cash basis, means the amount of obligations incurred by the recipient that has not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

A3. *Unobligated balance.* The portion of the funds authorized by DLA that has not been obligated by the recipient which is determined by deducting the cumulative obligations from the cumulative funds authorized.

A4. Value added network (VAN). A commercial telecommunications service provider which passes electronic commerce traffic between a government entity and a commercial, private sector vendor.

A5. Woman-owned small business (WOB). A small business concern—(i) which is at least 51 per centum owned by one or more women; or in the case of a publicly owned business, at least 51 per centum of the stock of which is owned by one or more women; and (ii) whose management and daily business operations are controlled by one or more women.

3–4 Program Purpose and Requirements

A. The purpose of the PTACAP is to generate employment and to improve the general economy of a locality by assisting business firms in obtaining and performing under Federal, state and local government contracts.

B. Each PTA center must meet these minimum requirements set forth below. Failure to meet any of these requirements will be cause to deny or terminate an award.

1. Service Area.

Analyze the service area to identify its geographic and demographic characteristics. The applicant must maintain and provide information regarding the characteristics of the local economy (distressed or nondistressed) and the type of business firms located in the service area (SB, WOB, SDB, OTSB). Informaiton must include:

a. An explanation how the business community will be made aware of the PTA Program; the types of assistance being offered to clients; what is required from a business firm to become a PTA center's client; and the impact the PTA center will have in generating employment within the service area.

b. The total number of counties or equivalent within the State and the identification of each county the applicant plans to service.

c. The average unemployment level for each county the applicant plans to service.

d. The average per capita income of the State and each county the applicant plans to service.

e. The total number of procurement outreach conferences the applicant plans to sponsor.

f. The total number of procurement outreach conferences the applicant plans to participate in other than as a sponsor.

g. The state's total population and the percent of the population that the applicant plans to service.

h. The total number of SB, WOB, SDB, and OTSB the applicant plans to service.

2. Counseling and Client Information.

Applicants must provide clients with counseling and information regarding marketing their goods and services to DoD, other Federal agencies, and state and local governments. The applicant shall:

a. Analyze the types of business firms within their geographic area to determine the types to be counseled (by product or service offered).

b. Shall maintain regulations and publicaitons (or identify sources for obtaining) that govern Federal, state and local government procurement, as applicable.

c. Identify marketing opportunities for clients consistent with their products and services.

d. Assist and advise clients concerning post award functions.

e. Educate clients in the following areas:

(1) DoD mentor-protege Pilot Program.

(2) Defense Conversion, Reinvestment and transition Assistance Act of 1992.

(3) The Metric Conversion Act

(4) The requirements and procedures used by DoD and other Federal agencies in the acquisition of commercial products.

f. Maintain records to document services provided during all counseling sessions (initial and follow-up) to include preparation of bidders mailing list applications.

3. Electronic Commerce/Electronic Data Interchange.

EC/EDI)—Applicant must provide its clients with information pertaining to Electronic Commerce in Contracting (ECIC), including the routine computer exchange of procurement information such as solicitations, offers, contracts, purchase orders, invoices, payments, and other contractual documents electronically exchanged between the private sector and the Federal Government, to the maximum extent practicable, using ANSI ASC X–12 standards. Information to be provided to the client should include:

a. An explanation of how the business community will benefit from using EC/EDI.

b. A complete understanding of the Federal Government EC/EDI program to include:

(1) An identification and explanation of the functions of the various components of EC/EDI, such as Value Added network (VANs) and Value Added Services (VASs), Government

gateways and networks, translation software, necessary hardware, and the Central Contractor Registration (CCR) system.

(2) An explanation of current OSD and Federal policies regarding ECIC.

(3) An explanation of transaction sets and implementation conventions.

(4) An explanation of the impact and applicability of the Internet on ECIC, including identification of Government home pages, electronic catalogs, electronic bulletin boards and other relevant net sites.

(5) Explanation of FACNET requirements and DoD and Federal efforts (and status) on meeting these requirements.

4. Postaward Assistance.

Applicant must assist, as appropriate, their clients with understanding Federal, state and local government requirements applicable to contracting for services, manufacturing, construction or other markets. As a minimum, the assistance should include but is not limited to:

a. Production
b. Quality System
c. Accounting system requirements, and contract payments
d. Transportation
e. Packaging
f. Subcontracting
g. Property

5. Performance Reporting.

The PTA center shall collect sufficient information from its clients to supplement information maintained in its files to report current, complete and accurate information required by the Procurement Technical Assistance Cooperative Agreement Performance Report (DLA Form 1806). The DLA Form 1806 shall be submitted to the cognizant contract administration activity on a semiannual basis. the PTA center shall:

a. Segregate data by origin of award (DoD, other Federal agency, state and local government) and type of business (small and other than small) and socioeconomic status of the business receiving the award (SB, SDB, WOB, OTSB).

b. Have on file:

(1) A minimum of five success stories attesting to the PTA provided to DoD clients during the base and each option year. Each success story must be verified by a letter from the applicant's client stating that the story is true and has resulted from substantial effort on behalf of the client by the PTA center. Success stories involving DoD non-appropriated fund activities (Army/Air Force exchange service, etc.) can be used to satisfy this requirement.

(2) The number and dollar value of prime and subcontract awards received.

(3) A means of validating the number and dollar value for prime and subcontract awards received.

(4) A signed statement from the client confirming that the reported prime and/or subcontract awards were obtained as a result of the assistance provided by the PTA center.

(5) When requested by the reviewing activity, obtain detailed information such as: the contract awarding activity; name and telephone number of the point of contact at the contract awarding activity; and the contract number and dollar value of prime and/or subcontract awards from the client to support the information reported on the DLA Form 1806, when the information is not available in the PTA center's files.

c. Have on file for the PTA center the number of jobs generated and/or retained for the base and each option year resulting from the assistance provided by the PTA center.

6. Client Satisfaction.

Clients serviced by the award recipient shall be surveyed annually, as a minimum, to document client satisfaction with the assistance provided by the PTA center. The client shall be requested to assess the performance of the PTA center and its personnel in terms of:

a. Timeliness and responsiveness to general and specific client needs;

b. Flexibility and ability to change with evolving client circumstances;

c. Commitment to the client's stated goals;

d. Training offered and received, as appropriate; and,

e. Overall capability to provide relevant advice and assistance to the client.

Clients shall rate the PTA center as satisfactory or unsatisfactory. The file will reflect, in sufficient detail, the PTA center's efforts to overcome areas of client dissatisfaction. The above information will be compiled, documented and maintained as a part of each client's permanent file, and as a collective report for the entire PTA center. The client rating information shall be made available to the Grants Officer or designated representative for review upon request.

C. PTA Center Operating Hours.

1. The recipients shall operate their PTA centers on a forty (40) hour week basis, or during the normal business hours of the state or local government or PTA center's parent organization throughout the effective period of the cooperative agreement. Vacation benefits and holidays allowed to the staff of the recipient and subrecipient(s) shall conform to the policy of the state or local government or PTA center's parent organization.

2. The subrecipient shall provide PTA on a daily basis during the normal business hours of the subrecipient's parent organization throughout the effective period of the cooperative agreement. Vacation benefits and holidays allowed to the staff of the subrecipient shall conform to the policy of the subrecipient's parent organization.

3–5 Procedures

A. The SCAA and selection criteria are developed and prepared by the Headquarters (HQ), DLA PTA Cooperative Agreement Program Manager (hereafter referred to as Program Manager). The SCAA and selection criteria are approved by the HQ DLA PTA Cooperative Agreement Program Policy Committee (hereafter referred to as Policy Committee). The Policy Committee is comprised of representatives from HQ DLA. The Director, office of Small and Disadvantaged Business utilization, serves as the Policy Committee Chairman.

B. The Policy Committee is the final administrative appeal authority for disputes and protests.

C. Grants Officer (GO) as used herein refers to the GO assigned to HQ DLA Office of Small and Disadvantaged Business Utilization.

D. Applications and revisions received after the deadline for receipt of applications, as specified in the SCAA, will not be evaluated unless acceptable evidence is provided by the applicant. Acceptable evidence to support an otherwise late application or revision received after the closing time and date shall consist of:

1. An original US Post Office receipt for registered or certified mail showing the date of mailing not later than five calendar days before the date specified for receipt of applications and revisions; or

2. When sent by US Postal Service Express Mail Next Day Service—Post Office to Addressee, the date entered by the Post Office receiving clerk on the ''Express Mail Next day Service—Post Office to Addressee'' label and the postmark on the envelope or wrapper and on the original receipt for the US Postal Service. The postmark date must be two working days prior to the date specified for receipt of applications. The term working days excludes weekends and Federal holidays. Applicants should request the postal clerk to place a legible hand cancellation ''bull's-eye''

postmark on both the receipt and envelope or wrapper.

3. If the application or revision is hand delivered, the specified time and delivery date shall be supported by a receipt given by the GO or designated representative.

E. The evaluation of applications and selection of award recipients resulting from responses to the SCAA shall be conducted as detailed below:

1. The GO will evaluate each application received to determine if the application: (i) offers at least a county or equivalent coverage; (ii) contains sufficient management, technical, cost, and other required information; (iii) has been signed by a responsible official authorized to bind the eligible entity; and (iv) otherwise meets the requirements of the SCAA. Applications that fail to meet the requirements of the SCAA will be removed from further consideration for an award and the applicant will be promptly notified of the reason for removal. The applicant's application will be retained with any other unsuccessful application(s) by the GO.

2. Program status classification. The GO will review and verify the accuracy of the applicant's program status stated in item 8, ''Type of Application'' of the Standard Form (SF) 424. If the GO considers the program status misclassified, the matter will be reviewed with the applicant. If the applicant and the GO cannot agree, the GO will determine the applicant's program status based upon the information contained in the application at the time the solicitation closed. The GO's decision regarding the program's status is final.

3. Minor informalities and mistakes. The GO shall provide an applicant the opportunity to cure any deficiency resulting from a minor informality or irregularity contained in the offer or waive the deficiency, whichever is to the advantage of the Government. A minor informality or irregularity is one that is merely a matter of form and not of substance. It also pertains to some immaterial defect in an offer or variation of an offer from the exact requirements of the solicitation that can be corrected or waived without being prejudicial to other applicants. The defect or variation is immaterial when the effect on program quality is negligible when contrasted with the program's total cost. Two examples of minor informalities include the failure of the applicant to: (i) return the required number of copies of its application; and (ii) execute the certifications required by the SCAA clauses.

a. In cases of apparent mistakes and in cases where the GO has reason to believe that a mistake may have been made, the GO shall request verification from the applicant that the offer ''should read as stated; calling attention to the suspected mistake. Any clerical mistake apparent in the offer may be corrected by the GO. Examples of apparent mistakes are: (i) obvious misplacement of a decimal point; (ii) incorrect transposition of numbers; and (iii) obvious mistake in identifying the program status (existing versus new start program). The GO shall obtain from the applicant a written verification of the offer intended.

b. Correction of a mistake by the GO shall be effected by attaching the verification to the original offer. The GO shall not make corrections on the application. Corrections shall be restated in the cooperative agreement award document, if the applicant received an award.

c. If an applicant request permission to correct a mistake, and clear and convincing evidence establishes the existence of the mistake, the GO may make a determination permitting the applicant to correct the mistake. The determination to allow correction of mistakes will be made provided that both the existence of the mistake and the application actually intended are established by clear and convincing evidence from the solicitation and application.

4. Notification of application removal from consideration for an award. The GO will notify the applicant by certified mail (return receipt requested) if its application is removed from further consideration for an award.

5. Duplicate coverage. An application shall not duplicate more than 25%, or an individual or cumulative basis, any of the counties or equivalent (for the general program) or any of the reservations (for the Indian program) proposed by other applicants. When the GO determines that two or more applicants are proposing to provide duplicate coverage in excess of 25%, selection priority will be given to the applicant that is determined to be best qualified by the evaluation team. Only one statewide program (under the general program) will be awarded in a state.

6. Each application will be reviewed by an evaluation team consisting of two procurement functionals, one technical functional, and one small business functional. Each evaluation factor will receive individual adjectival ratings (highly acceptable, acceptable, marginally acceptable, and unacceptable) based on the merit of the applicant's support for the particular evaluation element. The team will then collectively assess the overall application, taking into consideration the strengths and weaknesses of the application as it relates to each individual evaluation factor. A single adjectival rating will be assigned to the application which will be used to determine final award status. Applicants should be aware that ultimate award and inclusion into the DLA PTACAP may depend on funding limitations and constraints placed upon the Agency.

7. Award. The award recommendations are approved by the Program Manager and executed by the GO.

3–6 Evaluation Plan

A. Selection Procedures

1. This section outlines the procedures the Government will use during the selection process for the FYs 97 and 98 PTACAP. The Government contemplates that multiple awards will be made from the applications submitted for the PTACAP. The Government at its discretion may select multiple applicants to perform PTACAP requirements at statewide and other than statewide coverage levels provided that any individual application shall not duplicate any counties or equivalent in excess of 25 percent (general program), or reservations in excess of 25 percent (Indian program), proposed by other applicants.

2. The section entitled Evaluation Criteria describes the criteria the Government will use to select those applicants that provide the best overall value to satisfy PTACAP requirements. Evaluation criteria (in order of importance) are:

a. Past Performance (Existing Programs Only);

b. Management;

c. Technical Qualifications;

d. Service Area (geographic and demographic characteristics); and

e. Cost Realism.

3. Information provided regarding past performance will be evaluated by the Government to determine the applicant's ability to perform PTACAP requirements. Applicants selected for the basic award will be considered for award of option(s) if their demonstrated performance is equal or better than that required by the base year or first option year cooperative agreement award and a satisfactory or better performance rating is received from the cognizant contract administration activity. In the absence of acceptable performance by the original awardee, other applicants may

be selected to complete the option period(s).

4. Although cost realism is of lesser importance, the importance of cost realism could increase among applicants that are rated equally or nearly equal. Should applicants become equal or nearly equal in terms of the factors shown above, other factors listed below may be used as discriminating elements for determining the selection of applications among otherwise substantially equal applicants. These factors in descending order of importance are:

a. Duplication of effort;

b. Demographic make-up, to include population, unemployment, and labor surplus area coverage;

c. Alternative methods employed to stimulate outreach efforts aimed at small disadvantaged businesses; and

d. Other strengths and weaknesses of note demonstrated in the application.

5. The recommendation of applicants to participate in the PTACAP will be made by the Evaluation Team based on an integrated assessment of all applications submitted in response to the solicitation and other terms and conditions agreed upon prior to award. The integrated assessment will involve a determination by the Government of the overall value of each proposal judged in terms of the applicant's capability. Throughout the evaluation process, the Government will independently identify deficiencies within the applications. The team will collectively assess the overall application, taking into account the strengths and weaknesses of the application as it relates to each individual evaluation factor. A single adjectival rating will be assigned to the application, which will be used to determine final award status.

B. Evaluation Criteria

1. Past Performance (existing Programs only).

a. The Government will evaluate the quality of the applicant's past performance. The assessment of the past performance will be used in two (2) ways:

(1) First, the assessment of the offeror's performance will be used as one means of evaluating the credibility of the applicant's application. A record of marginal or unacceptable past performance may be considered and indication that the representations made by the applicant are less than reliable. Such an indication may be reflected in the overall assessment of the applicant's application.

(2) Second, the assessment of the applicant's past performance will be used as one means of evaluating the relative capability of the applicant and the other applicants to meet the performance requirements of the PTACAP. Thus, an applicant with an exceptional record of past performance may receive a more favorable evaluation than another whose record is acceptable, even though both may have otherwise equally acceptable applications.

b. In investigating an applicant's past performance, the Government will consider the information in the applicant's proposal and information obtained from other sources, such as past and present clients, other Government agencies, and others who may have useful information.

c. Evaluation of past performance will be a subjective assessment based on a consideration of all relevant facts and circumstances. It will not be based on absolute standards of acceptable performance. The Government is seeking to determine whether the offeror has consistently demonstrated a commitment to client satisfaction and timely delivery of quality service at reasonable costs. This is a matter of judgment. Applicants may be given an opportunity to address especially unfavorable reports of past performance, and the applicant's response or lack thereof will be taken into consideration.

d. By past performance, the Government means the applicant's record of conforming to the PTACAP requirements, including the administrative aspects of performance, reputation for reasonable and cooperative behavior, commitment to client satisfaction, and generally, the applicant's businesslike concern for the interests of the client.

2. Management.

a. The proposed management team will be rated to determine the degree of experience offered by the team proposed and the likelihood of successful management under the PTACAP.

b. Management will be evaluated to determine whether it meets the PTACAP requirements.

c. The application will be evaluated to determine the financial strength and soundness of the organization. The availability of resources under the application will also be assessed. The strength of the plan will be assessed to determine the adequacy of the plan proposed.

3. Technical Qualifications.

Understanding of and ability to meet PTACAP requirements by the personnel involved for this factor will be evaluated to determine the extent to which it meets the program requirements and the likelihood of success of the PTACAP as it relates to these requirements. Benefits will be evaluated in terms of management substance and achievability.

4. Service Area (geographic and demographic characteristics).

a. The service area will be evaluated based upon the population to be serviced as well as the unemployment conditions in the area to determine the scope and nature of the coverage proposed.

b. Demographic characteristics will be evaluated including the total population of the state and the percentage of the population to be served and the unemployment conditions in the area. The unemployment rate for the most recent 24 month period for which statistics are available will be used in this process.

c. Service area will be evaluated to assess the extent to which the program maximizes coverage and achieves PTACAP requirements and objectives.

5. Cost Realism.

Cost realism will be evaluated on the basis of the applicant's ability to project cost which indicates an understanding of the nature and scope of the work required. The costs proposed will also be evaluated for reasonableness. Reasonableness is a judgment of the proposed program costs as compared to expected needs of the PTACAP, appropriate indices and other relevant measures. Implicit in the assessment is the need to establish that any application considered for an award must also be realistic with respect to the relationship of the cost to the level of performance proposed. This determination is critical to determining the offeror's understanding of the PTACAP requirements and probability of successful performance. Upon a determination of cost realism, a comparison of proposed costs will be made to the other evaluation factors and the Evaluation Team will make a decision as to which applications represent the best value to the Government. It is to be noted that this assessment will be a subjective judgement as to the relative value of the applications received. The Government reserves the right to verify any and all aspects of each applicant's application.

3–7 Evaluation Factors

Applications will be evaluated for merit and compliance with the PTACAP's solicitation requirements. In order to provide full consideration of the applicant's qualification for an award, each applicant should ensure that the information furnished is factual current, accurate, and complete. The content should be presented in a

manner that will allow evaluators to determine the applicant's understanding of the SCAA, the operating environment desired in PTA centers, and how the applicant's overall concept meets requirements of the SCAA. Failure to provide the information requested may result in a determination that the application is unacceptable and will be removed from further consideration for an award. The Government reserves the right to verify information provided by the applicant for evaluation purposes and to request additional supporting information, if needed. The evaluation factors (in their order of importance) are:

A. Past Performance (Existing Programs Only)

Applicants having no record of past performance under a DLA PTACAP will receive a neutral rating for this evaluation factor. A neutral rating for new programs will have no adverse effect on the determination for award. Each applicant will be evaluated on its most recent 12-month performance period (prior to 1 April 1997 or 98) under the existing solicitation regarding compliance with requirements; management of the program; and, ability to account for the document associated costs. The applicant must summarize the requirements in its most recent 12-month performance period and describe how its program satisfied those requirements to include jobs generated and/or retained and justification for any funds that were or will be deobligated. Evaluation of past performance will be a subjective assessment based on a consideration of all relevant facts and circumstances. The most recent copy of the cognizant contract administration activity's evaluation report must be provided. The following criteria will be used to evaluate the application:

1. Highly acceptable—The application must demonstrate a high degree of success in satisfying all PTA Program requirements during the most recent 12-month performance period. The cognizant administration activity's evaluation report must substantiate that the applicant has an above average program.

2. Acceptable—The application must demonstrate that the applicant has met all PTA Program requirements during the most recent 12-month performance period. The cognizant administration activity's evaluation report must substantiate that the applicant has an adequate program.

3. Marginally acceptable—The application must demonstrate that the applicant has satisfied most of the PTA Program requirements during the most recent 12-month performance period. The cognizant administration activity's evaluation report must substantiate that the applicant has implemented most program requirements.

4. Unacceptable—The applicant has fulfilled few of the PTA Program requirements during the most current 12-month performance period. The cognizant administration activity's evaluation report must substantiate that the applicant has an inadequate program.

Note: Limit this discussion to 4 single-spaced, type-written pages.

B. Management

Each applicant will be evaluated on its management approach to successfully implement the PTA Program. The applicant shall describe the methods and procedures it plans to employ to manage the PTA Program in an efficient and effective manner. The applicant's approach will be rated to determine the degree of experience offered and the likelihood of successful management under the concept proposed. In addition, the evaluation will include an assessment of the overall strength and soundness of the organization. The following criteria will be used to evaluate the application:

1. Highly acceptable—The applicant has fully demonstrated that the techniques and methodology it intends to employ will enable it to exceed all PTA Program requirements during the period of performance.

2. Acceptable—The applicant has demonstrated that the techniques and methodology it intends to employ are adequate and that its management approach will enable it to satisfy all PTA Program requirements.

3. Marginally acceptable—The applicant has minimally demonstrated that the management techniques and methodology it intend to employ will satisfy most of the PTA Program requirements.

4. Unacceptable—The applicant has not demonstrated an adequate understanding of the management techniques and methodology needed to successfully operate a PTA Program and satisfy requirements.

Note: Limit this discussion to 3 single-spaced, type-written pages.

C. Technical Qualifications

Each applicant will be evaluated on the qualifications of its personnel regarding the number of years of procurement experience, including government and industry experience, procurement related training, and education. The applicant must describe how its personnel fulfills these requirements. The following criteria will be used to evaluate the application:

1. Highly acceptable—The majority of the applicant's professional personnel have at least four years of procurement experience; a baccalaureate degree, preferably in business related subject; and, have experience in operating a PTA Center or equivalent type organization.

2. Acceptable—The majority of the applicant's professional personnel have at least two years of procurement experience; a baccalaureate degree, preferably in business related subject; and, have experience in operating a PTA Center or equivalent type organization.

3. Marginally acceptable—The majority of the applicant's professional personnel do not have more than one year of procurement experience; have a baccalaureate degree, preferably in business related subject; and, have at least some experience in operating a PTA Center or equivalent type organization.

4. Unacceptable—The majority of the applicant's professional personnel do not have at least one year of procurement experience; do not have a baccalaureate degree; and, have no experience in operating a PTA Center or equivalent type organization.

Note: Limit this discussion to 2 single-spaced, type-written pages.

D. Service Area (Geographic and Demographic Characteristics)

Each applicant will be evaluated on the population base the applicant identifies and the unemployment level in the area to be serviced. Demographic characteristics will be evaluated using the total population of the state, the percentage of the population to be served and the unemployment conditions in the area. The following criteria will be used to evaluate the application:

1. Highly acceptable—The applicant must meet the following: (a) The applicant will service an area that consists of the lesser of either: (i) at least one million residents or (ii) at least 75% of the state's available labor force or (iii) 75% of the population of the state, or (b) the level of enemployment in the area to be serviced is at least 1.25% above the national unemployment rate for the most recent 24-month period for which statistics are available.

2. Acceptable—The applicant must meet the following: (a) The applicant will service an area that consists of the lesser of either: (i) at least five hundred thousand residents or (ii) at least 50% of the state's available labor force or (iii) 50% of the population of the state, or (b) the level of unemployment in the area

to be serviced is at least 1% above the national unemployment rate for the most recent 24-month period for which statistics are available.

3. Marginally acceptable—The applicant must meet the following: (a) the applicant will service an area that consists of the lesser of either: (i) one hundred fifty thousand residents or (ii) at least 25% of the state's available labor force or (iii) 25% of the population of the state, or (b) the level of unemployment in the area to be serviced is not more than 1% below the national unemployment rate (e.g., national average minus 1%) for the most recent 24-month period for which statistics are available.

4. Unacceptable—Applicants who do not meet the criteria in subparagraphs 1, 2, or 3 above are unacceptable.

Note: Limit this discussion to 1 single-spaced, type-written page.

E. Cost Realism

Each applicant's response to this element will be evaluated for reasonableness and realism in managing cost. Implicit in the assessment is the need to demonstrate the relationship of the estimated overall program cost to the proposed level of performance. The applicant shall describe the measures intended to control, account for, and document relevant costs. For example, describe the ratio of program management cost to counselor cost and the ratio of program management cost to total program cost, with an objective of optimizing the percent of total program cost to be spent on direct counseling and assistance to clients. Unrealistic cost reflected in the application will be deemed indicative of the applicant's inability to perform the PTA Program. Such applications may also reflect lack of understanding of the complexity or the risks in scope of the requirement. As such, they will no longer be considered eligible for award.

The following criteria will be used to evaluate the application:

1. Highly acceptable—The applicant must demonstrate that its approach to cost management satisfies all PTA Program requirements in an above average manner.

2. Acceptable—The applicant must demonstrate that its approach to cost management is adequate to satisfy all PTA Program requirements.

3. Marginally acceptable—The applicant must demonstrate that it has the capability to satisfy the majority of the PTA Program requirements.

4. Unacceptable—The applicant has indicated through its response to this element that its cost management approach is inadequate to fulfill minimum PTA Program requirements.

Note: Limit this discussion to 1 single-spaced, type-written pages.

3–9 Cost Sharing Limitations

A. General program.

1. The DoD share of net program cost shall not exceed 50%, except in a case where an eligible entity meets the criteria for a distressed area. When the prerequisite conditions to qualify as a distressed area are met, the DoD share may be increased to an amount not to exceed 75%. In no event shall the DoD share of net program cost exceed $150,000 for programs providing less than statewide coverage or $300,000 for programs providing statewide coverage.

2. Consultant services provided by private nonprofit and/or profit making individuals, organizations or otherwise qualified business entities may be used to augment a cooperative agreement recipient's internal capabilities subject to the 10% total program cost limitation.

B. American Indian program.

1. The DoD share shall not exceed 75% of net program cost or $150,000 for a program providing service on reservations within one BIA service area, or $300,000 for a program providing multi-area coverage.

2. Consultant services provided by private nonprofit and/or profit making individuals, organizations or otherwise qualified business entities may be used to augment a cooperative agreement recipient's internal capabilities subject to the 25% total program cost limitation.

C. The type and value of third-party in-kind contributions is limited to no more than 25% of total program cost. Third-party in-kind contributions shall meet the requirements set forth by subparagraphs 3–10E and 3–10F below.

D. Indirect cost and/or indirect rate used in the application are subject to downward revision only.

E. The applicant shall submit a copy of the current negotiated indirect rate memorandum issued by its cognizant Federal agency.

F. Indirect cost incurred by educational institutions (recipients and subrecipients) shall be charged in accordance with the most current version of applicable OMB Circulars to include any limitation set forth therein.

3–10 Cost Sharing Criteria

A. Cost contributions may be either direct or indirect costs, provided such costs are otherwise allowable in accordance with the applicable cost principles. Allowable costs which are absorbed by the applicant as its share of costs may not be charged directly or indirectly or may not have been previously charged, in part or in whole, to the Federal Government under other contracts, agreements, or grants.

B. Except as provided by Federal statute, a cost sharing or matching requirement may not be met by costs borne by another Federal grant.

C. Program income or other Federal funds, that are not authorized for use by Federal statute (excluding loan guarantee agreements since these do not provide for disbursement of Federal funds) are not acceptable for use as the applicant's cost matching funds. Inclusion of other Federal funds in the program as part of total program cost is subject to authorization by Federal statute and the terms of the instrument containing such funds or written advice obtained from the agency awarding the Federal funds. Any Federal funds used by the eligible entity, other than the DoD PTA Cooperative Agreement Program funds, must be disclosed and identified in the eligible entity's application.

D. Neither costs nor the values of third party in-kind contributions may count toward satisfying a cost sharing or matching requirement of the SCAP if they have been or will be counted toward satisfying a cost sharing or matching requirement of another Federal grant, a Federal procurement contract, or any other award of Federal funds.

E. All applicant contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria: (1) are verifiable from the records of recipients, subrecipients, or cost-type contractors (these records must show how the value placed on third party in-kind contributions was derived and to the extent feasible, volunteer services must be supported by the same methods that the organization uses to support the allocability of regular personnel costs); (2) are not included as contributions for any other federally-assisted project or program; (3) are necessary and reasonable for proper and efficient accomplishment of the project or program objectives; (4) are allowable under the applicable cost principles; (5) are not paid by the Federal government under another award, except where authorized by Federal statute to be used for cost sharing or matching; (6) are provided for in the budget; and (7) conform to other provisions for uniform administration requirements under the applicable OMB Circular.

F. Third party in-kind contributions may satisfy a cost sharing or matching requirement only when the payments

would be allowable costs if the party receiving the contributions were to pay for them. Some third party in-kind contributions are goods and services that would have been an indirect cost if the recipient, subrecipient or contractor had been required to pay for them. Cost sharing or matching credit for such contributions may be given only if the recipient, subrecipient or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions.

G. Where distressed funding (greater than 50%) is requested and the civil jurisdiction(s) which the applicant plans to service is both distressed and nondistressed, two budgets must be submitted identifying the anticipated distribution of total program cost between these two areas. In addition, the recipient's accounting system must segregate and accumulate costs in each of the two budget areas.

H. Recipients of PTA cooperative agreements are required to maintain records adequate to reflect the nature and extent of their costs and expenditures, and to ensure that their required cost participation is achieved.

3–11 Option To Extend the Term of the Cooperative Agreement

A. A SCAA will be issued every third fiscal year, i.e., 1996, 1999, etc. Cooperative agreements will be awarded for a base year or for a base year with one option period of twelve months.

B. The awarding of a cooperative agreement for a base year with one or two option periods of twelve months each does not guarantee the recipient that an option(s) will be exercised. The Government at its sole discretion may elect not to exercise an option(s), to exercise an option(s) or to replace an existing program with either another existing or new start program. The determination to exercise or not to exercise an option will be made on a program by program basis. Duplicate coverage, the number of DLA funded PTA centers operating in a state and DoD funds available may be considered when deciding to or not to exercise an option.

C. An option may be exercised by the Government providing the recipient's:

1. Level of demonstrated performance in these areas (past performance, management, technical qualifications and cost realism) is acceptable or better.

2. Technical capability is equal or better than that required by the base year or first option year cooperative agreement award.

3. Cost matching funds are available.

4. Five client success stories that resulted from the substantial effort of the PTA center are verified by the Government and—

5. No other new application(s) (existing or new start) are received by DLA that can provide similar or better services at a lower cost to the Government.

D. The Government shall give the cooperative agreement recipient a preliminary written notice of its intent to extend the cooperative agreement performance period no later than 120 calendar days prior to the end of the Government's current fiscal year (1 October thru 30 September). The preliminary notice does not commit the government to an extension. The Government may extend the effective period of the cooperative agreement by giving written notice to the cooperative agreement recipient no later than 105 calendar days after issuance of the preliminary notice.

E. New applications for cooperative agreements must be submitted no earlier than 1 April and received no later than 30 April of calendar years 1997 and 1998. The application shall be prepared in accordance with the most recent solicitation for cooperative agreement application. Generally, awards will be made during the month of September.

1. Applications received prior to April 30, 1996, if selected to receive an award, will be awarded for a base year with two option periods of twelve months each.

2. Applications received prior to April 30, 1997, if selected to receive an award, will be awarded for a base year with one option period of twelve months.

3. Applications received prior to April 30, 1988, if selected you receive an award, will be awarded for a base year only.

4. The base year application submitted prior to 30 April 1996 or 1997, unless otherwise extended, must include separate SF 424s and SF 424As for the option year(s). Detailed budget information for the option year(s) is not required to be submitted with the base year application. However, the net program cost and geographic area of coverage shall be the same for the option period(s) as that provided for the base year.

F. The notice of award for the base year will provide funding for a 12-month period only. Option year(s) are subject to the availability of funds as set forth by the clause entitled ''Availability of funds.''

G. Option Year(s) requirements.

Upon receipt of the Government's preliminary written notice of its intent to extend, at least 120 calendar days prior to the end of the Government's current fiscal year, the cooperative agreement recipient that desires exercising of the option, shall prepare and submit, to the Grants Officer no later than 30 calendar days after receipt of the Government's preliminary notice, the following:

1. Competed SF 424A for the option year with a complete narrative justification for budgeted costs.

2. Completed goal work sheet.

3. Copy of its current negotiated indirect cost rate agreement, if there are any changes.

4. Certification of cost match.

5. Updated personnel form.

6. Five client success stories that resulted from the substantial effort of the PTA center.

7. The number of jobs generated and/or retained resulting from the procurement technical assistance provided by the recipient.

8. A summary of its most recent 12-month performance period, description of how its program satisfies the criteria set forth below and justification for any funds that were deobligated.

H. Evaluation of past performance will be a subjective assessment based on a consideration of all relevant facts and circumstances. The most recent copy of the contract administration activity's Evaluation Report must be provided.

1. Highly acceptable—The application must demonstrate a high degree of success in satisfying all PTA Program requirements during the most current 12-month performance period. The evaluation report must substantiate that the applicant has an above average program.

2. Acceptable—The application must demonstrate that the applicant has met all PTA Programs requirements during the most recent 12-month performance period. The evaluation report must substantiate that the applicant has an adequate program.

3. Marginally acceptable—The application must demonstrate that the applicant has satisfied most of the PTA Program requirements during the most recent 12-month performance period. The evaluation report must substantiate that the applicant has implemented most program requirements.

4. Unacceptable—The applicant has fulfilled few of the PTA Program requirements during the most recent 12-month performance period. The evaluation report must substantiate that the applicant has an inadequate program.

Note: Limit this discussion to 3 single-spaced, type-written pages.

3–12 Administration

A. Cooperative agreements with state and local governments, nonprofit organizations and Indian economic enterprises will be assigned to the cognizant Defense Contract Management Command for administration. Cooperative agreements with educational institutions will be assigned to the Office of Naval Research for administration.

B. The organization having cognizance for post award administration will periodically review the recipient's performance under the cooperative agreement to include:

1. Management control systems;
2. Financial management systems;
3. Progress being made by the recipient in meeting its program requirements; and
4. Compliance with certifications, representations and other performance factors.

The cognizant Deputy for Small Business will be the focal point for the Administrative Contracting Officer for small business issues and for all recipient publication and training requests.

C. For recipients covered by OMB Circular No. A–102, Grants and Cooperative Agreements with State and Local Governments, or OMB Circular No. A–110, Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-profit Organizations, the administrative requirements specified in those circulars will apply.

D. Each state and local entity that receives Federal funding is required to have audits performed in accordance with the requirements of OMB Circular A–128. Nonprofit organizations and institutions of higher education are required to have audits performed in accordance with the requirements of OMB Circular A–133. Indian economic enterprises (for profit only) will have audits performed in accordance with the requirements of OMB Circular A–133. Recipients shall submit one copy of any audit report that results form any audit performed pursuant to the requirements of the PTA cooperative agreement to the Office of the Assistant Inspector General for Audit, Policy and Oversight, Office of the Inspector General, 400 Army-Navy Drive, Room 1076, Arlington, VA 22202–2884.

E. The following OMB Circulars will be used to determine allowable costs in performance of the program.

1. OMB Circular No. A–21, Principles for Educational Institutions;
2. OMB Circular No. A–87, Cost Principles for State and Local Governments; and
3. OMB Circular No. A–122, Cost Principles for Nonprofit Organizations.

This circular will also be used by for-profit organizations.

[FR Doc. 97–6570 Filed 3–14–97; 8:45 am]

BILLING CODE 5000–03–M

DEPARTMENT OF THE ARMY

Corps of Engineers

Intent To Prepare a Draft Supplement to the Final Environmental Statement (DSFES) for the Operation and Maintenance Program Wister Lake, Poteau River, OK

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The purpose of the DSFES is to address raising the top of conservation pool since filing of the Final Environmental Statement on 13 October 1973.

FOR FURTHER INFORMATION CONTACT: Mr. David L. Combs, Chief, Environmental Analysis and Support Branch, Tulsa District, U.S. Army Corps of Engineers, P.O. Box 61, Tulsa, Oklahoma 74121–0061 or telephone 918–669–7660.

SUPPLEMENTARY INFORMATION: Wister Lake was authorized by the Flood Control Act of 1938 and is operated for flood control, water supply, low flow augmentation, water conservation, and sedimentation. Construction was initiated 10 April 1946 and the project was placed in operation in October 1949.

Wister Lake is located in the northern foothills of the Kiamichi Mountains adjacent to the Ouachita National Forest in LeFlore and Latimer Counties of Oklahoma. The damsite is on the Poteau River approximately 2 miles south of the town of Wister, Oklahoma. As originally authorized at conservation pool elevation 471.6 feet National Geodetic Vertical Datum (NGVD), the lake contained 27,000 acre-feet of water storage with a surface area of 4,000 acres.

In 1974, an operational plan was implemented at Wister Lake to seasonally raise the conservation pool from elevation 471.6 to 478.0 feet NGVD between June and December. This seasonal increase in elevation continued each year thereafter on a temporary basis until it was made permanent in 1978. In 1983, Public Law 98–63 directed the Chief of Engineers to raise the permanent conservation pool level from elevation 471.6 to 474.6 feet NGVD and to raise the conservation pool seasonally between 1 June and 1 December to 478.0 feet NGVD. The Water Resources Development Act of 1996 further modified the project and permanently raised the top of conservation pool to elevation 478.0 feet NGVD.

Reasonable Alternatives To Be Considered Include

a. No action

b. Continued operation of the project with environmental compliance

Significant Issues To Be Addressed In the (DSFES) Include

The potential impact of raising the top of conservation pool on other project purposes, fish and wildlife resources, water quality, recreation, cultural resources, Federally listed threatened and/or endangered species, and mitigation requirements.

List of Affected Parties

A mailing list has been developed for various notices concerning preparation of this supplement. This list includes local, state, and Federal officials having jurisdiction, expertise, or other interests in the action: environmental interest groups, native American tribal governments, and local news media.

Scoping

Comments received as a result of this Notice of Intent will be used to assist the Tulsa District in identifying potential impacts to the quality of human and natural environments. Individuals or organizations may participate in the scoping process by written comment or by attending a scoping meeting. The time and location of the scoping meeting will be announced in local newspapers and by public notice sent to parties indicated in the previous paragraph. Written comments may be forwarded to the above noted address. To be considered in the DSFES, comments and suggestions should be received no later than 15 days following the public scoping meeting.

Timothy L. Sanford,

Colonel, EN, Commanding.

[FR Doc. 97–6576 Filed 3–14–97; 8:45 am]

BILLING CODE 3710–39–M

Department of the Navy

Notice of Intent To Prepare a Draft Environmental Impact Statement for the Proposed Disposal and Reuse of Naval Air Warfare Center, Aircraft Division, Trenton, Ewing Township, NJ

SUMMARY: Pursuant to Council on Environmental Quality regulations (40

CFR Parts 1500–1508), implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of the Navy announces its intent to prepare a Draft Environmental Impact Statement (DEIS) for the proposed disposal and reuse of Naval Air Warfare Center, Aircraft Division (NAWCAD), Trenton, Ewing Township, New Jersey.

In 1993, the Congressional Committee on Base Realignment and Closure (BRAC) recommended the closure of NAWCAD Trenton and the subsequent relocation of functions, personnel, equipment, and support to the Arnold Engineering Center, Tullahoma, Tennessee and the Naval Air Warfare Center Patuxent River, Maryland. This recommendation was approved by President Clinton and accepted by the One Hundred Third Congress in 1993. The BRAC legislation also identified the requirements for compliance with NEPA stating that the provisions of NEPA shall apply during the process of property disposal. Accordingly, with this notice, the Navy has initiated the process to prepare a DEIS to evaluate the environmental effects of the disposal and likely reuse of this property.

The proposed action to be considered and evaluated in the DEIS is the disposal and reuse of the NAWCAD property determined surplus to the needs of the federal government. Other Department of Defense activities, and other federal government activities including consideration of the homeless have been screened in order to determine possible reuse.

NAWCAD Trenton, located in Mercer County, New Jersey, consists of about 66 acres with a total of 96 buildings and structures. As a result of the federal land disposal screening process, a portion of the property (about 25 acres) has been identified for possible transfer to the Mercer County airport Authority under a Federal Aviation Administration conveyance. The US Postal Service may also be a recipient of about 3 acres of the 66 acre site for use as regional post office. The remainder will be available for development through acquisition by public auction. The NAWCAD Reuse Committee acting as the Local Reuse Authority, has prepared a reuse plan for the NAWCAD property. The plan represents a reasonable and likely redevelopment scenario based on the proposed zoning of the site. The DEIS will evaluate environmental impacts of the reuse plan as well as of other reasonable possible redevelopment scenarios under current or other zoning classifications. Navy will also evaluate the no action alternative, defined as the retention of NAWCAD Trenton by the federal government. According to the State Historic Preservation Officer, the jet engine test cells complex, located in three buildings on the southern portion of the site, are eligible for listing in the National Register of Historic Places.

ADDRESSES: Navy will hold a public meeting to further identify the scope of issues to be addressed in the EIS. The NAWCAD Reuse Committee will also solicit public input on its proposed reuse plan. The meeting will be held on Wednesday, April 2, 1997, beginning at 7:00 p.m., at the Ewing Township Municipal Building, 2 Municipal Drive, Ewing Township, New Jersey. Navy representatives will make a brief presentation, then members of the public will be asked to provide their comments. Agencies and the public are encouraged to provide written comments in addition to, or, in lieu of, oral comments at the scoping meeting. To be most helpful, comments should clearly describe specific issues of topics which the EIS should address. Written comments must be postmarked by April 15, 1997, and should be mailed to Commanding Officer, Northern Division, Naval Facilities Engineering Command, Attn. Mr. Bob Ostermueller (Code 202), 10 Industrial Highway, MSC 82, Lester, PA 19113. All statements, both oral and written, will become part of the public record on this action and will be given equal consideration.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this notice may be obtained by contacting Mr. Bob Ostermueller at (610) 595–0759, facsimile (610) 595–0788.

Dated: March 13, 1997.

M.A. Waters,

LCDR, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 97–6623 Filed 3–14–97; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by April 7, 1997.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

Written comments regarding the regular clearance and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5)

Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 11, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Assessment of Technical Assistance Needs of Postsecondary Institutions Serving Persons Deaf and Hard of Hearing.

Abstract: This data collection is required by the Final Funding Priority (84.078A), paragraph (a): that the four regional centers ''conduct assessments of the technical assistance needs of postsecondary education institutions related to recruiting; enrolling; retaining; instructing; addressing the varying communication needs and methods used by individuals who are deaf and hard of hearing, including those from language minorities; and, otherwise effectively serving students who are deaf and hard of hearing.'' The data will enable the centers to plan technical assistance strategies.

Additional Information: The four centers coordinating this survey will need the requested information returned to them by May 15, 1997.

Frequency: Annually.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 2,428.

Burden Hours: 1,214.

[FR Doc. 97–6563 Filed 3–14–97; 8:45 am]

BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 16, 1997.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 11, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office for Civil Rights

Type of Review: Reinstatement.

Title: Fall 1997 Elementary and Secondary School Civil Rights Compliance Report

Frequency: Biennially.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Burden:

Responses: 63,425.

Burden Hours: 295,700.

Abstract: The Elementary and Secondary School Civil Rights Compliance Report is the vehicle for the Office for Civil Rights, U.S. Department of Education, to acquire source material in the form of data and information regarding civil rights compliance issues in the nation's public elementary and secondary schools. Information from the E & S Compliance Report is used by regional OCR staff when they consider public school districts for compliance reviews, and a source material when civil rights compliant investigations are conducted.

[FR Doc. 97–6564 Filed 3–14–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Docket No. FE C&E 97–01—Certification Notice—154]

Pasadena Cogeneration; Notice of Filing of Coal Capability Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: On February 28, 1997, Pasadena Cogeneration L.P. submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Fuels Programs, Fossil Energy, Room

3F–056, FE–52, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the Federal Register that a certification has been filed. The following owner/operator of the proposed new baseload powerplant has filed a self-certification in acccordance with section 201(d).

Owner: Pasadena Cogeneration L.P.
Operator: Pasadena Cogeneration L.P.
Location: Harris County, Texas.
Plant Configuration: Combined cycle, topping-cycle cogeneration.
Capacity: 240 megawatts.
Fuel: Natural gas.
Purchasing Entities: Philips Petroleum Co. and Houston Lighting & Power Co.
In-Service Date: October 31, 1998.

Issued in Washington, D.C., March 11, 1997.

Anthony J. Como,

Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power systems, Office of Fossil Energy.

[FR Doc. 97–6588 Filed 3–14–97; 8:45 am]

BILLING CODE 6450–01–P

[Docket No. FE–R–79–43B]

Electric and Gas Utilities Covered in 1997 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Requirements for State Regulatory Authorities to Notify the Department of Energy

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) require the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each electric utility and gas utility to which Titles I and III of PURPA apply during such calendar year. In addition, sections 102(c) and 301(d) of PURPA require each State regulatory authority to notify the Secretary of Energy of each electric utility and gas utility on the list for which such State regulatory authority has ratemaking authority. Written comments are requested on the accuracy of the list of electric and gas utilities. This Notice is to announce the availability of the 1997 list.

The list is available both in hard copy and electronically. The hard copy version of the 1997 list is being provided by mail to all state regulatory authorities. Other parties interested in receiving the hard copy list may contact the **FOR FURTHER INFORMATION CONTACT** identified below. In addition, the Office of Coal & Energy Systems operates an electronic bulletin board as a service to commercial and government users, as well as the general public. The 1997 list is also available by accessing the bulletin board.

DATES: Notifications by State regulatory authorities and written comments must be received by no later than 4:30 p.m. on April 16, 1997.

ADDRESSES: Notifications and written comments should be forwarded to: Department of Energy, Office of Coal & Power Im/Ex, FE–52, 1000 Independence Avenue, SW., Room 3F–070, Docket No. FE–R–79–43B, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Steven Mintz, Office of Coal & Power Im/Ex, Fossil Energy, Department of Energy, 1000 Independence Avenue, SW, Room 3F–070, FE–52, Washington, D.C. 20585, Telephone 202/586–9506.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 102(c) and 301(d) of PURPA, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*, hereinafter referred to as the Act) the Department of Energy (DOE) is required to publish a list of utilities to which Titles I and III of PURPA apply in 1997.

State regulatory authorities are required by the Act to notify the Secretary of Energy as to their ratemaking authority over the listed utilities. The inclusion or exclusion of any utility on or from the list does not affect the legal obligations of such utility or the responsible authority under the Act.

The term ''State regulatory authority'' means any State, including the District of Columbia and Puerto Rico, or a political subdivision thereof, and any agency or instrumentality, which has authority to fix, modify, approve, or disapprove rates with respect to the sale of electric energy or natural gas by any utility (other than such State agency). In the case of a utility for which the Tennessee Valley Authority (TVA) has ratemaking authority, the term ''State regulatory authority'' means the TVA.

Title I of PURPA sets forth ratemaking and regulatory policy standards with respect to electric utilities. Section 102(C) of Title I requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each electric utility to which Title I applies during such calendar year. An electric utility is defined as any person, State agency, or Federal agency that sells electric energy. An electric utility is covered by Title I for any calendar year if it had total sales of electric energy, for purposes other than resale, in excess of 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. An electric utility is covered in 1997 if it exceeded the threshold in any year from 1976 through 1995.

Title III of PURPA addresses ratemaking and other regulatory policy standards with respect to natural gas utilities. Section 301(d) of Title III requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each gas utility to which Title III applies during such calendar year. A gas utility is defined as any person, State agency, or Federal agency, engaged in the local distribution of natural gas and the sale of natural gas to any ultimate consumer of natural gas. A gas utility is covered by Title III if it had total sales of natural gas, for purposes other than resale, in excess of 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. A gas utility is covered in 1997 if it exceeded the threshold in any year from 1976 through 1995.

In compiling the list published today, the DOE revised the 1996 list (60 FR 67133, December 28, 1995) upon the assumption that all entities included on the 1996 list are properly included on the 1997 list unless the DOE has information to the contrary. In doing this, the DOE took into account information included in public documents regarding entities which exceeded the PURPA thresholds for the

first time in 1995. The DOE believes that it will become aware of any errors or omissions in the list published today by means of the comment process called for by this Notice. The DOE will, after consideration of any comment and other information available to the DOE, provide written notice of any further additions or deletions to the list.

II. Notification and Comment Procedures

No later than 4:30 p.m. on April 16, 1997, each State regulatory authority must notify the DOE in writing of each utility on the list over which it has ratemaking authority. Two copies of such notification should be submitted to the address indicated in the **ADDRESSES** section of this Notice and should be identified on the outside of the envelope and on the document with the designation ''Docket No. FE–R–79–43B.'' Such notification should include:

1. a complete list of electric utilities and gas utilities over which the State regulatory authority has ratemaking authority;
2. legal citations pertaining to the ratemaking authority of the State regulatory authority; and
3. for any listed utility known to be subject to other ratemaking authorities within the State for portions of its service area, a precise description of the portion to which such notification applies.

All interested persons, including State regulatory authorities, are invited to comment in writing, no later than 4:30 p.m. on April 16, 1997, on any errors or omissions with respect to the list. Two copies of such comments should be sent to the address indicated in the **ADDRESSES** section of this Notice and should be identified on the outside of the envelope and on the document with the designation ''Docket No. FE–R–79–43B.'' Written comments should include the commenter's name, address, and telephone number.

All notifications and comments received by the DOE will be made available, upon request, for public inspection and copying in the Freedom of Information Reading Room, Room 1E–190, 1000 Independence Avenue, SW, Washington, D.C. 20585, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

III. List of Electric Utilities and Gas Utilities

The 1997 list consists of two parts (appendices A and B). Each displays a different tabulation of the utilities that meet PURPA coverage requirements. As stated above, the inclusion or exclusion of any utility on or from the lists does not affect its legal obligations or those of the responsible State regulatory authority under PURPA.

Appendix A contains a list of utilities which are covered by PURPA. These utilities are grouped by State and by the regulatory authority within each State. Also included in this list are utilities which are covered by PURPA but which are not regulated by the State regulatory authority. This tabulation, including explanatory notes, is based on information provided to the DOE by State regulatory authorities in response to the December 28, 1995, Federal Register notice (60 FR 67133) requiring each State regulatory authority to notify the DOE of each utility on the list over which it has ratemaking authority, public comments received with respect to that notice, and information subsequently made available to the DOE.

The utilities classified in Appendix A as not regulated by the State regulatory authority in fact may be regulated by local municipal authorities. These municipal authorities would be State agencies as defined by PURPA and thus have responsibilities under PURPA identical to those of the State regulatory authority. Therefore, each such municipality is to notify the DOE of each utility on the list over which it has ratemaking authority.

In Appendix B, the utilities are listed alphabetically, subdivided into electric utilities and gas utilities, and further subdivided by type of ownership: investor-owned utilities, publicly-owned utilities, and rural cooperatives.

Those parties interested in accessing the list electronically require the following equipment: a personal computer, communications software such as PROCOMM, RELAY, or CROSSTALK; and, a MODUM.

Before dialing the Fuels Programs Bulletin Board you should set your communications software to the following parameters: 1200 or 2400 baud; no parity; 8 data bits; 1 stop bit; and, full duplex.

The Bulletin Board telephone number is (202) 586–7853. Calls are limited to 40 minutes of on-line time per day.

The changes to the 1996 list of electric and gas utilities are as follows:

Additions:

City of Fort Pierce (FL)
City of Jacksonville Beach (FL)
Golden Valley Electric Cooperative (AK)
McPherson Board of Public Utilities (KS)
Vermont Gas Systems, Inc. (VT)

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601) *et seq.*))

Issued in Washington, D.C., on March 5, 1997.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal and Power Im/Ex, Office of Fossil Energy.

[FR Doc. 97–6589 Filed 3–14–97; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

[Notice 97–12]

Energy Research Financial Assistance Program; Atmospheric Chemistry Program

AGENCY: U.S. Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Health and Environmental Research (OHER) of the Office of Energy Research, U.S. Department of Energy (DOE) hereby announces its interest in receiving applications to support the continuation of its Atmospheric Chemistry Program (ACP). The applications should address the continuation of experimental and theoretical study of atmospheric chemistry processes affected by energy-related air pollutants (i.e., sulfur oxides, nitrogen oxides, aerosols, and ozone). These studies are intended to be in support of DOE information needs under the National Energy Policy Act (Public Law 102–486).

DATES: To permit timely consideration for awards in Fiscal Year 1998, formal applications submitted in response to this notice should be received by 4:30 p.m. E.D.T., June 12, 1997.

ADDRESSES: Formal applications referencing Program Notice 97–12 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 97–12. This address must also be used when submitting applications by U.S. Postal Service Express Mail or any other commercial overnight delivery service, or when hand-carried by the applicant. An original and seven copies of the application must be submitted; however, applicants are requested not to submit multiple application copies using more than one delivery or mail service.

FOR FURTHER INFORMATION CONTACT: Mr. Rickey Petty, Environmental Sciences Division, ER–74, Office of Health and Environmental Research, Office of Energy Research, U.S. Department of Energy, 19901 Germantown Road,

Germantown, MD 20874–1290, telephone: (301) 903–5548, E-mail: rick.petty@oer.doe.gov, fax: (301) 903–8519.

SUPPLEMENTARY INFORMATION: The Atmospheric Chemistry Program is part of the DOE's Global Change Research Program and is closely linked with other national and international programs. Collaborations are maintained with global change counterparts in other agencies, particularly NASA, NOAA, and the NSF. Internationally, the DOE ACP links with the World Meteorological Organization's (WMO) Global Atmospheric Watch (GAW) program, particularly through the North American Regional Experiment (NARE), the Aerosol Chemistry Experiment (ACE) 1 and 2, North American Research Strategy for Tropospheric Ozone (NARSTO), and the Southern Oxidant Study (SOS).

Detailed descriptions of ACP plans, rationale, and foci are provided on the DOE ACP homepage at: http://www.atmos.anl.gov/ACP.

Research applications that demonstrate the continuity and progress of the DOE ACP during the 1993–1997 period (see research abstracts in http://www.atmos.anl.gov/ACP) addressing midlatitude tropospheric ozone and heterogeneous chemistry, atmospheric chemical-conversion processes, and wet-removal and air/surface exchange is encouraged. More so, applications addressing ozone research that is in support of the NARSTO are also encouraged.

In coordination with other federal agencies, the DOE is addressing recommendations from the National Academy of Sciences report, ''Aerosol Radiative Forcing and Climate Change.'' Thus, projects that enhance ongoing aerosol research, such as coupled aerosol-oxidant research through modeling, laboratory and field studies, are encouraged.

This notice requests applications for grants to support:

(Category 1): Research to understand the fundamental scientific phenomena associated with atmospheric ozone formation and removal processes. Such fundamental studies can take the form of modeling, laboratory, field, and theoretical investigations and analyses of mechanistic behavior. The research should also address the possible catalytic/inhibition effects of aerosols (especially in the lower stratosphere), and possible new chemical mechanisms influencing ozone behavior in the remote free troposphere, and a variety of scientific topics aimed at enhancing our ability to manage midlatitude regional-scale tropospheric ozone pollution. Field activities may be conducted cooperatively with major ACP field campaigns. ACP field campaigns may also include using the ACP G–1 Research Aircraft Facility.

(Category 2): Ozone and UV–B trend analysis, using past and emerging data sets. Of special interest in this category are investigations of interactions among ozone and ultraviolet (UV) radiation with regards to competing/compensating effects of other trace gases, aerosols and clouds, and their obscurance of ozone trend evaluations and associated UV–B impacts.

(Category 3): Research to understand the fundamental scientific phenomena associated with aerosol radiative forcing and climate change. Such studies should include research on aerosol forcing of climates that advances knowledge in the representation of aerosols in global climate models, particularly with respect to indirect climate effects; laboratory and theoretical research on aerosol optical properties; identification of aerosol molecular composition, particularly the organic fraction; development of an understanding of aerosol formation and growth in the atmosphere; studies elucidating the aerosol-CCN-cloud droplet-albedo relationship; execution of atmospheric closure experiments to test theoretical understanding; application of instrumentation technology for measuring aerosol properties in situ; and system integration and assessment utilizing sensitivity/uncertainty analyses.

It is anticipated that approximately $3 million will be available for multiple grant awards in FY 1998, contingent upon availability of appropriated funds. Applications may request project support up to three years, with out-year support contingent on availability of funds, progress of the research, and programmatic needs. Annual budgets are expected to range from approximately $50,000 to $500,000. Applications should include detailed and justified budgets for each year of support requested. The technical portion of the application should not exceed twenty-five (25) double-spaced pages. Lengthy application appendices are not encouraged.

Applications will be subjected to formal merit review (peer review) and will be evaluated against the following evaluation criteria listed in descending order of importance codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project;

2. Appropriateness of the Proposed Method or Approach;

3. Competency of Applicant's personnel and Adequacy of Proposed Resources;

4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and an agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers will often be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

To provide a consistent format for the submission, review and solicitation of grant applications submitted under this notice, the preparation and submission of grant applications must follow the guidelines given in the Application Guide for the Office of Energy Research Financial Assistance Program 10 CFR Part 605. Access to ER's Financial Assistance Application Guide is possible via the World Wide Web at: http://www.er.doe.gov/production/grants/grants.html.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC, on March 5, 1997.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 97–6587 Filed 3–14–97; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER97–1859–000, et al.]

Louisville Gas and Electric Company, et al.; Electric Rate and Corporate Regulation Filings

March 11, 1997.

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

1. Louisville Gas and Electric Co.

[Docket No. ER97–1859–000]

Take notice that on February 24, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Service Agreement between LG&E and Big Rivers Electric Corporation under LG&E's Rate Schedule GSS. LG&E had previously filed an unexecuted Service Agreement in this docket.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. The Detroit Edison Company

[Docket No. ER97–1860–000]

Take notice that on February 26, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements for wholesale power rate sale transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–1), FERC Electric Tariff No. 1 (the WPS–1 Tariff, between Detroit Edison and the following parties: Illinois Power Company (dated as of January 17, 1997); American Electric Power Company (dated as of February 3, 1997); Ohio Edison Company (dated as of February 12, 1997); and Wisconsin Electric Power Company (dated as of February 19, 1997). Detroit Edison requests that the Service Agreements be made effective as of February 1, 1997.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. The Detroit Edison Company

[Docket No. ER97–1861–000]

Take notice that on February 26, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements for wholesale power sale transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 2 (the WPS–2 Tariff), between Detroit Edison and the following parties: Northern Indiana Public Service Company (dated as of January 8, 1997); Illinois Power Company (dated as of January 17, 1997); American Electric Power Company (dated as of January 31, 1997); Citizens Lehman Power Company (dated as of February 3, 1997); Ohio Edison Company (dated as of February 12, 1997); Louisville Gas and Electric Company (dated as of February 12, 1997); and Wisconsin Electric Power Company (dated as of February 19, 1997). Detroit Edison requests that the Service Agreements be made effective as of February 1, 1997.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Illinois Power Company

[Docket No. ER97–1862–000]

Take notice that on February 26, 1997, Illinois Power Company (''Illinois Power''), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Aquila Power Corporation will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of February 17, 1997.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Idaho Power Company

[Docket No. ER97–1863–000]

Take notice that on February 26, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission Service Agreements under Idaho Power Company's FERC Electric Tariff No. 5, Open Access Transmission Tariff, between Southern Energy Trading and Marketing, Inc. and Idaho Power Company, and Idaho Power Company.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Edison Company

[Docket No. ER97–1864–000]

Take notice that on February 26, 1997, Commonwealth Edison Company (''ComEd'') submitted for filing a Service Agreement, establishing The Power Company of America (PCA), as a customer under the terms of ComEd's Power Sales and Reassignment of Transmission Rights Tariff PSRT–1 (PSRT–1 Tariff). The Commission has previously designated the PSRT–1 Tariff as FERC Electric Tariff, First Revised Volume No. 2.

ComEd requests an effective date of January 14, 1997, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon PCA and the Illinois Commerce Commission.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Central Vermont Public Service Corporation

[Docket No. ER97–1865–000]

Take notice that on February 26, 1997, Central Vermont Public Service Corporation, tendered for filing Third Revised Sheet No. 1 to its FERC Original Electric Tariff No. 5. The amended page eliminates the restriction of availability of the service to retail customers and power marketers for resale to retail customers. This change conforms to requirements adopted by the State of New Hampshire in its retail restructuring.

Central Vermont requests waiver of the notice of filing requirement to permit the filing to be effective February 27, 1997.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Illinois Power Company

[Docket No. ER97–1866–000]

Take notice that on February 26, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Citizen Lehman Power Sales will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of February 14, 1997.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Washington Water Power

[Docket No. ER97–1867–000]

Take notice that on February 27, 1997, Washington Water Power, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, executed Service Agreements under WWP's FERC Electric Tariff Original Volume No. 9. WWP requests an effective date of February 1, 1997.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER97–1868–000]

Take notice that on February 27, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and American Electric Power Service Corporation.

Cinergy and American Electric Power Service Corporation are requesting an effective date of March 1, 1997.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Kansas City Power & Light Company

[Docket No. ER97–1869–000]

Take notice that on February 27, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated February 21, 1997 by KCPL. KCPL proposes an effective date of March 1, 1997 and requests waiver of the Commission's notice requirement to allow the requested effective date. This Agreement provides for the rates and charges for Firm Transmission Service by KCPL for a wholesale transaction.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order 888 in Docket No. OA96–4–000.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Consolidated Edison Company Of New York, Inc.

[Docket No. ER97–1870–000]

Take notice that on February 27, 1997, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amendment to Rate Schedule 146, an agreement with CNG Power Services Corporation (CNG) for the sale and purchase of energy and capacity.

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

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–1871–000]

Take notice that on February 27, 1997, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amendment to Rate Schedule 166, an agreement with Aquila Power Corporation (APC) for the sale and purchase of energy and capacity.

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

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power & Light Company

[Docket No. ER97–1872–000]

Take notice that on February 27, 1997, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Aquila Power Corporation for Non-Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on March 1, 1997.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Cinergy Services, Inc.

[Docket No. ER97–1873–000]

Take notice that on February 27, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement and confirmation letter under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and University of Missouri—Columbia.

Cinergy and University of Missouri—Columbia are requesting an effective date of January 27, 1997.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Public Service Corporation

[Docket No. ER97–1874–000]

Take notice that on February 27, 1997, Wisconsin Public Service Corporation (''WPSC''), tendered for filing an executed Transmission Service Agreement between WPSC and American Energy Solutions, Inc. The Agreement provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Western Resources, Inc.

[Docket No. ER97–1875–000]

Take notice that on February 25, 1997, Western Resources, Inc., tendered for filing non-firm transmission agreements between Western Resources and Arizona Public Service, Enron Power Marketing, Inc. and Omaha Public Power District. Western Resources states that the purpose of the agreements is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission. The agreements are proposed to become effective as follows. Arizona Public Service, February 21, 1997; Enron Power Marketing, Inc., January 20, 1997; and Omaha Public Power District, February 20, 1997.

Copies of the filing were served upon Arizona Public Service, Enron Power Marketing, Inc., Omaha Public Power District and the Kansas Corporation Commission.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Central Hudson Gas & Electric Corporation

[Docket No. ER97–1876–000]

Take notice that on February 24, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR, a Service Agreement between CHG&E and Englehard Power Marketing, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume 1 (Transmission Tariff) filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Atlantic City Electric Company

[Docket No. ER97–1877–000]

Take notice that on February 27, 1997, Atlantic City Electric Company (Atlantic Electric), tendered for filing service agreements under which Atlantic Electric will sell capacity and energy to ConAgra Energy Services, Inc. and Wisconsin Electric Power Company under Atlantic Electric's market-based rate sales tariff. Atlantic Electric requests the agreements be accepted to become effective on February 28, 1997.

Atlantic Electric states that a copy of the filing has been served on ConAgra Energy Services, Inc. and Wisconsin Electric Power Company.

Comment date: March 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Central Hudson Gas & Electric Corportion

[Docket No. ER97–1878–000]

Take notice that on February 24, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Plum Street Energy Marketing, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume 1 (Transmission Tariff) filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: March 25, 1997, 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. 97–6604 Filed 3–14–97; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. AC94–201–000, et al.]

Potomac Edison Company, et al; Electric Rate and Corporate Regulation Filings

March 10, 1997.

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

1. Potomac Edison Company

[Docket No. AC94–201–000]

Take notice that on June 24, 1994, Potomac Edison Company tendered for filing a letter requesting approval to amortize certain items of property in accounts 391 (furniture and computers), 393 (stores, shipping and handling equipment), 394 (small tools and garage equipment), 395 (lab equipment) and 397 (portable and mobile ratios/telephones) over a 20 year period with the exception of computers in account 391 and portable radios and telephones in account 397 which will be amortized over 10 years.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Northern States Power Company

[Docket No. AC95–63–000]

Take notice that on February 21, 1995, Northern States Power Company tendered for filing a letter requesting approval to change the method of recovery for General Plant Equipment which includes the electric, gas, and common plant accounts.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power Corporation

[Docket No. AC95–136–000]

Take notice that on April 28, 1995, Florida Power Corporation tendered for filing a letter seeking approval to begin accruing the increased amount of $409,175 on a wholesale basis, retroactive to January 1, 1995. FPC states that it is only seeking approval for an increase in the accrual amount, not in the rates.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Electric & Gas Company

[Docket No. AC97–34–000]

Take notice that on December 19, 1996, Public Service Electric & Gas Company tendered for filing a letter requesting approval to change effective January 1, 1997, the accounting presently used for amortization of Account 391.3 Office EDP Equipment.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. CMS Generation Cebu Operating Limited Duration Company

[Docket No. EG97–36–000]

On February 28, 1997, CMS Generation Cebu Operating Limited Duration Company, 330 Town Center Drive, Suite 1000, Dearborn, Michigan 48126, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

CMS Generation Cebu Operating Limited Duration Company is a wholly-owned indirect subsidiary of CMS Generation Co., a Michigan corporation, which is a wholly-owned indirect subsidiary of CMS Energy Corporation, also a Michigan corporation. CMS Generation Cebu Operating Limited Duration Company operates, under an operations and maintenance agreement with the owner, a facility comprised of two power plants with a combined maximum capacity of approximately 130 MW located in Toledo City on the Island of Cebu in the Philippines.

Comment date: March 27, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Torco Energy Marketing, Inc. Equitable Power Services Company, ICPM, Inc., CNB/Olympic Gas Services, CoEnergy Trading Company, Progress Power Marketing, Inc., and WWP Resource Services, Inc.

[Docket Nos. ER92–429–011, ER94–1539–012, ER95–640–007, ER95–964–007, ER96–1040–004, ER96–1618–003, ER96–2408–002, not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On February 3, 1997, Torco Energy Marketing, Inc. filed certain information as required by the Commission's May 18, 1992, order in Docket No. ER92–429–000.

On February 7, 1997, Equitable Power Services Company filed certain information as required by the Commission's September 8, 1994, order in Docket No. ER94–1539–000.

On January 8, 1997, ICPM, Inc. filed certain information as required by the Commission's March 31, 1995, order in Docket No. ER95–640–000.

On February 3, 1997, CNB/Olympic Gas Services filed certain information as required by the Commission's July 10, 1995, order in Docket No. ER95–964–000.

On January 31, 1997, CoEnergy Trading Company filed certain information as required by the Commission's March 14, 1996, order in Docket No. ER96–1040–000.

On January 31, 1997, Progress Power Marketing, Inc. filed certain information as required by the Commission's August 2, 1996, order in Docket No. ER96–1618–000.

On January 31, 1997, WWP Resources Services, Inc. filed certain information as required by the Commission's September 12, 1996, order in Docket No. ER96–2408–000.

7. Tractebel Energy Marketing, Inc., National Power Exchange, Corp., Destec Power Services Inc., Audit Pro Inc., Sonat Power Marketing, Inc., Direct Access Management, LP, and Chi Power Marketing, Inc.

[Docket Nos. ER94–142–012, ER94–1593–009, ER94–1612–010, ER95–878–007, ER95–1050–007, ER96–924–001, and ER96–2640–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and

copying in the Commission's Public Reference Room:

On January 29, 1997, Tractebel Energy Marketing, Inc. filed certain information as required by the Commission's December 30, 1993, order in Docket No. ER94–142–000.

On February 21, 1997, National Power Exchange, Corp. filed certain information as required by the Commission's October 7, 1994, order in Docket No. ER94–1593–000.

On January 30, 1997, Destec Power Services Inc. filed certain information as required by the Commission's January 20, 1995, order in Docket No. ER94–1612–000.

On January 7, 1997, Audit Pro Inc. filed certain information as required by the Commission's June 2, 1995, order in Docket No. ER95–878–000.

On January 23, 1997, Sonat Power Marketing, Inc. filed certain information as required by the Commission's August 18, 1995, order in Docket No. ER95–1050–000.

On January 28, 1997, Direct Access Management, LP filed certain information as required by the Commission's April 25, 1996, order in Docket No. ER96–924–000.

On January 22, 1997, Chi Power Marketing, Inc. filed certain information as required by the Commission's September 12, 1996, order in Docket No. ER96–2640–000.

8. Peak Energy, Inc., Heath Petra Power Marketing, Kiber Energy Ltd., SDS Petroleum Products, Inc., Conti Metals, Inc., Atmos Energy Services, Inc., and Oceanside Energy, Inc.,

[Docket Nos. ER95–379–007, ER96–381–005, ER96–1119–003, ER96–1724–003, ER96–2083–002, ER96–2251–002, ER97–181–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On February 27, 1997, Peak Energy, Inc. filed certain information as required by the Commission's February 24, 1995, order in Docket No. ER95–379–000.

On February 24, 1997, Heath Petra Power Marketing filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–381–000.

On February 24, 1997, Kiber Energy Ltd. filed certain information as required by the Commission's April 24, 1996, order in Docket No. ER96–1119–000.

On February 28, 1997, SDS Petroleum Products, Inc. filed certain information as required by the Commission's June 6, 1996, order in Docket No. ER96–1724–000.

On February 26, 1997, Conti Metals, Inc. filed certain information as required by the Commission's July 9, 1996, order in Docket No. ER96–2083–000.

On February 10, 1997, Atmos Energy Services, Inc. filed certain information as required by the Commission's August 21, 1996, order in Docket No. ER96–2251–000.

On March 3, 1997, Oceanside Energy, Inc. filed certain information as required by the Commission's November 21, 1996, order in Docket No. ER97–181–000.

9. Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc.

[Docket No. ER97–940–000]

Take notice that on March 5, 1997, Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc. (Montana-Dakota) filed an amendment of its original filing in this docket. The amendment consists of Montana-Dakota's statement in response to a Commission deficiency letter explaining certain factual questions applicable to the timing of the filing.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Public Service Corporation

[Docket No. ER97–1485–000]

Take notice that on March 3, 1997, Wisconsin Public Service Corporation (''WPSC'') tendered for filing an amendment to the original filing of an executed Electric Service Agreement for partial requirements service with the Washington Island Electric Cooperative (the ''Cooperative'') under the WPSC's W–2A Tariff and an unexecuted Network Integration Transmission Service Agreement under WPSC's Open Access Transmission Tariff. WPSC requests that the Commission make the service agreements effective on February 1, 1997.

WPSC states that copies of this filing have been served on the Cooperative, on the Michigan Public Service Commission and on the Public Service Commission of Wisconsin.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Dayton Power & Light Company

[Docket No. ER97–1634–000]

Take notice that on February 13, 1997, Dayton Power & Light Company (Dayton) submitted service agreements establishing Toledo Edison Company, Cleveland Electric Illuminating Company, Enron Power Marketing, Inc. as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of this filing were served upon Toledo Edison Company, Cleveland Electric Illuminating Company, Enron Power Marketing, Inc. and the Public Utilities Commission of Ohio.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. San Diego Gas & Electric Company

[Docket No. ER97–1800–000]

Take notice that on February 24, 1997, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.13, Service Agreements (Service Agreements with the following entities for Point-To-Point Transmission Service under SDG&E's Open Access Transmission Tariff (Tariff) filed in compliance with FERC Order No. 888:

1. AIG Trading Corporation
2. Aquila power Corporation
3. Arizona Public Service Company
4. British Columbia Power Exchange Corporation
5. CNG Power Services Corporation
6. Electric Clearinghouse, Inc.
7. Energy Transfer Group, L.L.C.
8. Engelhard Power Marketing, Inc.
9. Enron Power Marketing, Inc.
10. Illinova Power Marketing, Inc.
11. NorAm Energy Services, Inc.
12. Nordic Electric, L.L.C.
13. PanEnergy Trading and Market Services
14. Salt River project
15. San Diego Gas & Electric Co. (Energy Trading)
16. Sierra Pacific Power Company
17. Southern Energy Trading and Marketing, Inc.
18. TransCanada Power
19. Western Power Services, Inc.
20. UtiliCorp United, Inc.

SDG&E filed the executed Service Agreements with the Commission in compliance with applicable Commission Regulations. SDG&E also provided Sheet No. 114 (Attachment E) to the tariff, which is a list of current subscribers. SDG&E requests waiver of the Commission's notice requirement to permit an effective date of February 17, 1997 for Attachment E, and to allow the Service Agreements to become effective according to their terms.

Copies of this filing were served upon the Public Utilities Commission of the

State of California and all interested parties.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Central Illinois Light Company

[Docket No. ER97–1836–000]

Take notice that Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, on February 21, 1997, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and service agreements for one new customer.

CILCO requested an effective date of March 4, 1997.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Central Illinois Light Company

[Docket No. ER97–1837–000]

Take notice that Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, on February 21, 1997, tendered for filing with the Commission a substitute Index of Point-To-Point Transmission Service Customers under its Open Access Transmission Tariff and service agreements for two new customers.

CILCO requested an effective date of February 12, 1997.

Copies of the filing were served on all affected customers and the Illinois Commerce Commission.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Interstate Power Company

[Docket No. ER97–1838–000]

Take notice that on February 24, 1997, Interstate Power Company (IPW), tendered for filing a Transmission Service Agreement between IPW and Southern Energy Trading and Marketing, Inc. (SEMI). Under the transmission Service Agreement, IPW will provide non-firm point-to-point transmission service to SEMI.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Interstate Power Company

[Docket No. ER97–1839–000]

Take notice that on February 24, 1997, Interstate Power Company (IPW), tendered for filing a Transmission Service Agreement between IPW and LG&E Power Marketing, Inc. (LPM). Under the Transmission Service Agreement, IPW will provide non-firm point-to-point transmission service to LPM.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Interstate Power Company

[Docket No. ER97–1840–000]

Take notice that on February 24, 1997, Interstate Power Company (IPW), tendered for filing a Transmission Service Agreement between IPW and Citizens Lehman Power Sales (CL Sales). Under the Transmission Service Agreement, IPW will provide non-firm point-to-point transmission service to CL Sales.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Interstate Power Company

[Docket No. ER97–1841–000]

Take notice that on February 24, 1997, Interstate Power Company (IPW), tendered for filing a Transmission Service Agreement between IPW and Wisconsin Power and Light (WPL). Under the Transmission Service Agreement, IPW will provide non-firm point-to-point transmission service to WPL.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Rochester Gas and Electric Corporation

[Docket No. ER97–1842–000]

Take notice that on February 24, 1997, Rochester Gas and Electric Corporation (RG&E), filed a Service Agreement between RG&E and the CNG Power Services Corporation (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of February 7, 1997, for the CNG Power Services Corporation Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Electric Power Company

[Docket No. ER97–1843–000]

Take notice that on February 24, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing two firm transmission service agreement between itself and WPS Energy Services Inc. (WPS Energy). The agreements provide for 25 MW transactions for a one week and a one month period pursuant to Wisconsin Electric's open access transmission service tariff (FERC Electric Tariff, Original Volume No. 7). The weekly transaction imports power from Commonwealth Edison's (ComEd) control area and delivers it to Upper Peninsula Power Company's (UPPCO) control area. The monthly transaction imports power from Wisconsin Power and Light Company's (WP&L) control area and delivers it to UPPCO's control area.

Wisconsin Electric requests an effective date of January 26, 1997, for the weekly agreement and February 1, 1997 for the monthly agreement. Wisconsin Electric is authorized to state that WPS Energy joins in the requested effective date.

Copies of the filing have been served on WPS Energy, ComEd, WP&L, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. The United Illuminating Company

[Docket No. ER97–1844–000]

Take notice that on February 24, 1997, The United Illuminating Company (''UI'') tendered for filing a Service Agreement, dated January 27, 1997, between UI and Morgan Stanley Capital Group Inc. (''Morgan Stanley'') for non-firm point-to-point transmission service under UI's Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, as amended.

UI requests an effective date of January 27, 1997 for the Service Agreement. Copies of the filing were served upon Morgan Stanley and upon the Connecticut Department of Public Utility Control.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. CNG Retail Services Corporation

[Docket No. ER97–1845–000]

On February 26, 1997, CNG Retail Services Corporation (''CNG Retail'') petitioned the Commission for acceptance of CNG Retail's Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. El Paso Electric Company

[Docket No. ER97–1848–000]

Take notice that on February 24, 1997, El Paso Electric Company (''El Paso''), tendered for filing copies of firm and non-firm, point-to-point service agreements to indicate that El Paso is taking service under the rates, terms, and conditions of its open access tariff and thereby complying with Order No. 888, FERC Stats. & Regs. [Reg. Preambles 1991–96] ¶ 31,036 (1996).

Copies of the filing have been served on the Public Utility Commission of Texas, the New Mexico Public Utility Commission, and all customers that have received wholesale transmission service from El Paso since March 29, 1995 and on the state agencies that regulate public utilities in the states where the customers are located.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. MidAmerican Energy Company

[Docket No. ER97–1849–000]

Take notice that on February 26, 1997, MidAmerican Energy Company (MidAmerican), 106 East Second Street, Davenport, Iowa 52801, filed with the Commission a Network Integration Transmission Service Agreement and a Network Operating Agreement, both dated February 1, 1997 and entered into by MidAmerican and the Board of Trustees of the Municipal Electric Utility of Waverly, Iowa, also known as Waverly Light and Power (Waverly), in accordance with MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of February 1, 1997, for the Agreements and, accordingly, seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Waverly, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. MidAmerican Energy Company

[Docket No. ER97–1850–000]

Take notice that on February 26, 1997, MidAmerican Energy Company (MidAmerican), 106 East Second Street, Davenport, Iowa 52801 submitted for filing with the Commission a Service Agreement dated February 1, 1997 with the Municipal Utility of Waverly, Iowa, also known as the Board of Trustees of the Municipal Electric Utility of Waverly, Iowa (Waverly), entered into pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5, and a Power Sales Agreement dated January 28, 1997 with Waverly which has been entered into pursuant to the Service Agreement and the Rate Schedule for Power Sales.

MidAmerican requests an effective date of February 1, 1997, for both Agreements, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Waverly, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Northern Indiana Public Service Company

[Docket No. ER97–1851–000]

Take notice that on February 26, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Illinois Power Company.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Illinois Power Company pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. ER96–1426–000 and allowed to become effective by the Commission, and as amended in Docket No. OA96–47–000. *Northern Indiana Public Service Company,* 75 FERC ¶ 61,213 (1996). Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of January 26, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. New England Power Company

[Docket No. ER97–1853–000]

Take notice that on February 26, 1997, New England Power Company (NEP) filed Service Agreements with Vitol Gas & Electric, L.L.C., Southern Energy Trading and Marketing, Inc. and Strategic Energy, Ltd. for non-firm, point-to-point transmission service under NEP's open access transmission tariff, FERC Electric Tariff, Original Volume No.9.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Northern Indiana Public Service Company

[Docket No. ER97–1854–000]

Take notice that on February 26, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Louisville Gas and Electric Company.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Louisville Gas and Electric Company pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. ER96–1426–000 and allowed to become effective by the Commission, and as amended in Docket No. OA96–47–000. *Northern Indiana Public Service Company,* 75 FERC ¶ 61,213 (1996). Northern Indiana public Service Company has requested that the Service Agreement be allowed to become effective as of February 3, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Northern Indiana Public Service Company

[Docket No. ER97–1855–000]

Take notice that on February 26, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Stand Energy Corporation.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Stand Energy Corporation pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. ER96–1426–000 and allowed to become effective by the Commission, and as amended in Docket No. OA96–47–000. *Northern Indiana Public Service Company,* 75 FERC ¶ 61213 91996). Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of January 26, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Northern Indiana Public Service Company

[Docket No. ER97–1856–000]

Take notice that on February 26, 1997, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Stand Energy Corporation.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Stand Energy Corporation under Northern Indiana Public Service Company's Power Sales Tariff. Northern Indiana Public Service Company and Stand Energy Corporation request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 15, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Northern Indiana Public Service Company

[Docket No. ER97–1857–000]

Take notice that on February 26, 1997, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Central Illinois Public Service Company.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide service to Central Illinois Public Service Company under Northern Indiana Public Service Company's Power Sales Tariff. Northern Indiana Public Service Company and Central Illinois Public Service Company request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 1, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Northern Indiana Public Service Company

[Docket No. ER97–1858–000]

Take notice that on February 26, 1997, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Louisville Gas and Electric Company.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Louisville Gas and Electric Company under Northern Indiana Public Service Company's Power Sales Tariff. Northern Indiana Public Service Company and Louisville Gas and Electric Company request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 15, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Brooklyn Navy Yard Cogeneration Partners, L.P.

[Docket No. QF95–302–004]

On February 13, 1997, Brooklyn Navy Yard Cogeneration Partners, L.P. (Applicant) submitted for filing an amendment to its filing in this docket.

The amendment provides additional information pertaining to the ownership aspects of its cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: March 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Atlantic City Electric Company Delmarva Power & Light Company)

[Docket No. EC97–7–000]

Take notice that on March 4, 1997, Atlantic City Electric Company (''Atlantic'') and Delmarva Power & Light Company (''Delmarva'') (collectively, ''Applicants'') tendered for filing additional information in support of their Application to merge Atlantic and Delmarva as separate operating subsidiaries of a newly-formed holding company which was submitted to the Commission on November 27, 1996.

The information submitted by the Applicants included a revised competition analysis following the guidelines in the Commission's merger policy statement, Order No. 592, 77 FERC ¶ 61,263 (1996). The submission of this information was required by the Commission's January 15, 1997, letter order issued in Docket No. EC97–7–000. The Applicants' filing also included a revised harmless commitment in the form of a Hold Harmless Agreement and technical revisions to their merger application.

Applicants state that they have served their filing, including an ''electronic'' version of the competition screen analysis, on all intervenors by overnight mail as directed in the Commission's January 15, 1997 letter order.

Comment date: May 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. Southern Indiana Gas & Electric Company

[Docket No. ER97–1444–000]

Take notice that on February 24, 1997, Southern Indiana Gas & Electric Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 24, 1997, 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. 97–6605 Filed 3–14–97; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 10805–002 Wisconsin]

Midwest Hydraulic Company, Inc.; Notice of Availability of Final Environmental Assessment

March 11, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the application for initial license for the

Hatfield Hydroelectric Project, located on the Black River, near Hatfield, in Jackson and Clark Counties, Wisconsin, and has prepared a Final Environmental Assessment (FEA) for the project.

Copies of the FEA are available for in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–6558 Filed 3–14–97; 8:45 am]

BILLING CODE 6717–01–M

Notice of Cases Filed With the Office of Hearings and Appeals; Week of January 13 Through January 17, 1997

During the Week of January 13 through January 17, 1997, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: March 7, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of January 13 through January 17, 1997]

Date	Name and location of applicant	Case No.	Type of submission
1/13/97	Acadian Gas Pipeline System, New Orleans, LA.	VFA–0260	Appeal of an Information Request Denial. If Granted: The November 26, 1996, Freedom of Information Request Denial issued by the Strategic Petroleum Reserve Project Management Office would be rescinded, and Acadian Gas Pipeline System would receive access to information concerning the sale of Weeks Island Pipeline.
1/13/97	Daniel Holsinger K-Ray Security, Inc.	VWC–0001 VWC–0002	Remand Under DOE Contractor Employee Protection Program. If Granted: The May 16, 1996 Initial Agency Decision, issued in Case Nos. VWA–0005 and VWA–0009, would be reassessed pursuant to the December 17, 1996 decision of the Deputy Secretary remanding the matter to the Office of Hearings and Appeals for further findings.
1/14/97	Supervalu, Inc., Washington, DC	RR272–275	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If Granted: The July 15, 1996 Decision and Order, Case No. RB272–84, would be modified regarding Supervalu, Inc.'s Application for a Supplemental Refund submitted in the Crude Oil refund proceeding.
1/17/97	Harold & J.E. Layton, Dell City, TX	RR272–277	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If Granted: The December 19, 1996 Dismissal, Case No. RG272–994, issued to Harold & J.E. Layton would be modified regarding their Application for Refund submitted in the Crude Oil refund proceeding.
1/17/97	Heico Chemicals, Inc., Delaware Water Gap, PA.	RR272–276	Request for Modification/Rescission in the Crude Oil Refund proceeding. If Granted: The January 8, 1997 Dismissal, Case No. RG272–883, issued to Heico Chemicals, Inc. would be modified regarding the firm's Application for Refund submitted in the Crude Oil refund proceeding.
1/13/97	Land Paving Company, Santa Barbara, CA	RR272–274	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If Granted: The June 6, 1996 Decision and Order, Case No. RF272–96134, issued to Land Paving Company would be modified regarding the firm's Application for Refund submitted in the Crude Oil refund proceeding.
1/13/97	Personnel Security Hearing	VSO–0130	Request for Hearing Under 10 CFR Part 710. If Granted: An individual employed by a Contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
1/14/97	Personnel Security Hearing	VSO–0131	Request for Hearing Under 10 CFR Part 710. If Granted: An individual employed by a Contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
1/14/97	Schafer Oil Co., Inc., Fort Loramie, OH	VEE–0038	Exception to the Reporting Requirements. If Granted: Schafer Oil Co., Inc. would not be required to file Form EIA–782B Resellers'/Retailer's Monthly Petroleum Product Sales Report.

[FR Doc. 97–6584 Filed 3–14–97; 8:45 am]
BILLING CODE 6450–01–P

Notice of Cases Filed With the Office of Hearings and Appeals; Week of February 10 Through February 14, 1997

During the Week of February 10 through February 14, 1997, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: March 7, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of February 10 through February 14, 1997]

Date	Name and location of applicant	Case No.	Type of submission
2/11/97	Brader Hauling Service, Inc., Yakima, WA	RR272–283	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The January 16, 1997 Decision and Order, Case No. RG272–928, issued to Brader Hauling Service, Inc. would be modified regarding the firm's Application for Refund submitted in the Crude Oil refund proceeding.
2/11/97	Froman Oil Co., Claremore, OK	VEE–0039	Exception to the Reporting Requirements. If granted: Froman Oil Co. would not be required to file Form EIA–782B, the Resellers'/Retailer's Monthly Petroleum Products Sales Report.
2/11/97	Personnel Security Hearing	VSO–0134	Request for Hearing Under 10 C.F.R. Part 710. If granted: An individual employed by a Contractor of the Department of Energy would receive a hearing under 10 C.F.R. Part 710.
2/11/97	Personnel Security Hearing	VSO–0135	Request for Hearing Under 10 C.F.R. Part 710. If granted: An individual employed by a Contractor of the Department of Energy would receive a hearing under 10 C.F.R. Part.
2/11/97	Sheet Metal Workers International, Washington, DC	VFA–0268	Appeal of an Information Request Denial. If granted: The January 3, 1997 Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded, and Sheet Metal Workers International would receive access to certain DOE information.
2/12/97	Citizen Action, Washington, DC	VFA–0269	Appeal of an Information Request Denial. If granted: The January 8, 1997 Freedom of Information Request Denial issued by the Office of the Executive Secretariat would be rescinded, and Citizen Action would receive access to certain DOE information.
2/12/97	Nashua Equity Cooperative, Nashua, IA	RR272–284	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The November 1, 1996 Decision and Order, Case No. RG272–284, issued to Nashua Equity Cooperative would be modified regarding the firm's Application for Refund submitted in the Crude Oil refund proceeding.
2/14/97	Patrick G. Eddington, Fairfax, VA	VFA–0270	Appeal of an Information Request Denial. If granted: The February 4, 1997 Freedom of Information Request Denial issued by the Oakland Operations Office would be rescinded, and Patrick G. Eddington would receive access to certain DOE information.

[FR Doc. 97–6586 Filed 3–14–97; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of February 24 through February 28, 1997

During the week of February 24 through February 28, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: March 7, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 22; Week of February 24 Through February 28, 1997

Appeals

Fried, Frank, Harris, Shriver & Jacobson, 2/24/97, VFA–0263

Fried, Frank, Harris, Shriver & Jacobson (Fried) filed an Appeal from a determination by the DOE's Albuquerque Operations Office (AOO). In that determination, the AOO partially granted a request for information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the DOE in 10 CFR Part 1004. In considering the Appeal, the DOE confirmed that the AOO mistakenly did not include a copy of a contract modification when it released a copy of the contract. Accordingly, the DOE ordered the AOO to release a copy of the contract modification. The DOE also found that, since Section 821 of the National Defense Authorization Act does not bar the release of proposal information that has been incorporated into a contract, Exemption 3 does not apply in this case as a reason to withhold the proposal in its entirety. Therefore, the DOE remanded this case to the AOO to release the proposal information incorporated into the awarded contract or to provide a detailed justification for withholding.

Lois Blanche Vaughan, 2/25/97, VFA–0264

The DOE issued a Decision and Order denying a Freedom of Information Act Appeal that was filed by Lois B. Vaughan. In her Appeal, Ms. Vaughan challenged the adequacy of the search for responsive documents that was conducted by the DOE's Oak Ridge Operations Office (DOE/OR) in response to Ms. Vaughan's FOIA request. Ms. Vaughan requested documents dated from 1948 through 1968. In the Decision, the DOE found that DOE/OR conducted a reasonable search for responsive documents. Accordingly, the Appeal was denied.

Martha J. Mcneely, 2/25/97, VFA–0265

Martha J. McNeely filed an Appeal from a determination issued to her by the DOE's Richland Operations Office (Richland). In her Appeal, Ms. McNeely asserted that Richland had failed to conduct an adequate search pursuant to the Privacy Act for her medical and dental records. The DOE determined that Richland had performed an adequate search. However, since Ms. McNeely provided additional information in her Appeal, in which she claimed to have participated in human radiation experimentation studies, the matter was remanded to the DOE Headquarters Freedom of Information and Privacy Group so that a search could be made for relevant documents.

Refund Application

Allied Signal, Inc., 2/25/97, RR272–247

The DOE partially granted a Motion for Reconsideration filed on behalf of Allied Signal, Inc., in the crude oil overcharge refund proceeding conducted under 10 CFR Part 205, Subpart V. Allied Signal's Motion requested a refund for its purchases of cumene during the crude oil refund period. The DOE found that cumene is not an eligible product in this proceeding. However, Allied Signal showed, through price escalation clauses in its contracts for cumene purchases, that it incurred the crude oil overcharges which are presumed in the benzene component of cumene. Therefore, Allied Signal was granted a refund based on the number of benzene gallons used in the production of the cumene it purchased.

Refund Appications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

CRUDE OIL SUPPLEMENTAL REFUND DIST	RB272–00103	2/25/97
FRANKLIN COUNTY COOPERATIVE	RK272–04183	2/25/97
LONG BROTHERS ROOFING & WATER ET AL	RK272–03508	2/25/97
MELVIN BOOTS	RK272–03346	2/25/97
ALLEN BOOTS	RK272–03358	.....
ALLEN BOOTS	RK272–03347	.....
R.W. MILLER & SONS, INC. ET AL	RG272–00816	2/26/97

Dismissals

The following submissions were dismissed:

Name	Case No.
BURKE GRADING & PAVING, INC	RG272–988
CASS-CLAY CREAMERY, INC	RG272–692
FAIRMOUNT CHEMICAL CO	RG272–1003
JOHNSON PAVING CO., INC	RG272–986
VARIETY WHOLESALERS, INC	RK272–4199

[FR Doc. 97–6585 Filed 3–14–97; 8:45 am]

BILLING CODE 6450–01–P

Western Area Power Administration

Proposed Rates for Central Valley and California-Oregon Transmission Projects; Correction

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed rates; correction.

SUMMARY: The Western Area Power Administration published a document in the Federal Register of March 4, 1997, proposing rates for Central Valley Project and California-Oregon Transmission Project. The document contains an incorrect date.

FOR FURTHER INFORMATION CONTACT: Debbie Dietz, Rates Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, (916) 353–4453.

Correction

In the Federal Register issue of March 4, 1997, in FR Doc. 97–5256, on page 9763, in the third column, correct the **DATES** caption to read:

DATES: The consultation and comment period will begin from the date of publication of this Federal Register notice and will end June 2,1997. A public information forum at which Western will present a detailed explanation of the Proposed Rates is scheduled for March 25, 1997, beginning at 9 a.m. PST, at the Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710. A public comment forum at which Western will receive oral and written comments is scheduled for April 24, 1997, beginning at 9 a.m. PDT, at the same location. Western should receive written comments by the end of the consultation and comment period to be assured consideration.

Issued in Washington, D.C. March 11, 1997.

Joel K. Bladow,

Assistant Administrator.

[FR Doc. 97–6583 Filed 3–14–97; 8:45 am]

BILLING CODE 6450–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SES Performance Review Board Members

March 11, 1997.

AGENCY: Equal Employment Opportunity Commission (EEOC)

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the SES Performance Review Board of EEOC for FY 1996 and 1997.

FOR FURTHER INFORMATION CONTACT: Patricia Cornwell Johnson, Director, Human Resources Management Services, Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, D.C., 20507, (202) 663–4306.

SUPPLEMENTARY INFORMATION: Pursuant to the requirement of Section 4314(c)(1), Chapter 43 Title 5 U.S.C., membership of the SES Performance Review Board is as follows: Ms. Ronnie Blumenthal, Director, Office of Federal Operations, Equal Employment Opportunity Commission (Chairperson); Mr. Spencer H. Lewis, Director, New York District Office, Equal Employment Opportunity Commission; Mr. Federico Costales, Director, Miami District Office, Equal Employment Opportunity Commission; Ms. Issie Jenkins, Director, Baltimore District Office, Equal Employment Opportunity Commission (Alternate). Signed at Washington, D.C. on this 5th day of March 1997.

For the Commission,

Gilbert F. Casellas,

Chairman.

[FR Doc. 97–6537 Filed 3–14–97; 8:45 am]

BILLING CODE 6570–06–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

March 10, 1997.

SUMMARY: The Federal Communications Commissions, 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 May 16, 1997.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commissions, 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: 3060–0565.

Title: Section 76.944 Commission review of franchising authority decisions on rates for the basic service tier and associated equipment.

Type of Review: Extension of existing collection.

Respondents: Business or other for-profit; state and local governments.

Number of Respondents: 300. (150 cable operators + 150 LFAs).

Estimated Time Per Response: 2–30 hours.

Total Annual Burden: 5,400 hours estimated as follows: We estimate that approximately 150 appeals are filed annually. For all aspects of the filing process (including appeals, oppositions and replies), we estimate that cable operators spend an average of 30 hours on each filing and that local franchising authorities spend an average of 20 hours on each filing.

We estimate that cable operators will use in-house legal staff to file requests for appeals approximately 50% of the time, therefore using outside legal assistance 50% of the time. When using outside legal assistance, operators are estimated to undergo a burden of 2 hours per filing to coordinate information with the outside legal assistance. 75 cable operators x 30 hours for in-house filings = 2,250. 75 cable operators x 2 hours for filings done by outside legal assistance = 150. 150 LFAs x 20 hours for each filing = 3,000. Total burden = 2,250 + 150 + 3,000 = 5,400 hours.

Cost to Respondents: We estimate the postage and stationery costs incurred by parties for appeal case to be $10 per party ($20 per case). 150 x $20 = $3,000. We estimate that cable operators

contracting out legal assistance will pay $150 per hour for the assistance. 75 cable operators paying outside legal assistance at $150 per hour at 30 hours per filing = $337,500. Total annual costs to respondents = $3,000 + $337,500 = $340,500.

Needs and Uses: Section 76.944 provides that any participant at the franchising authority level in a ratemaking proceeding may file an appeal of the franchising authority's decision with the Commission within 30 days of release of the text of the franchising authority's decision. The information is reviewed by the Commission to ensure that franchising authority decisions regarding cable rates are consistent with the provisions of the Cable Television Consumer Protection and Competition Act of 1992 and the Commission's rules regarding cable rate regulation. Commission review of appeals is necessary to ensure uniformity of interpretation of these federal guidelines.

OMB Approval Number: 3060–0569.

Title: Section 76.975 Commercial leased access dispute resolution.

Type of Review: Revision to an existing collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 90.

Estimated Time Per Response: 2–10 hours.

Total Annual Burden: 480 hours estimated as follows: Section 76.975 requires that persons alleging that a cable operator's leased access rate is unreasonable must receive a determination of the cable operator's maximum permitted rate from an independent accountant prior to filing a petition for relief with the Commission. We estimate that cable operators will undergo an average burden of 4 hours to arrange for an independent accountant review and coordinate rate information with the selected accountant. This average burden accounts for those instances where parties that cannot agree on a mutually acceptable accountant must each select an independent accountant who in turn selects a third independent accountant. We estimate a need for 30 accountant leased access rate reviews per year. 30 x 4 hours = 120 hours. We estimate that approximately 30 petitions for relief under 76.975 are filed annually with the Commission. Each petition filed also will most likely result in a response being filed by the defendant party. Each petition and response is estimated to have an average burden of 10 hours to complete. Approximately 50% of petitions and responses will be handled by in-house legal staff, while the other 50% will be handled by outside legal assistance. In this instance, respondents will undergo a burden of approximately 2 hours to coordinate information with the outside legal assistance.

15 petitions drafted by in-house legal staff x 10 hours = 150 hours.

15 petitions coordinated with outside legal assistance x 2 hours = 30 hours.

15 responses drafted by in-house legal staff x 10 hours = 150 hours.

15 responses coordinated with outside legal assistance x 2 hours = 30 hours.

Total Burden to Respondents = 480 hours: 120 + 150 + 30 + 150 + 30.

Annual Cost to Respondents: $69,300 estimated as follows: Leased access dispute petitioners and respondents are estimated to encounter photocopying and postage expenses of $5 per case. 30 petitioners and 30 respondents x $5 per case = $300. The cost for each accountant review of leased access rates is estimated at 30 reviews x 8 hours per review x $100 per hour = $24,000. 50% of petitioners and respondents will use outside legal assistance paid at $150 per hour to file leased access disputes. 15 petitioners + 15 respondents x 10 hours each x $150 per hour = $45,000. Total annual costs = $300 + $24,000 + $45,000 = $69,300.

Needs and Uses: Section 76.975 permits any person aggrieved by the failure or refusal of a cable operator to make commercial channel capacity available or to charge rates for such capacity in accordance with the provisions of Title VI of the Communications Act of 1934 may file a petition for relief with the Commission. The Commission has established final leased commercial access rules in the Second Report and Order and Second Order on Reconsideration, CS Docket No. 96–60, FCC 97–27, released February 4, 1997. Among other things, this rulemaking amended Section 76.975, thereby modifying the information collections requirements associated with the rulesection. We account for all paperwork burdens associated with Section 76.975 under this OMB control number. The information will be used by leased access programmers and will be reviewed by the Commission to resolve leased access disputes.

OMB Approval No.: 3060-0512.

Title: The ARMIS Annual Summary Report (formerly titled,''The ARMIS Quarterly Report'').

Form No.: FCC Report 43-01.

Type of Review: Extension of an existing collection.

Respondents: Businesses or other for profit entities.

Number of Respondents: 150 respondents.

Estimate Hour Per Response: 200 hours per response.

Total Annual burden: 30,000 total annual burden hours.

Needs and Uses: ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements and rate of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy. The ARMIS Annual Summary Report contains financial and operating data and is used to monitor the local exchange carrier industry and to perform routine analyses of costs and revenues on behalf of the Commission. It is one of ten reports.

OMB Approval No.: None.

Title: The ARMIS Customer Satisfaction Report (formerly titled ''The ARMIS semi-Annual Service Quality Report'').

Form No.: FCC Report 43-06.

Type of Review: Extension of an existing collection.

Respondents: Businesses or other for profit entities.

Number of Respondents: 8 respondents.

Estimate Hour Per Response: 900 hours per response.

Total Annual Burden: 7200 hours.

Needs and Uses: The Customer Satisfaction Report, formerly the Semi-Annual Quality Report, is based on telephone surveys indicating a percentage of satisfied customers, and is collected by the carriers from residential and businesses customers.

OMB Approval No.: 3060-0496.

Title: The ARMIS Operating Data Report.

Form No.: FCC Report 43-08.

Type of Review: Extension of an existing collection.

Respondents: Businesses or other for profit entities.

Number of Respondents: 50 respondents.

Estimate Hour Per Response: 160 hours per response.

Total Annual Burden: 8000 hours.

Needs and Uses: The ARMIS Operating Data Report consists of statistical schedules previously contained in FCC Form M which are needed by the Commission to monitor network growth, usage, and reliability.

OMB Approval Number: 3060–0040.

Title: Application for Aircraft Radio Station License

Form No.: FCC 404/404A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals;State or Local Governments; Businesses or other for-profit; non-profit institutions.

Number of Respondents: 1,350.

Estimated Time Per Response: 20 minutes (.33).

Total Annual Burden: 445.5 hours.

Needs and Uses: FCC Rules require that applicants file FCC 404 for a new station license, renewal, or modification of an existing license. An applicant filing for a new station license may operate the aircraft radio station pending issuance of a station license for a period of 90 days under a temporary operating authority evidenced by a properly executed certification on FCC 404A. FCC staff will use the data to determine eligibility for a radio station authorization. The data collected is also used by compliance personnel in conjunction with field engineers for enforcement and interference resolution purposes.

There has been a significant decrease in the number of respondents as a result of Report and Order, WT Docket No. 96–82 adopted October 18, 1996 and released October 25, 1996, which eliminated the individual radio licensing requirements for aircraft stations that operate domestically and are not required by statute or treaty to carry a radio.The form has been modified to add a space for the applicant to provide an Internet address. This will provide an additional option of reaching the applicant should the FCC have any questions concerning the application. A space has been added to collect the Taxpayer Identification Number as required in order for the Commission to comply with the Debt Collection Improvement Act of 1996. This information will be redacted from public view. The drug certification has been incorporated into the certification text prior to applicant signature and the requirement to check a ''yes/no'' block eliminated. An additional question has been added to clarify whether the aircraft will make international flights.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–6551 Filed 3–14–97; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections Being Reviewed by FCC For Extension Under Delegated Authority 5 CFR 1320 authority, comments requested

March 10, 1997.

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 May 16, 1997. 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: 3060–0563.

Title: Section 76.915 Change in status of cable operator.

Type of Review: Extension of existing collection.

Respondents: Business or other for-profit entities; state and local governments.

Number of Respondents: 105.

Estimated Time Per Response: 2–20 hours. We estimate that cable operators annually file 30 petitions for change in regulatory status, approximately half being filed with the Commission and half being filed with the operators' respective LFAs. The average hour burden to cable operators attributed to all aspects of the petition process is estimated to be 20 hours per petition. The average hour burden to LFAs attributed to all aspects of the review and decision process, including the burden to LFAs to file their decisions with the Commission, is also estimated to be 20 hours per petition. We estimate that cable operators annually file 10 petitions for revocation of an LFA's certification to regulate rates. The average hour burden to cable operators attributed to all aspects of the petition for revocation process is estimated to be 20 hours per petition. The average hour burden to LFAs attributed to all aspects of the petition for revocation process is also estimated to be 20 hours per petition. We estimate cable operators and LFAs annually file 25 joint statements that effective competition exist. The average hour burden to draft and submit each joint statement is estimated to be 2 hours per statement.

30 Petitions for change in regulatory status filed by cable operators x 20 per petition = 600.

15 Petitions for change in regulatory status reviewed by LFAs x 20 per petition = 300.

10 Petitions for revocation filed by cable operators x 20 hours per petition = 200.

10 Petitions for revocations responded to by LFAs x 20 hours per petition = 200.

25 joint statements x 2 hours = 50.

Total Annual Burden: 1,350 hours.

Total Cost to Respondents: $450 estimated as follows: Postage and stationery costs are estimated to be $5 per party for each petition for change in regulatory status and petition for revocation. 40 total petitions x 2 parties x $5 each = $400. Postage and stationery costs are estimated to be $1 per party for each joint statement. 25 joint statements x 2 parties x $1 for each joint statement = $50.

Needs and Uses: Section 76.915 enables cable operators that become subject to effective competition to petition their respective local franchise authority (''LFA'') for a change in regulatory status. In cases where LFAs have not been certified to regulate rates, cable operators may petition the Commission for a change in regulatory status. Section 76.915 also provides that cable operators and LFAs may submit joint statements to the Commission

stating that effective competition exists. Also, Section 76.915 provides that if cable operators have been denied a change in status by their respective LFAs, then operators may seek reviews of those findings at the Commission by filing petitions for revocation. The information is used by the Commission and LFAs to examine potential changes in the regulatory status of cable systems resulting from the presence of effective competition in the systems' franchise areas.

OMB Number: 3060–0414.

Title: Terrain Shielding Policy.

Form Number: None.

Type of Review: Extension of an existing collection.

Respondents: Business or other for-profit, not-for-profit institutions, state, local or tribal government.

Number of Respondents: 300.

Estimated time per response: 10 hours (1 hours respondent/9 hours consulting engineer).

Total annual burden: 300.

Needs and Uses: The terrain shielding policy requires respondents to submit either a detailed terrain study, or to submit letters of assent from all potentially affected parties and graphic depiction of the terrain when intervening terrain prevents a low power television applicant from interferring with other low power television or full-power television stations. The data is used by FCC staff to determine if adequate interference protection can be provided by terrain shielding and if a waiver of Sections 74.705 and 74.707 of the Rules is warranted.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–6552 Filed 3–14–97; 8:45 am]

BILLING CODE 6712–01–F

Sunshine Act Meeting; Revised

March 12, 1997.

FCC To Hold Open Commission Meeting Thursday, March 13, 1997

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 13, 1997, which is scheduled to commence at 9:30 a.m. in Room 856, at 1919 M Street, N,W., Washington, D.C.

Item No.	Bureau	Subject
1	Office of Engineering and Technology	Title: Amendment of Parts 2, 15, 18 and Other Parts of the Commission's Rules to Simplify and Streamline the Equipment Authorization Process for Radio Frequency Equipment. Summary: The Commission will consider a proposal to: (1) simplify existing equipment authorization processes; (2) deregulate the equipment authorization for certain types of equipment; (3) provide for electronic filing of applications for equipment authorization.
2	International and Office of Engineering and Technology.	Title: Allocation and Designation of Spectrum for Fixed-Satellite Services in the 37.5–38.5 GHz, 40.5–41.5 GHz and 48.2–50.2 GHz Frequency Bands; Allocation of Spectrum to Upgrade Fixed and Mobile Allocations in 40.5–42.5 GHz and Allocation of Spectrum at 46.9–47.0 GHz for Wireless Communications Services (RM–8811). Summary: The Commission will consider proposed changes to the U.S. Table of Frequency Allocations for Fixed-Satellite Services at 37.5–38.5 GHz, 40.5–41.5 GHz, and 48.2–50.2 GHz, along with related allocation proposals affecting the 40.5–42.5 GHz and 46.9–47.0 GHz bands.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Public Affairs, telephone number (202) 418–0500.

Copies of materials adopted at this meeting can be purchased from FCC's duplicating contractor, International Transcription Services, Inc. (ITS, Inc.) at (202) 857–3800 or fax (202) 857–3805 and 857–3184. These copies are available in paper format and alternative media which includes, large print/type; digital disk; and audio tape. ITS may be reached by e-mail: its__inc@ix.netcom.com. Their Internet address is http://www.itsi.com.

This meeting can be viewed over George Mason University's Capitol Connection. For information on this service call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770; and from Conference Call USA (available only outside the Washington, D.C. metropolitan area), telephone 1–800–962–0044. Audio and video tapes of this meeting can be obtained from the Office of Public Affairs, Television Staff, telephone (202) 418–0460, or TTY (202) 418–1398; fax numbers (202) 418–2809 or (202) 418–7286.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–6750 Filed 3–13–97; 11:22 am]

BILLING CODE 6712–01–M

[Report No. 2179]

Petitions for Reconsideration of Action in Rulemaking Proceeding

March 12, 1997.

Petitions for reconsideration have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed April 1, 1997. See Section 1.4(b) (1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of The Commission's Rules to Provide for Operation of Unlicensed NII Devices in the 5 GHz Frequency Range.

Number of Petitions Filed: 3.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–6646 Filed 3–14–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1162–DR]

Arkansas; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA–1162–DR), dated March 2, 1997, and related determinations.

EFFECTIVE DATE: March 4, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective March 4, 1997.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–6661 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1162–DR]

Arkansas; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA–1162–DR), dated March 2, 1997, and related determinations.

EFFECTIVE DATE: March 5, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Arkansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 2, 1997:

The counties of Hot Spring, Mississippi, Poinsett and White for Individual Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–6662 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1162–DR]

Arkansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–1162–DR), dated March 2, 1997, and related determinations.

EFFECTIVE DATE: March 2, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 2, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Arkansas resulting from severe storms and tornadoes on March 1, 1997 and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Further, you are authorized to provide reimbursement for debris removal and emergency protective measures under the Public Assistance program and Hazard Mitigation. Other assistance under Public Assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint James McClanahan of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Arkansas to have been affected adversely by this declared major disaster:

Clark, Cross, Greene, Hempstead, Jackson, Lonoke, Nevada, Pulaski, and Saline Counties for Individual Assistance, Hazard Mitigation and Categories A and B under the Public Assistance Program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–6672 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1155–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA–1155–DR), dated January 4, 1997, and related determinations.

EFFECTIVE DATE: February 27, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Dorothy M. Lacey of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Ronald Bearse as Federal Coordinating Officer for this disaster.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–6670 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1163–DR]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–1163-DR), dated March 4, 1997, and related determinations.

EFFECTIVE DATE: March 4, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 4, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky, resulting from severe storms, tornadoes, and flooding on March 1, 1997, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance and Hazard Mitigation may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Glenn Woodard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Kentucky to have been affected adversely by this declared major disaster:

Bourbon, Bracken, Bullitt, Franklin, Hardin, Harrison, Jefferson, Pendleton, and Powell Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–6663 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1163–DR]

Commonwealth of Kentucky; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky (FEMA–1163–DR), dated March 4, 1997, and related determinations.

EFFECTIVE DATE: March 6, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 4, 1997:

The counties of Breckinridge, Campbell, Carroll, Christian, Daviess, Henry, Gallatin, Kenton, Lewis, McLean, Meade, Nelson, Oldham, Owen, and Trimble for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–6664 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1163–DR]

Kentucky; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky, (FEMA–1163–DR), dated March 4, 1997, and related determinations.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Kentucky is hereby amended to include Categories A and B under the Public Assistance program in those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 4, 1997:

The counties of Bourbon, Bracken, Breckinridge, Bullitt, Campbell, Carroll, Christian, Daviess, Franklin, Gallatin, Hardin, Harrison, Henry, Jefferson, Kenton, Lewis, McLean, Meade, Nelson, Oldham, Owen, Pendleton, Powell and Trimble for Categories A and B under the Public Assistance program (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–6665 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1158–DR]

Minnesota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Minnesota, (FEMA–1158-DR), dated January 16 1997, and related determinations.

EFFECTIVE DATE: March 3, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Minnesota, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 16, 1997:

FEMA will provide reimbursement for the cost of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those

communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities for the counties of Beltrami, Benton, Lake of the Woods, LeSueur, Steele, and Wadena.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–6668 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1164–DR]

Ohio; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–1164-DR), dated March 4, 1997, and related determinations.

EFFECTIVE DATE: March 4, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 4, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Ohio, resulting from severe storms and flooding beginning on February 28, 1997, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance and Hazard Mitigation may be provided at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint David A. Skarosi of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared major disaster:

Adams, Athens, Brown, Gallia, Hocking, Jackson, Lawrence, Meigs, Monroe, Pike, Ross, Scioto, Vinton and Washington Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–6666 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1164–DR]

Ohio; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio (FEMA–1164–DR), dated March 4, 1997, and related determinations.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio is hereby amended to include Public Assistance and Hazard Mitigation in those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 4, 1997:

Adams, Athens, Brown, Clermont, Gallia, Hamilton, Hocking, Jackson, Lawrence, Meigs, Monroe, Pike, Ross, Scioto, Vinton, and Washington Counties for Public Assistance and Hazard Mitigation (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–6667 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1164–DR]

Ohio; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio, (FEMA–1164–DR), dated March 4, 1997, and related determinations.

EFFECTIVE DATE: March 5, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 4, 1997:

The counties of Clermont and Hamilton for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–6673 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1138–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA–1138–DR), dated September 13, 1996, and related determinations.

EFFECTIVE DATE: February 19, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint David W. Hall of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Jack Schuback as

Federal Coordinating Officer for this disaster.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–6669 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1161–DR]

South Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of South Dakota (FEMA–1161–DR), dated February 28, 1997, and related determinations.

EFFECTIVE DATE: February 28, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 28, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of South Dakota, resulting from a severe winter storm beginning on November 13, 1996, and continuing through November 26, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of South Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Roger E. Free of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of South Dakota to have been affected adversely by this declared major disaster:

The counties of Butte, Harding, Hutchinson, Lake, Meade, Minnehaha, Moody, Pennington, Perkins and Turner for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–6671 Filed 3–14–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

[Docket No. 97–05]

Corpco International Inc. v. Straightway, Inc.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Corpco International Inc. (''Complainant'') against Straightway, Inc. (''Respondent'') was served March 11, 1997. Complainant alleges that the Respondent has violated sections 10 (b)(1), (b)(12), and (d)(1) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1709 (b)(1), (b)(12) and (d)(1), by failing to make delivery of a mobil crane at destination in Quingdao, PRC, until such time as additional freight charges were paid, and substantial demurrage charges and customs penalties were imposed.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by March 11, 1998, and the final decision of the Commission shall be issued by June 9, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 97–6574 Filed 3–14–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 1, 1997.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. James Jay Haney, as Trustee, Fayetteville, Arkansas; to acquire an additional 32.29 percent, for a total of 48.57 percent, of the voting shares of SSB Holdings, Inc., Miami, Oklahoma, and thereby indirectly acquire Security Bank and Trust, Miami, Oklahoma.

Board of Governors of the Federal Reserve System, March 12, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–6659 Filed 3-14-97; 8:45 am]

BILLING CODE 6210-01-F

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. 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 April 10, 1997.

A. Federal Reserve Bank of Cleveland (R. Chris Moore, Senior Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. F.N.B. Corporation, Hermitage, Pennsylvania; to acquire 15 percent of the voting shares of Sun Bancorp, Inc., Selinsgrove, Pennsylvania, and thereby indirectly acquire Sun Bank, Selinsgrove, Pennsylvania.

In connection with this application, Applicant also has applied to acquire Pennsylvania Sun Life Insurance Company, Phoenix, Arizona, and thereby engage in providing credit life and disability insurance exclusively to customers of Sun Bank, Sun Bancorp, Inc's. bank subsidiary, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. GBC Bancorp, Inc., Lawrenceville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Gwinnett Banking Company, Lawrenceville, Georgia (in organization).

2. Southern Security Financial Corporation, Hollywood, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Southern Security Bank Corporation, Hollywood, Florida, and thereby indirectly acquire Southern Security Bank of Hollywood, Hollywood, Florida.

Board of Governors of the Federal Reserve System, March 11, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–6550 Filed 3–14–97; 8:45 am]

BILLING CODE 6210–01–F

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. 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 April 11, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Community First Bankshares, Inc., Fargo, North Dakota; to acquire 100 percent of the voting shares of KeyBank National Association (Wyoming), Cheyenne, Wyoming.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. MAXLOU Bancshares, Inc., Tahlequah, Oklahoma; to become a bank holding company by acquiring 81.82 percent of the voting shares of First State Bank, Tahlequah, Oklahoma.

In connection with this application, Applicant also has applied to acquire Liberty Finance, Inc., Tahlequah, Oklahoma, and thereby engage in operating as a consumer finance company and as such, make and service consumer loans, pursuant to § 225.25 (b)(1) of the Board's Regulation Y.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105-1579:

1. California Community LLC, Los Angeles, California; to acquire 77 percent of the voting shares of First Coastal Bancshares, El Segundo, California, and thereby indirectly acquire First Coastal Bank, N.A., El Segundo, California.

2. First Coastal Bancshares, El Segundo, California; to become a bank holding company by acquiring 100 percent of the voting shares of First Coastal Bank, N.A., El Segundo, California.

Board of Governors of the Federal Reserve System, March 12, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–6658 Filed 3-14-97; 8:45 am]

BILLING CODE 6210-01-F

Agency information collection activities: Submission to OMB under delegated authority

BACKGROUND

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). The Federal Reserve 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.

FOR FURTHER INFORMATION CONTACT:

Chief, Financial Reports Section—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860)

Final approval under OMB delegated authority of the extension for three years, with revision, of the following reports:

1. Report title: Application for Employment with the Board of Governors of the Federal Reserve System (''Application'')
Agency form number: FR 28
OMB Control number: 7100-0181
Frequency: on occasion
Reporters: applicants for employment with the Board
Annual reporting hours: 8,500
Estimated average hours per response: 1.0
Number of respondents: 8,500
Small businesses are not affected.

General description of report: This information collection is required to obtain or retain a benefit (12 U.S.C. 244 and 248(1)) and is given confidential treatment under the Privacy Act (5 U.S.C. 552(a)) and the Freedom of Information Act (5 U.S.C. 552(b)(2) and (b)(6)).

Abstract: The purpose of the Application is to collect information to determine the qualifications, suitability, and availability of applicants for employment with the Board. The Application asks about education, training, employment, and other information covering the period since the applicant left high school.

Several items were substantively revised. No items were deleted. The Board revised the text of the Application to comply with current law, to reflect changes in societal language preferences, and to reflect changes in the Board's *Rules Regarding Equal Opportunity*.

2. Report title: Weekly Report of Eurodollar Liabilities Held by Selected U.S. Addressees at Foreign Offices of U.S. Banks
Agency form number: FR 2050
OMB control number: 7100-0068
Frequency: Weekly
Reporters: Large foreign branches and banking subsidiaries of U.S. banks
Annual reporting hours: 2,860
Estimated average hours per response: 1.0
Number of respondents: 54 branches, 1 subsidiary
Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 248(a)(2), 353 et seq., 461, 602, and 625) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: This report collects data on overnight and term Eurodollars held by certain U.S. residents in selected foreign branches and subsidiaries of U.S. commercial banks and Edge and agreement corporations. The data are used for the construction of the Eurodollar component of the monetary aggregates and for analysis of banks' liability management practices.

The revised reporting threshold has been raised from a weekly average of $200 million to $350 million in Eurodollar liabilities. Additions and deletions to the reporting panel will be made only annually. The number of data items collected has been reduced from 4 to 2. As a result of the redefinition of the M2 monetary aggregate in February 1996, the overnight Eurodollar component of M2 was moved to the non-M2 component of M3, where the term component currently is included. Since the separation of the two nonnegotiable Eurodolllar items (overnight and term) is no longer necessary, they have been combined into a single item, and the memorandum item has been dropped from the report.

The revised report will be implemented as of the reporting week ending Monday, March 31, 1997.

3. Report title: Quarterly Report of Assets and Liabilities of Large Foreign Offices of U.S. Banks
Agency form number: FR 2502q
OMB control number: 7100-0079
Frequency: Quarterly
Reporters: Large foreign branches and banking subsidiaries of U.S. banks
Annual reporting hours: 7,266
Estimated average hours per response: 3.5
Number of respondents: 483 branches, 36 subsidiaries
Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 248(a)(2), 353 et seq., 461, 602, and 625) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: This report collects assets and liability information from foreign branches and subsidiaries of U.S. commercial banks and Edge and agreement corporations. A separate schedule collects information on Eurodollar liabilities payable to certain U.S. addressees. The data are used in the construction of the monetary aggregates and to monitor flows of funds between banks and their branches. The data also are combined with data from other sources to develop a profile of the total exposure of U.S. banks to individual countries. Together with data from the Department of the Treasury, the FR 2502q provides information that the Bank for International Settlements compiles from all G-10 countries on international banking market developments. In addition, data from the FR 2502q are used by the Department of Commerce to estimate the capital accounts portions of the balance of payments.

The revised reporting threshold for branches has been raised from $150 million to $500 million in total assets. The number of data items collected on the Eurodollar schedule has been reduced from three to one, and updates and clarifications were made to the reporting form and instructions.

The revised report will be implemented on the March 31, 1997, as-of date.

Board of Governors of the Federal Reserve System, March 11, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–6578 Filed 3–14–97; 8:45AM]

Billing Code 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 021797 AND 022897

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
US Diagnostic, Inc., Advanced NMR Systems, Inc., Medical Diagnostics, Inc	97–1086	02/19/97
American Eco Corporation, Chempower, Inc., Chempower, Inc.D97–1094	02/19/97	
Catholic Healthcare West, Franciscan Sisters of the Sacred Heart, St. Francis Medical Center of Santa Barbara	97–1141	02/19/97
Eastman Kodak Company, Wang Laboratories, Inc., Wang Laboratories, Inc.; Wang Software, N.Y., Inc.;	97–1180	02/19/97
Bay View Capital Corporation, EXXE Data Corporation, EXXE Data Corporation	97–1213	02/19/97
Utica Enterprises, Inc., Ricky C. Bellestri, Jedav Industries, Inc	97–1218	02/19/97
Utica Enterprises, Inc., Charles S. Bellestri, Jedav Industries, Inc	97–1219	02/19/97
Watkins Associated Industries, Inc., Bee Gee Holding Company, Inc., Sahlman Seafoods, Inc	97–1026	02/20/97
Honeywell, Inc., Measurex Corporation, Measurex Corporation	97–1033	02/20/97
Hicks, Muse, Tate, Furst Equity Fund III, L.P., Norwest Corporation, Community Pacific Broadcasting Company L.P.	97–1100	02/20/97
D.R. Horton, Inc., Ghassan M. Saab, The Torrey Group	97–1177	02/20/97
D.R. Horton, Inc., Burl T. Horton, The Torrey Group	97–1178	02/20/97
Interim Services, Inc., Jeffrey L. DePerro, AIM Executive Holdings, Inc	97–1183	02/20/97
Interim Services, Inc., Scott R. DePerro, AIM Executive Holdings, Inc	97–1184	02/20/97
Mr. O. Gene Bicknell, PepsiCo. Inc., Pizza Hut, Inc	97–1187	02/20/97
NovaCare, Inc., Employee Services of America, Inc., Employee Services of America, Inc	97–1201	02/20/97
Itochu Corporation, Robert V. Chandran, Chemoil Corporation	97–1204	02/20/97
Itochu Corporation, Antonio M. Garcia, Chemoil Corporation	97–1207	02/20/97
Tele-Communications, Inc., Joslin Communications Corp., Caguas/Humacao Cable Systems, a partnership	97–1217	02/20/97
U.S. Industries, Inc., Sunbeam Corporation, Sunbeam Products, Inc	97–1225	02/20/97
American Home Products Corporation, Solvay S.A. (a Belgian company), Solvay Animal Health, Inc	97–0027	02/21/97
Humana, Inc., Advocate Healthcare Network, Health Direct, Inc	97–1144	02/21/97
American Radio Systems Corporation, William Lee Dalton and Susan L. Dalton, WGRR Limited Partnership	97–1181	02/21/97
Cross-Continent Auto Retailers, Inc., R. Douglas Spedding, Toyota West Sales & Service, Inc., Douglas Toyota, Inc	97–1196	02/21/97
VTEL Corporation, Compression Labs Incorporated, Compression Labs Incorporated	97–1118	02/24/97
Laidlaw Inc. (A Canadian Company), Mr. Terry Van Der Aa, Vancom, Inc.; Vancom Transportation; Vancom-Indiana, Inc	97–1156	02/24/97
Gerald E. Kimmel, T. Morris Hackney, Consolidated Forest Products, L.L.C	97–1185	02/24/97
The Millers Mutual Fire Insurance Company, Strategic Data Systems, Inc., Strategic Data Systems, Inc	97–1186	02/24/97
Republic Industries, Inc., Larry E. Edwards, AAA Disposal Service, Inc., AAA Commercial, Inc., AAA	97–1215	02/24/97
Larry E. Edwards, Republic Industries, Inc., Republic Industries, Inc	97–1216	02/24/97
Thermo Electron Corporation, Park Scientific Instruments Corporation, Park Scientific Instruments Corporation	97–1223	02/24/97
Blue Circle Industries PLC, St. Mary's Cement Corporation (a Canadian company), St. Mary's Cement Corporation	97–1227	02/24/97
Hollandsche Beton Groep nv, AGIV Aktiengesellschaft, Wayss & Freytag Aktiengesellschaft	97–1230	02/24/97
The Quick & Reilly Group, Inc., Lee Casty, Nash, Weiss & Co	97–1234	02/24/97
North Limited, Iron Ore Company of Canada, Iron Ore Company of Canada	97–1236	02/24/97
Mr. Carsten Frank, CHS Electronics, Inc., CHS Electronics, Inc	97–1240	02/24/97
Shaw Group, Inc., United Crafts, Inc., United Crafts, Inc	97–1251	02/24/97
Apple South, Inc., Castle Harlan Partners II, L.P., McCormick & Schmick Holding Corporation	97–1255	02/24/97
Federal Data Corporation, Azmat Ali, NYMA, Inc	97–1256	02/24/97
Warner-Lambert Company, Glaxo Wellcome plc, Glaxo Wellcome plc	97–1257	02/24/97
Brunswick Corporation, Robert McNeil, Penguin Industries, Inc., Penguin Industries of	97–1266	02/24/97
The Bank of New York Company, Inc., Wells Fargo & Company, Wells Fargo Bank, N.A., Wells Fargo Bank (Texas), N.A	97–1267	02/24/97
Steven R. Berrard, H. Wayne Huizenga, Florida Panthers Holdings, Inc	97–1269	02/24/97
George D. Johnson, Jr., H. Wayne Huizenga, Florida Panthers Holdings, Inc	97–1270	02/24/97
Richard C. Rochon, H. Wayne Huizenga, Florida Panthers Holdings, Inc	97–1271	02/24/97
Nina Wang, Genelabs Technologies, Inc., Genelabs Technologies, Inc	97–1272	02/24/97
Conseco, Inc., Pioneer Financial Services, Inc., Pioneer Financial Services, Inc	97–1283	02/24/97
CGW Southeast Partners III L.P., Mebane Packaging Group, Inc., Mebane Packaging Group, Inc	97–1200	02/25/97
Warburg, Pincus Ventures, L.P., Digital Equipment Corporation, Digital Equipment Corporation	97–1239	02/25/97
Warburg, Pincus Ventures, L.P., NEW Veritas Software Corporation (NEWCO), NEW Veritas Software Corporation (NEWCO)	97–1276	02/25/97
Newpark Resources, Inc., Sampey Bilbo Meschi Drilling Fluids Management, Inc., Sampey Bilbo Meschi Drilling Fluids Management, Inc	97–1292	02/25/97
Rural Cellular Corporation, InterCel, Inc., Unity Cellular Systems Inc., InterCel Licenses Inc	97–0960	02/26/97
Acer Incorporated (A Taiwan company), Texas Instruments Incorporated, Texas Instruments Incorporated	97–1252	02/26/97
PG&E Corporation, Valero Energy Corporation, Valero Energy Corporation	97–1259	02/26/97
KKR Fund 1996 L.P., Amphenol Corporation, Amphenol Corporation	97–1262	02/26/97
Newell Co., Water Street Corporate Recovery Fund I, L.P., Insilco Corporation, Rolodex de Puerto Rico, Inc	97–1264	02/26/97
Johnson & Johnson, Innotech, Inc., Innotech, Inc	97–1297	02/26/97
Home Depot, Inc. (The), Ronald and Lucille Neeley, Maintenance Warehouse/America Corp	97–1078	02/27/97
Sisters of Charity of St. Augustine Health System, Inc., Saint Lukes's Hospital Association of Cleveland, Ohio, Saint Luke's Medical Center	97–1107	02/27/97
Allied Waste Industries, Inc., Wayne Disposal-Oakland, Inc., Wayne Disposal-Oakland, Inc.	97–1158	02/27/97
Deceuninck Plastics Industries N.V., Aluminum Company of America, Dayton Technologies, Inc	97–1166	02/27/97
Allied Waste Industries, Inc., Wayne Disposal-Canton, Inc.. Wayne Disposal-Canton, Inc.	97–1167	02/27/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 021797 AND 022897—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Vincent C. Taormina & Colette B. Taormina, Republic Industries, Inc., Republic Industries, Inc	97–1191	02/27/97
William C. Taormina and Cynthia L. Taormina, Republic Industries, Inc., Republic Industries, Inc	97–1192	02/27/97
Republic Industries, Inc., Taormina Industries, Inc., Taormina Industries, Inc	97–1193	02/27/97
Republic Industries, Inc., William L. Wallace, Wallace Ford, Inc.; Wallace Nissan, Inc	97–1221	02/27/97
William L. Wallace, Republic Industries, Inc., Republic Industries, Inc	97–1222	02/27/97
FrontierVision Partners, Triax Associates I, L.P., Triax Associates I, L.P	97–1229	02/27/97
The Hallwood Group Incorporated, ShowBiz Pizza Time, Inc., ShowBiz Pizza Time, Inc	97–1248	02/27/97
American Radio Systems Corporation, Lane Investment Limited Partnership, Secret Communications Limited Partnership	96–2940	02/28/97
Lane Investment Limited Partnership, American Radio Systems Corporation, ARS Acquisition II, Inc. & Radio Systems of Phil., Inc	96–2941	02/28/97

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–6602 Filed 3–14–97; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Change in Notice of Intent; To Prepare an Environmental Impact Statement for the Exterior Security of Federally Occupied Buildings in the District of Columbia

The General Services Administration (GSA) announced its intent to prepare an Environmental Impact Statement (EIS) to evaluate the potential environmental impacts of vehicle restrictions near selected federally-occupied buildings in the District of Columbia in the Federal Register on March 6, 1997.

The public scoping meetings that were scheduled for April 9, 1997 at the General Services Administration Auditorium located at 18th and F Streets NW., Washington, DC and April 10, 1997 at the General Services Administration Regional Auditorium located at 7th & D Streets SW., Washington, DC 20407 are hereby postponed while the agency collects additional data. The new meeting dates will be announced in the Federal Register.

Dated: March 7, 1997.

William R. Lawson,

Assistant Regional Administrator, Public Buildings Service.

[FR Doc. 97–6577 Filed 3–14–97; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Minority Health; Notice Regarding the Bilingual/Bicultural Service Demonstration Program (Managed Care)

AGENCY: Office of the Secretary.

ACTION: Correction of eligibility criteria and deadline for the Bilingual/Bicultural Service Demonstration Program (Managed Care).

SUMMARY: In the Federal Register of Wednesday, February 12, 1997, make the following corrections:

The eligibility criterion on page 6536 in the second column states: ''Applicants must be located within one of the following top 15 Metropolitan Statistical Areas identified from the 1990 U.S. Census as having the highest number of limited-English-proficient households experiencing linguistic isolation.'' The 15 MSAs are identified as:

- Phoenix, AZ.
- Fresno, CA.
- Los Angeles/Anaheim/Riverside, CA.
- Sacramento, CA.
- Honolulu, HI.
- Boston/Lawrence/Salem, MA–NH.
- Detroit/Ann Arbor, MI.
- New York/North New Jersey/Long Island, NY–NJ–CT.
- Philadelphia/Wilmington/Trenton, PA–NJ–DE–MD.
- Dallas/Ft. Worth, TX.
- El Paso, TX.
- Houston/Galveston/Brazoria, TX.
- McAllen/Edinburg/Mission, TX.
- Seattle/Tacoma, WA.
- Washington, DC Metropolitan Statistical Area.

The 15 areas have been changed to:

- Los Angeles/Anaheim/Riverside, CA.
- San Diego, CA.
- San Francisco/Oakland/San Jose, CA.
- Maimi/Ft. Lauderdale, FL.
- Chicago/Gary/Lake County, IL.
- Boston/Lawrence/Salem, MA–NH.
- Detroit/Ann Arbor, MI.
- New York/North New Jersey/Long Island, NY–NJ–CT.
- Philadelphia/Wilmington/Trenton, PA–NJ–DE–MD.
- Dallas/Ft. Worth, TX.
- El Paso, TX.
- Houston/Galveston/Brazoria, TX.
- McAllen/Edinburg/Mission, TX.
- San Antonio, TX.
- Washington, DC Metropolitan Statistical Area.

The deadline on page 6536 in the second column states that ''grant applications must be received by the OMH Grants Management Office by April 11, 1997.'' This is corrected to read ''grant applications must be received by the OMH Grants Management Office by May 1, 1997.''

This Notice corrects the identification of the top 15 MSAs having the highest number of limited-English-proficient households experiencing linguistic isolation, according to the 1990 U.S. Census. The 15 MSAs were identified from data provided by the Bureau of the Census. The Office of Minority Health has since been advised by the Bureau of the Census that the database from which this information was drawn is inaccurate. Four MSAs with higher numbers of limited-English-proficient households experiencing linguistic isolation than some of those included in the February 12 announcement were not included in the database. A fifth was included in the database, but with inaccurate data on the numbers. As a consequence, all five were omitted from the February 12 announcement. Based on additional information provided by the Bureau of the Census, this Notice revises the list of the 15 MSAs which are eligible for funding.

The Office of Minority Health considered simply adding the 5 MSAs to the list of 15 published in the Federal Register of Wednesday, February 12.

However, given the limited resources available for support of this program, we decided not to expand eligibility beyond the 15 areas of greatest need as measured by the Census data. Therefore the 5 MSAs that were incorrectly included in the Federal Register of Wednesday, February 12 (Phoenix, AZ; Fresno, CA; Sacramento, CA; Honolulu, HI; Seattle/Tacoma, WA) are simply being dropped from consideration.

Dated: March 6, 1997.

Clay E. Simpson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 97–6549 Filed 3–14–97; 8:45 am]

BILLING CODE 4160–17–M

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Voluntary Surveys of Program Partners to Implement Executive Order 12862 in the Administration for Children and Families.

OMB No.: 0980–0266.

Description: Under the provisions of the Federal Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Administration for Children and Families (ACF) is requesting clearance for instruments to implement Executive Order 12862 within the ACF. The purpose of the data collection is to obtain customer satisfaction information from those entities who are funded to be our partners in the delivery of services to the American public. ACF partners are those entities that receive funding to deliver services or assistance from ACF programs. Examples of partners are States and local governments, territories, service providers, Indian Tribes and tribal organizations, grantees, researchers, or other intermediaries serving target populations identified by and funded directly or indirectly by ACF. The surveys will obtain information about how well ACF is meeting the needs of our partners in operating the ACF programs.

Respondents: State, Local, Tribal Govt. or Note-for-Profit.

Annual Burden Estimates

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Governments	51	10	1	510
Head Start grantees & Delegates	200	1	.5	100
Other Discretionary Grant Programs	200	10	.5	1,000
Indian Tribes & tribal organizations	25	10	.5	50

Estimated Total Annual Burden Hours: 1,660.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 11, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–6609 Filed 3–14–97; 8:45 am]

BILLING CODE 4184–01–M

Submission for OMB Review; Comment Request

Title: State and Tribal Plans for the Child Care and Development Fund (Child Care and Development Block Grant).

OMB No.: 0970–0114.

Description: These legislatively-mandated plans serve as the agreement between the grantee and the Federal Government as to how CCDF programs will be administered in conformance with legislative requirements, pertinent Federal regulations, and other applicable instructions and guidelines issued by ACF. This information will be used for Federal oversight of the Child Care and Development Fund.

Repondents: State governments and territories.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–118, State & Territory	56	.5	30	840
ACF–118A, Tribal	240	.5	30	3,600

Estimated Total Annual Burden Hours: 4,440.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management

Services, 370 L'Enfant Promenade SW., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: March 12, 1997.

Bob Sargis,

Acting Reports Clearnce Officer.

[FR Doc. 97–6610 Filed 3–14–97; 8:45 am]

BILLING CODE 4184–01–M

Office of Community Services

State Median Income Estimates for Four-Person Families (FY 1998); Notice of the Fiscal Year (FY) 1998 State Median Income Estimates for Use Under the Low Income Home Energy Assistance Program (LIHEAP) Administered by the Administration for Children and Families, Office of Community Services, Division of Energy Assistance

AGENCY: Administration for Children and Families (ACF), DHHS.

ACTION: Notice of estimated state median income for FY 1998.

SUMMARY: This notice announces the estimated median income for four-person families in each state and the District of Columbia for FY 1998 (October 1, 1997 to September 30, 1998). In the past, the date for adoption of the state median income estimates has been the first day of the fiscal year after their publication. Beginning with the state median income estimates for FY 1996, the adoption date for the estimates was changed to be consistent with the adoption date for the poverty income guidelines. Therefore, LIHEAP grantees may adopt the state median income estimates at any time between the date of this publication and the first day of FY 1998, at the LIHEAP grantee's option. This means that LIHEAP grantees could also choose to implement this notice during the period between the heating and cooling seasons. However, by October 1, 1997, or by the beginning of a grantee's fiscal year, whichever is later, LIHEAP grantees using state median income estimates must adjust their income eligibility criteria to be in accord with the FY 1998 state median income estimates.

This listing of estimated state median incomes concerns maximum income levels for households to which LIHEAP grantees may make payments under LIHEAP.

EFFECTIVE DATE: The estimates are effective at any time between the date of this publication and October 1, 1997, or by the beginning of a LIHEAP grantee's fiscal year, whichever is later.

FOR FURTHER INFORMATION CONTACT: Leon Litow, Administration for Children and Families, HHS, Office of Community Services, Division of Energy Assistance, 5th Floor West, 370 L'Enfant Promenade, SW., Washington, DC 20447; Telephone: (202) 401–5304; Internet E-Mail: llitow@acf.dhhs.gov

SUPPLEMENTARY INFORMATION: Under the provisions of section 2603(7) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, as amended), we are announcing the estimated median income of a four-person family for each state, the District of Columbia, and the United States for FY 1998 (the period of October 1, 1997, through September 30, 1998).

Section 2605(b)(2)(B)(ii) of the LIHEAP statute provides that 60 percent of the median income for each state, as annually established by the Secretary of Health and Human Services, is one of the income criteria that LIHEAP grantees may use in determining a household's eligibility for LIHEAP.

LIHEAP is currently authorized through the end of FY 1999 by the Human Services Amendments of 1994, Public Law 103–252, which was enacted on May 18, 1994.

Estimates of the median income of four-person families for each state and the District of Columbia for FY 1998 have been developed by the Bureau of the Census of the U.S. Department of Commerce, using the most recently available income data. In developing the median income estimates for FY 1998, the Bureau of the Census used the following three sources of data: (1) The March 1996 Current Population Survey; (2) the 1990 Decennial Census of Population; and (3) 1995 per capita personal income estimates, by state, from the Bureau of Economic Analysis of the U.S. Department of Commerce.

Like the estimates for FY 1997, the FY 1998 estimates include income estimates from the March Current Population Survey that are based on population controls from the 1990 Decennial Census of Population. Previous income estimates from the March Current Population Survey had been based on population controls from the 1980 Decennial Census of Population. Generally, the use of 1990 population controls results in somewhat lower estimates of income.

For further information on the estimating method and data sources, contact Edward Welniak, Chief of the Income Statistics Branch, Housing and Household Economic Statistics Division, at the Bureau of the Census (301–763–8576).

A state-by-state listing of median income, and 60 percent of median income, for a four-person family for FY 1998 follows. The listing describes the method for adjusting median income for families of different sizes as specified in regulations applicable to LIHEAP, at 45 CFR 96.85(b), which was published in the Federal Register on March 3, 1988 at 53 FR 6824.

Dated: March 11, 1997.

Donald Sykes,

Director, Office of Community Services.

ESTIMATED STATE MEDIAN INCOME FOR 4-PERSON FAMILIES, BY STATE, FISCAL YEAR 1998 [1]

States	Estimated state median income 4-person families [2]	60 percent of estimated state median income 4-person families
Alabama	$42,617	$25,570
Alaska	56,045	33,627
Arizona	44,526	26,716
Arkansas	38,520	23,112
California	51,519	30,911
Colorado	50,941	30,565
Connecticut	62,157	37,294
Delaware	54,519	32,711
District of Col	49,837	29,902
Florida	44,626	26,776
Georgia	48,850	29,310
Hawaii	54,749	32,849
Idaho	42,142	25,285
Illinois	53,807	32,284
Indiana	47,465	28,479
Iowa	47,314	28,388
Kansas	46,611	27,967
Kentucky	40,587	24,352
Louisiana	41,442	24,865
Maine	45,507	27,304
Maryland	60,239	36,143
Massachusetts	59,191	35,515
Michigan	52,955	31,773
Minnesota	54,396	32,638
Mississippi	37,328	22,397
Missouri	45,795	27,477
Montana	42,987	25,792
Nebraska	44,886	26,932
Nevada	50,064	30,038
New Hampshire	54,492	32,695
New Jersey	61,409	36,845
New Mexico	37,365	22,419
New York	50,672	30,403
North Carolina	47,367	28,420
North Dakota	43,483	26,090
Ohio	50,893	30,536

ESTIMATED STATE MEDIAN INCOME FOR 4-PERSON FAMILIES, BY STATE, FISCAL YEAR 1998 [1]—Continued

States	Estimated state median income 4-person families [2]	60 percent of estimated state median income 4-person families
Oklahoma	42,124	25,274
Oregon	46,229	27,737
Pennsylvania	50,884	30,530
Rhode Island	51,362	30,817
South Carolina	44,048	26,429
South Dakota	42,269	25,361
Tennessee	44,312	26,587
Texas	43,977	26,386
Utah	45,611	27,367
Vermont	47,376	28,426
Virginia	50,032	30,019
Washington	51,415	30,849
West Virginia	39,731	23,839
Wisconsin	50,628	30,377
Wyoming	45,925	27,555

Note—FY 1998 covers the period of October 1, 1997 through September 30, 1998. The estimated median income for 4-person families living in the United States is $49,687 for FY 1998. The estimates are effective for the Low Income Home Energy Assistance Program (LIHEAP) at any time between the date of this publication and October 1, 1997, or by the beginning of a LIHEAP grantee's fiscal year, whichever is later.

[1] In accordance with 45 CFR 96.85, each state's estimated median income for a 4-person family is multiplied by the following percentages to adjust for family size: 52% for one person, 68% for two persons, 84% for three persons, 100% for four persons, 116% for five persons, and 132% for six persons. For family sizes greater than six persons, add 3% to 132% for each additional family member and multiply the new percentage by the state's estimated median income for a 4-person family.

[2] Prepared by the Bureau of the Census from the March 1996 Current Population Survey, 1990 Decennial Census of Population and Housing, and 1995 per capita personal income estimates, by state, from the Bureau of Economic Analysis.

[FR Doc. 97–6606 Filed 3–14–97; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 96E–0465]

Determination of Regulatory Review Period for Purposes of Patent Extension; IVY BLOCK™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for IVY BLOCK™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product IVY BLOCK™ (bentoquatam). IVY BLOCK™ is indicated to help protect against poison ivy, poison oak, and poison sumac rash when applied before exposure. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for IVY BLOCK™ (U.S. Patent No. 4,861,584) from United Catalysts, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated January 13, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of IVY BLOCK™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for IVY BLOCK™ is 2,644 days. Of this time, 1,946 days occurred during the testing phase of the regulatory review period, while 698 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: June 2, 1989. The applicant claims May 27, 1989, as the date the investigational new drug application (IND) for IVY BLOCK™ (IND 33,133) became effective. However, FDA records indicate that the effective date for IND 33,133 was June 2, 1989, which was 30 days after FDA receipt of the IND on May 3, 1989.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: September 29, 1994. The applicant claims September 28, 1994, as the date the new drug application (NDA) for IVY BLOCK™ (NDA 20–532) was initially submitted. However, FDA records indicate that NDA 20–532 was submitted on September 29, 1994.

3. *The date the application was approved*: August 26, 1996. FDA has verified the applicant's claim that NDA 20–532 was approved on August 26, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,825 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before May 16, 1997, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before September 15, 1997, for a determination regarding whether the applicant for extension acted with due

diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 6, 1997.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 97–6590 Filed 3–14–97; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Privacy Act of 1974; Altered System of Records

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notification of an altered system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Health Resources and Services Administration (HRSA) is publishing notice of a proposal to add a new category of records to 09–15–0054, the National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, HHS/HRSA/BHPr. HRSA proposes to add specific information already available to the public from the Health Care Financing Administration (HCFA) on physicians, practitioners, providers, and other health care entities which the Office of Inspector General (OIG), HHS has excluded from participation in and from recovering payment from the Medicare and Medicaid programs.

DATES: HRSA invites interested parties to submit comments on the proposed internal and routine use of this information on or before April 28, 1997. HRSA has sent a Report of Altered System to the Congress and to the Office of Management and Budget (OMB) on March 3, 1997. The alteration to the system will be effective 40 days from the date submitted to OMB unless HRSA receives comments which would result in a contrary determination.

ADDRESSEES: Please address comments on the altered system of records to the Health Resources and Services Administration (HRSA) Privacy Act Officer, Department of Health and Human Services, 5600 Fishers Lane, Room 14A–20, Rockville, Maryland 20857, telephone (301) 443–3780. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: Director, Division of Quality Assurance, BHPr/HRSA. Room 8A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, telephone (301) 443–2300. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Office of the Inspector General, HHS, has the authority to exclude individuals/entities from participating in the Medicare and/or certain State health care plans under sections 1128(a), 1128(b), 1892, or 1156 of the Social Security Act. The exclusion also applies to all other Executive Branch procurement and non-procurement programs and activities. Disclosure of the OIG Exclusion List to HRSA is under authority of section 1106(a) of the Social Security Act, 42 CFR 401.105, and routine use exception of the Privacy Act (5 U.S.C. 522a(b)(3)). HCFA is authorized to provide certain specific information on physicians, practitioners, providers, and health care entities which OIG has excluded from participation in and from recovering payment from the Medicare and Medicaid programs. HCFA will retain full responsibility for the content and accuracy of HCFA Exclusion reports; the Data Bank will only act as a disclosure service. Notification of exclusion from HCFA programs is made by HCFA. Inquiries on the appropriateness or content of HCFA Exclusion Reports will be referred to HCFA for response. The National Practitioner Data Bank (Data Bank) will disclose such information to authorized health care industry queriers on request, using the Data Bank's fully automated and secure systems and procedures.

Editorial changes have been made throughout the system to enhance clarity and specificity and to accommodate normal updating changes.

The following notice is written in the present, rather than the future tense, to avoid the unnecessary expenditure of public funds to republish the notice after the routine use has become effective.

Dated: March 3, 1997.

Ciro V. Sumaya,

Administrator.

09–15–0054

SYSTEM NAME:

National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, HHS/HRSA/BHPr.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The SRA Corporation (the Contractor) operates the National Practitioner Data Bank (Data Bank) under contract with the Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA). Records are located at the following address: National Practitioner Data Bank, PO Box 10832, Chantilly, VA 20151. For security reasons, the street address cannot be disclosed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Health care practitioners including physicians, dentists, and all other health care practitioners (such as nurses, optometrists, pharmacists, and podiatrists), licensed or otherwise authorized by a State to provide health care services, on whose behalf a payment has been made as a result of a malpractice action or claim; physicians and dentists who are the subject of licensure disciplinary actions; and physicians, dentists and other health care practitioners who are on medical staffs or who hold clinical privileges, or who are members of professional societies, against whom certain adverse actions have been taken as a result of a professional review action.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *For malpractice payments.* Information on the physician, dentist or other licensed health care practitioner such as name; work address; home address, if known; Social Security number, if known, and obtained in accordance with section 7 of the Privacy Act of 1974; date of birth; name of each professional school attended and year of graduation; for each professional license: The license number, the field of licensure, and the name of the State or Territory in which the license is held; Drug Enforcement Administration registration number(s), if known; and name of each hospital with which the practitioner is affiliated, if known. Information on the person or entity making the payment, such as the name and address of the person or entity making the payment; and the name, title, and telephone number of the responsible official submitting the report on behalf of the entity.

Information on the payments, such as the date of the occurrence of the acts or omissions upon which the action or claim was based occurred; date and amount of payment; description of the

acts or omissions and injuries or illnesses upon which the action or claim was based; and classification of the acts or omission per reporting code.

2. *For State Medical or Dental Board actions.* Information such as: The physician's or dentist's name; work address; homes address, if known; Social Security number, if known, and if obtained in accordance with section 7 of the Privacy Act of 1974; date of birth; name of each professional school attended and year of graduation; for each professional license: The license number, the field of licensure, and the name of the State or Territory in which the license is held; Drug Enforcement Administration registration number, if known; description of the acts or omission or other reasons for the action taken; description of the Board action; the date the action was taken and its effective date; and classification of the action per reporting code.

3. *For certain professional review actions.* Information such as the physician's, dentist's or other health care practitioner's name; work address; home address, if known; date of birth; name of each professional school attended and year of graduation; for each professional license: The license number, the field of licensure, and the names of the State or Territory in which the license is held; Drug Enforcement Administration registration number, if known; Social Security number, if known, and if obtained in accordance with section 7 of the Privacy Act of 1974; description of the acts or omissions or other reasons for clinical privilege or professional society membership loss or, if known, for surrender; and action taken, date the action was taken, and effective date the action was taken, and effective date of the action.

4. *Inquiry file.* Copies of all inquiries received by the Data Bank.

5. *For OIG Medicare/Medicaid Exclusions.* Under authority of section 1106(a) of the Social Security Act, 42 CFR 401.105, and routine use exception of the Privacy Act (5 U.S.C. 522a(b)(3)), HCFA will provide certain specific information on physicians, practitioners, providers, and other health care entities which the OIG has excluded from participation in and from recovering payment from the Medicare and Medicaid programs. HCFA will provide information such as the physician's, dentist's or other health care practitioner's name; Social Security number (used for Data Bank matching purposes only; not disclosed to authorized queriers); HCFA's unique practitioner identifier number; date of birth; basis for exclusion; facts about the exclusion; status of exclusion; and other information as necessary to ensure proper identification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Under the Health Care Quality Improvement Act of 1986 (the Act), as amended, section 424(b), 42 U.S.C. 11134(b), authorizes the maintenance of records of medical malpractice payments, disciplinary actions taken by Boards of Medical Examiners, and professional review actions taken by health care entities.

PURPOSE(S):

The purposes of the system are to (1) Receive from insurance companies and others making payments as a result of malpractice actions or claims, State Medical and Dental Boards, and health care entities, information pertaining to the professional performance or conduct of physicians, dentists and other licensed health care practitioners; and (2) disseminate such data to health care entities, to State professional licensing boards, and to others as authorized by the Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be disclosed to:

1. A hospital requesting data concerning a physician, dentist or other health care practitioner who is on its medical staff (courtesy or otherwise) or who has clinical privileges at the hospital, for the purpose of: (a) Screening the professional qualifications of individuals who apply for staff positions or clinical privileges at the hospital; and (b) meeting the requirements of the Health Care Quality Improvement Act of 1986, which also prescribes that a hospital must query the Bank once every 2 years regarding all individuals on its medical staff or who hold clinical privileges.

2. Other health care entities, as defined in 45 CFR 60.3, to which a physician, dentist or other health care practitioner has applied for clinical privileges or appointment to the medical staff or who has entered or may be entering an employment or affiliation relationship. The purpose of these disclosures is to identify individuals whose professional conduct may be unsatisfactory.

3. A health care entity with respect to professional review activity. The purpose of these disclosures is to aid health care entities in the conduct of professional review activities, such as those involving determinations of whether a physician, dentist, or other health care practitioner may be granted membership in a professional society; the conditions of such membership, or of changes to such membership; and ongoing professional review activities conducted by a health care entity which provides health care services, of the professional performance or professional conduct of a physician, dentist, or other health care practitioner.

4. A State professional licensing board conducting a review of an individual. The purpose of these disclosures is to aid the board in meeting its responsibility to protect the health of the population in its jurisdiction, by identifying individuals whose professional performance or professional conduct may be unsatisfactory.

5. An attorney, or individual representing himself or herself, who has filed a medical malpractice action or claim in a State or Federal court or other adjudicative body against a hospital, and who requests information regarding a specific physician, dentist, or other health care practitioner who is also named in the action or claim provided that (a) This information will be disclosed only upon the submission of evidence that the hospital failed to request information from the Bank as required by law, and (b) the information will be used solely with respect to litigation resulting from the action or claim against the hospital. The purpose of these disclosures is to permit an attorney (or a person representing himself or herself in a medical malpractice action) to have information from the Bank on a health care practitioner, under the conditions set out in this routine use.

6. Any Federal entity, employing or otherwise engaging under arrangement (e.g., such as a contract) the services of a physician, dentist, or other health care practitioner, or having the authority to sanction such practitioners covered by a Federal program, which (a) Enters into a memorandum of understanding with HHS regarding its participation in the Bank; (b) engages in a professional review activity in determining an adverse action against a practitioner; and (c) maintains a Privacy Act system of records regarding the health care practitioners it employs, or whose services it engages under arrangement. The purpose of such disclosures is to enable hospitals and other facilities and health care providers under the jurisdiction of Federal agencies such as the Public Health Service, HHS; the Department of Defense; the Department of Veterans' Affairs; the U.S. Coast Guard; and the Bureau of Prisons, Department of Justice, to participate in the Bank. The Health Care Quality

Improvement Act of 1986 includes provisions regarding the participation of such agencies, and of the Federal Drug Enforcement Administration, in the Bank.

7. In the event of litigation where the defendant is (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to affect directly the operation of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Department of Justice has agreed to represent such employee, for example in defending a claim against the Public Health Service based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, disclosures may be made to the Department of Justice to enable the Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic folders, on magnetic tape, and/or disks.

RETRIEVABILITY:

Retrieval will be by use of personal identifiers, including a unique identifier assigned by the Data Bank.

SAFEGUARDS:

1. *Authorized Users:* Access to records is limited to designated employees of the Contractor and to designated HRSA staff. The Data Bank Project Director and Manager of Operations are among the Contractor's employees who are authorized users. The Contracting Officer's Technical Representative (COTR) and AIS Security Officer are among the HRSA staff who are authorized users. Both HRSA and the contractor maintain lists of authorized users.

2. *Physical Safeguards:* Magnetic tapes, disks, computer equipment, and hard copy files are stored in areas where fire and environmental safety codes are strictly enforced. All automated and nonautomated documents are protected on a 24-hour basis. Perimeter security includes intrusion alarms, random guard patrols, monitors, key/passcard/combination controls, receptionist controlled area, and reception alarm button.

3. *Procedural and Technical Safeguards:* A password is required to access the system, and additional identification numbers and passwords, to limit access to data to only authorized users. All users of personal information, in connection with the performance of their jobs, protect information from public view and from unauthorized personnel entering an unsupervised area. All authorized users will sign a nondisclosure statement. To protect the confidentiality of information contained in the system, when a person leaves or no longer has authorized duties, the Security Officer deletes his or her identification number and password, retrieves all-electronic access cards, and changes all combinations to which the departing employee had access. The system automatically logs all access to data resources.

Access to records is limited to those authorized personnel trained in accordance with the Privacy Act and ADP security procedures. The Contractor is required to assure the confidentiality safeguards of these records and to comply with all provisions of the Privacy Act. All individuals who have access to these records must have the appropriate ADP security clearances. Privacy Act and ADP system security requirements are included in the contract with the SRA Corporation. In addition, the Data Bank Project Officer and the System Manager oversee compliance with these requirements. HRSA staff who are authorized users will make site visits to the Contractor's facilities to assure compliance with security and Privacy Act requirements.

The safeguards described above were established in accordance with DHHS Chapter 45–13 and supplementary Chapter PHS hf: 45–13 of the General Administration Manual, and the DHHS Information Resources Management Manual, Part 6. ''ADP Systems Security.''

RETENTION AND DISPOSAL:

1. Project Director's Subject File—significant documents associated with the creation and maintenance of the Data Bank, such as essential policy documents, regulations, and handbooks.

Authorized disposition is permanent. Cut off superseded materials annually. Transfer to the WNRC in 5-year blocks when 5 years old. Transfer to the National Archives 5 years thereafter. Annual accumulation is less than one cubic foot. Amount on hand is less than one cubic foot.

2. Source Documents—reporting and query forms.

Authorized disposition is temporary. Destroy hardcopy forms after conversion to microfilm when no longer needed for administrative purposes. Dispose of microfilm and diskettes in contractor office space when no longer needed to support the reconstruction of, or serve as a backup to, the Master File, whichever is later.

3. Master file and associated documentation.

Authorized disposition is not authorized. Maintain until NARA and HRSA agree on a disposition. Data may be cut off annually. As the data and documentation remain unscheduled, maintenance and storage procedures shall conform with the provisions laid out in 36 CFR 1234.28.

4. General administrative records associated with the establishment and maintenance of the Data Bank, both at the contractor and at HRSA.

Authorized disposition is temporary. Destroy when no longer needed for administrative purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Quality Assurance, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURES:

An individual is informed when a record concerning himself or herself is entered into the Data Bank, with the exception of HCFA exclusion reports.

Requests by mail: Practitioners may submit a ''Request for Information Disclosure'' to the address under system location for any report on themselves. The request must contain the following: Name, address, date of birth, gender, Social Security Number (optional), professional schools and years of graduation, and the professional license(s). For license, include: The license number, the field of licensure, the name of the State or Territory in which the license is held, and Drug Enforcement Administration registration number(s). Practitioners must sign and have notarized their requests. Submitting a request under false pretenses is a criminal offense subject to, at a minimum, a $5,000 fine under provisions of the Privacy Act, and to a $10,000 fine under provisions of the Health Care Quality Improvement Act of 1986.

Requests in person: Due to security considerations, the Data Bank cannot accept requests in person.

Request by telephone: Practitioners may provide all of the identifying information stated above to the Data

Bank Helpline operator. Before the data request is fulfilled, the operator will return a paper copy of this information for verification, signature and notarization.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters will receive an accounting of disclosure that has been made of their records, if any.

PROCEDURES FOR CONTESTING RECORDS:

The Data Bank routinely mails a copy of any report filed (other than those filed by HCFA) in it to the subject individual. Any record subject may contest the accuracy of information in the Data Bank (except information filed by HCFA) concerning himself or herself and file a dispute. To dispute the accuracy of the information, the individual must notify the Data Bank by: (1) Identifying the record involved; (2) specifying the information being contested; (3) stating the corrective action sought and reason for requesting the correcting; and (4) submitting supporting justification and/or documentation to show how the record is inaccurate. At the same time, the individual must notify the reporting entity, in writing.

Additional detail on the process of dispute resolution can be found at 45 CFR part 60 under § 60.14 of the Data Bank regulations.

RECORD SOURCE CATEGORIES:

Entities that have submitted records on individuals contained in the system; insurance companies and others who have made payment as a result of a malpractice action or claim; State Medical Boards; State Boards of Dentistry; State Licensing Boards; hospitals and other health care entities as defined in the Act; the Drug Enforcement Administration; and Federal entities which employ health practitioners or which have authority to sanction such practitioners covered by a Federal program.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 97–6591 Filed 3–14–97; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Heart, Lung and Blood Institute, Submission of OMB Review; Comment Request, Evaluation of the NHLBI Short-Term Training for Minority Students Program

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Heart, Lung, and Blood Institute (NHLBI), 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, Vol. 61, No. 207, p. 55159, on Thursday, October 24, 1996, and allowed 60 days for public comment. 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: Evaluation of the NHLBI Short-Term Training for Minority Students Program. Type of Information Collection Request: New. Need and use of Information Collection: When the short-term training program was implemented, applicants were provided broad guidance that enabled them to structure their program in the manner they deemed most likely to accomplish the program objectives. The proposed evaluation will assess the effectiveness of the short-term training program in meeting its objectives. The results of the evaluation will be used to modify the program and the program announcement to ensure that all elements identified as contributing to the success of a program are part of all future short-term training programs supported by the Institute. Frequency of Response: One-time only. Affected Public: Individuals or households; not for profit institutions; business or other for profit. Type of Respondents: Undergraduate and graduate students, research faculty, and mentors. The annual reporting burden is as follows: Estimated Number of Respondents: 2,725; Estimated Number of Responses Per Respondent: 1; Average Burden Hours Per Response: Training grant director—1.00 hour, research faculty—0.334 hours, accepted students—0.5 hours, nonaccepted students—0.334 hours; and applicant and trainee data collection form—1.50; and Estimated Total Annual Burden House Requested: 1,210. The annualized cost to respondents is estimated at: $18,248. 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 estimated 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.

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, DC 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: Ms. Suzanne Anthony, Project Clearance Liaison, Management Policy and Administrative Service Branch, NHLBI, NIH, 31 Center Drive, Room 5A10, MSC 2490, Bethesda, Maryland 20892, or call non-toll-free number (301) 496–9737 or E-mail your request, including your address to:<Anthonys@nih.gov>.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before April 16, 1997.

Dated: March 7, 1997.

Sheila Merritt,

Executive Officer, NHLBI.

[FR Doc. 97–6635 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

Submission for OMB Review; Comment Request; ''Alcoholism Prevalence and Gene/Environment Interactions in Native American Tribes (a 10 Tribe Study)'' and ''A Native American Tribe With Low Alcoholism Prevalence: Transmission Analysis, Linkage Analysis and Gene/Environment Interactions (a) 1 Tribe Study)''

SUMMARY: Under the provisions of Section 3506(C)(2)(a) of the Paperwork Reduction Act of 1995, the National Institute on Alcohol Abuse and Alcoholism (NIAAA), 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 in the Federal Register on July 1, 1996, and allowed 60 days for public comment. There were no requests for additional information about this data collection activity, no public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The NIH 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 June 30, 1999, unless it displays a currently valid OMB control number.

Proposed Collection

Title: ''Alcoholism Prevalence and Gene/Environment Interactions in Native American Tribes (a 10 tribe study)'' and ''A Native American Tribe with Low Alcoholism Prevalence: Transmission Analysis, Linkage Analysis and Gene/Environment Interactions (a 1 tribe study)''. Type of Information Collection request: NEW. Need and Use of Information Collection: The information proposed for collection in both studies will be used by the NIAAA to define the prevalence in alcoholism and associated problems in tribes in which the rates of alcoholism have been reported to be widely divergent. Additional information will be collected on severe trauma and stress, alcohol availability and socioeconomic factors to identify how these variables interact with hereditary factors in the development of alcoholism and related problems.

Frequency of Response: On Occasion. Affected Public: Individuals. Type of Respondents: Native American adults. Estimated Number of Respondents: 1100. Estimated Number of Responses per Respondent: 1. Average Burden Hours per Response: 6. And Estimated Total Annual Burden Hours Requested: 6600. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

The annual burden estimates are as follows:

Type and number of respondents	Responses per respondent	Total responses	Hours	Total hours
Clients: 1,100	1	1,100	6.0	6,600

Total Number of Respondents: 3,300 (1,100 per year).

Total Number of Responses: 3,300 (1,100 per year).

Total Hours: 19,800 (6,600 per year).

Request for Comments

Comments are invited on: (a) Whether the proposed collection is necessary, including whether the information has practical use; (b) ways to enhance the clarity, quality, and use of the information to be collected; (c) the accuracy of the agency estimate of burden of the proposed collection; and (d) ways to minimize the collection burden of the respondents. Send written comments to Ms. Ronni Nelson, Laboratory of Neurogenetics, Division of Intramural Clinical and Biological Research, NIAAA, NIH, DANAC4 (Flow Labs), 12501 Washington Ave., Rockville, Maryland 20852.

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, DC 20503, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans, contact Ms. Ronni Nelson, Laboratory of Neurogenetics, Division of Intramural Clinical and Biological Research (DICBR), NIAAA, DANAC4 (Flow Labs), 12501 Washington Ave., Rockville, Maryland 20852, or call non-toll-free number (301) 443–5781.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before April 16, 1997.

Dated: March 10, 1997.

Martin K. Trusty,

Executive Officer, NIAAA.

[FR Doc. 97–6637 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute

SUMMARY: The National Institutes of Health is seeking Cooperative Research and Development Agreement (CRADA) partners for the future development and commercialization of Active Transglutaminase I.

To speed the research and development of this compound, the National Institutes of Health is seeking a CRADA partner, in accordance with the Federal Technology Transfer Act of 1986, 15 U.S.C. 3710(a)(b), with capabilities to produce high grade quantities of the enzyme for further characterization and research in accordance with the regulations governing the transfer of Government-developed agents. Any proposals to produce and develop active Transglutaminase I will be considered.

ADDRESSES: CRADA proposals and questions about this opportunity should be addressed to: Ms. Sue Patow, Technology Transfer, NHLBI, Building 31, Room 1B30, Bethesda, MD 20892 (301–402–5579) or E-mail proposals and questions to: <PatowS@nih. gov>.

SUPPLEMENTARY INFORMATION: A supply of active human transflutaminase I enzyme (TG1) for therapeutic research is required. For this purpose a suitable protein expression system should be available (mammalian, insect or microorganism) which will utilize DNA we provide that codes for TG1. production of 5 mg or more TG1 protein may be required for sufficient enzyme activity, but the exact quantity and frequency of supply will depend on the stability and activity of the product. Minimally purified TG1 enzyme will be accepted for initial tests, but more purified enzyme may subsequently be required. The exact form of the TG1 enzyme to be supplied will depend on

the capabilities of the expression system. Synthesis of 'native' full-size enzyme (92 kDa) will have highest priority. Alternatively, a truncated TG1 with high activity and stability may be tested (65 kDa). A standard transglutaminase activity assay will be used by the contractor to determine TG1 activity, and assess stability and optimal storage conditions.

This CRADA aims include the rapid development of a supply of active human Transglutaminase I enzyme for further characterization and research, publication of research results and possible exploitation of commercial opportunities. The CRADA partner(s) will enjoy rights of first negotiation for licensing Government rights to any inventions arising under the agreement.

The role of the NIAMS in this CRADA will be as follows:

(1) Provide the Collaborator(s) with samples of the clone gene DNA;

(2) Perform initial tests on Collaborator produced test enzyme for activity and function; and

(3) Provide expertise in optimizing commercial development of this compound to produce the most useful product.

The role of the Collaborator will be as follows:

(1) Produce high quality Transglutaminase I in sufficient quantities for research studies;

(2) Perform initial testing of Transglutaminase I for purity; and

(3) Develop method(s) to produce large quantities of Transglutaminase I for commercial distribution.

Selection criteria for choosing the CRADA partner(s) will include but not be limited to:

(1) Ability to produce high quality Transglutaminase I in large quantities for research and evaluation;

(2) The level of financial support the Collaborator will supply for the CRADA related Government activities;

(3) A willingness to cooperate with the NIAMS in the publication of research results;

(4) An agreement to be bound by DHHS rules involving human subjects, patent rights, and ethical treatment of animals; and

(5) Agreement with provisions for equitable distribution of patent rights to any inventions developed under the CRADA(s).

Generally, the rights of ownership are retained by the organization which is the employer of the inventor with, (1) an irrevocable, non-exclusive, royalty-free license to the Government (when a company employee is sole inventor) or (2) an option to negotiate an exclusive or non-exclusive license to the company on terms that are appropriate (when the Government employee is the sole inventor).

Dated: March 4, 1997.

Sheila E. Merritt,

Executive Officer, NHLBI.

[FR Doc. 97–6634 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings.

Name of SEP: Modeling DNA Diversity in Cardiovascular Health/Disease.

Date: March 26–27, 1997.

Time: 7:30 p.m.

Place: Holiday Inn, Gaithersburg, #2 Montgomery Village Avenue, Gaithersburg, Maryland 20879.

Contact Person: Anthony M. Coelho, Jr., Ph.D., Two Rockledge Center, Room 7194, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0299.

Purpose/Agenda: To review and evaluate grant applications.

This notice is being published less than fifteen days prior to this meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Homocyst(E)inemia and Atherosclerosis.

Date: April 10–11, 1997.

Time: 8:00 p.m.

Place: Ramada, 1775 Rockville Pike, Rockville, Maryland 20852.

Contact Person: Eric H. Brown, Ph.D., Two Rockledge Center, Room 7204, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0299.

Purpose/Agenda: To review and evaluate grant applications.

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 Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: March 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–6630 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following advisory committee meeting of the National Institute of General Medical Sciences:

Committee Name: Biomedical Research & Research Training Subcommittee-A.

Date: March 12, 1997.

Time: 8:00 a.m. until 6:00 p.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Pennsylvania Room, Bethesda, Maryland 20814.

Contact Person: Carole H. Latker, Ph.D., Office of Scientific Review, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–19G, Bethesda, MD 20892–6200, 301–594–2848.

Purpose: To review institutional research training grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and the discussions of these 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.

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 review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.821, Biophysics and Physiological Sciences: 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS])

Dated: March 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–6626 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Arthritis and Musculoskeletal and Skin Diseases; 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 Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Gene Therapy for Epidermolysis Bullosa.

Date: April 4, 1997.

Time: 8:30 a.m.–adjournment.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Contact Person: Tommy L. Broadwater, Ph.D., Chief, Grants Review Branch, Natcher Building, 45 Center Drive, Rm 5AS–25U, Bethesda, Maryland 20892–6500, Telephone: 301–594–4952.

Purpose/Agenda: To evaluate and review a research grant application.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of this application could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.846, Project Grants in Arthritis, Musculoskeletal and Skin Diseases Research], National Institutes of Health, HHS)

Dated: March 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–6627 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of General Medical Sciences meeting:

Committee Name: Minority Program Review Committee, MARC, Minority Access to Research, Careers Sub-Committee.

Date: April 4, 1997.

Time: 8:30 a.m.—adjournment.

Place: Natcher Conference Center, 45 Center Drive—Conference Room A, Bethesda, MD 20892–6200.

Contact Person: Richard I. Martinez, Ph.D., Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–19G, Bethesda, MD 20892–6200, 301–594–2849.

Purpose: To review institutional research training grant applications.

This meeting will closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions of these could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS])

Dated: March 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–6628 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; 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 Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meetings:

Name of SEP: Chronic Intestinal Inflammation—Mechanisms and Effects.

Date: April 8, 1997.

Time: 1:00 p.m.

Place: Room 6as–37B, Natcher Building, NIH (Telephone Conference Call).

Contact Person: Dan E. Matsumoto, Ph.D., Scientific Review Administrator, Natcher Building, Room 6as–37B, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8894.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Organ Transplantation in Animals and Man.

Date: April 9–11, 1997.

Time: 7:30 p.m.

Place: Radisson Hotel Metrodome, Minneapolis, Minnesota.

Contact Person: Francisco O. Calvo, Ph.D., Chief, Special Emphasis Panel Section, Review Branch, DEA, NIDDK, Natcher Building, Room 6as–37E, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8897.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Pathology of Urolithiasis.

Date: April 9–11, 1997.

Time: 7:30 p.m.

Place: University of Florida, Gainesville, Florida 32610.

Contact Person: Lakshmanan Sankaran, Ph.D., Scientific Review Administrator, Natcher Building, Room 6as–25F, National Institutes of Health, Bethesda, Maryland 20892–6600, (301) 594–7799.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health.)

Dated: March 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–6629 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: March 17, 1997.

Time: 2:30 p.m.

Place: Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Gloria B. Levin, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6) Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93,282)

Dated: March 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–6631 Filed 3–14–97; 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 Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 1, 1997.

Time: 10 a.m.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Michael D. Hirsch, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Special Emphasis Panel.
Date: April 2, 1997.
Time: 1 p.m.
Place: Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857.
Contact Person: Shirley H. Maltz, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: March 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–6632 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; 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 Institute on Drug Abuse (NIDA) Special Emphasis Panel meeting:

Purpose of Agenda: To evaluate and review contract proposals.
Name of Committee: NIDA Special Emphasis Panel.
Date: March 19, 1997.
Time: 9:00 a.m.
Place: Hyatt Arlington, 1325 Wilson Boulevard, Arlington, VA.
Contact Person: Mr. Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42. Telephone (301) 443–1644.

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.

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. The 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: 93.277, Drug Abuse Scientist Development, Research Scientist Development, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health)

Dated: March 12, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–6633 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute on Aging Special Emphasis Panel meetings:

Name of SEP: Discovery of Novel Drugs to Alzheimer's Disease (Teleconference).
Date of Meeting: March 25, 1997.
Time of Meeting: 2:00 p.m. to adjournment.
Place of Meeting: Gateway Building, 5th Floor Conference Room, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.
Purpose/Agenda: Review of program project grant application.
Contact Person: Dr. Maria Mannarino, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: Minority Dissertation Ad Hoc Review Group B—Biology & Geriatrics (Teleconference).
Date of Meeting: March 27, 1997.
Time of Meeting: 1:00 p.m. to adjournment.
Place of Meeting: Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, Maryland 20892.
Purpose/Agenda: To review minority dissertation applications.
Contact Person: Dr. Paul Lenz, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: QTL Analysis of Age-Related Phenotypes.
Date of Meeting: April 3, 1997.
Time of Meeting: 1:00 p.m. to adjournment.
Place of Meeting: Autoport Motel, 1405 Atherton Street, State College, Pennsylvania.
Purpose/Agenda: To review a program project application.
Contact Person: Dr. James Harwood, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: Minority Dissertation Ad Hoc Review Group A—Sociology & Behavior (Teleconference).
Date of Meeting: April 9, 1997.
Time of Meeting: 1:30 p.m. to adjournment.
Place of Meeting: Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.
Purpose/Agenda: To review a variety of minority dissertation applications.
Contact Person: Dr. Paul Lenz, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: March 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–6639 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Biological and Physiological Sciences.
Date: March 20, 1997.
Time: 10:00 a.m.
Place: NIH, Rockledge 2 Room 6166, Telephone Conference.
Contact Person: Dr. Abubakar Shaikh, Scientific Review Administrator, 6701 Rockledge Drive, Room 6166, Bethesda, Maryland 20892. (301) 435–1042.

Name of SEP: Biological and Physiological Sciences.
Date: March 24, 1997.
Time: 11:00 a.m.
Place: NIH, Rockledge 2, Room 5122, Telephone Conference.
Contact Person: Dr. Michael Lang, Scientific Review Administrator, 6701 Rockledge Drive, Room 5122, Bethesda, Maryland 20892, (301) 435–1265.

Name of SEP: Biological and Physiological Sciences.
Date: March 26, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 5122, Telephone Conference.
Contact Person: Dr. Michael Lang, Scientific Review Administrator, 6701 Rockledge Drive, Room 5122, Bethesda, Maryland 20892, (301) 435–1265.

Name of SEP: Chemistry and Related Sciences.

Date: March 27, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4168, Telephone Conference.
Contact Person: Dr. John Bowers, Scientific Review Administrator, 6701 Rockledge Drive, Room 4168, Bethesda, Maryland 20892, (301) 435–1725.

Name of SEP: Clinical Sciences.
Date: April 2, 1997.
Time: 10:00 a.m.
Place: NIH, Rockledge 2, Room 4136, Telephone Conference.
Contact Person: Dr. Gordon Johnson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4136, Bethesda, Maryland 20892, (301) 435–1212.

Name of SEP: Clinical Sciences.
Date: April 3, 1997.
Time: 9:30 a.m.
Place: NIH, Rockledge 2, Room 5216, Telephone Conference.
Contact Person: Dr. Nancy Shinowara, Scientific Review Administrator, 6701 Rockledge Drive, Room 5216, Bethesda, Maryland 20892, (301) 435–1173.

Name of SEP: Clinical Sciences.
Date: April 11, 1997.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4100, Telephone Conference.
Contact Person: Dr. Jeanne N. Ketley, Scientific Review Administrator, 6701 Rockledge Drive, Room 4100, Bethesda, Maryland 20892, (301) 435–1789.

Propose/Agenda: To Review Small Business Innovation Research.
Name of SEP: Microbiological and Immunological Sciences.
Date: March 14, 1997.
Time: 2:30 p.m.
Place: Holiday Inn, Chevy Chase, Maryland.
Contact Person: Dr. Gilbert Meier, Scientific Review Administrator, 6701 Rockledge Drive, Room 4200, Bethesda, Maryland 20892, (301) 435–1219.

Name of SEP: Chemistry and Related Sciences.
Date: March 26, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4168, Telephone Conference.
Contact Person: Dr. John Bowers, Scientific Review Administrator, 6701 Rockledge Drive, Room 4168, Bethesda, Maryland 20892, (301) 435–1725.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

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 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: March 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–6638 Filed 3–14–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–41]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: The due date for comments is: March 24, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Officer of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for emergency processing, an information collection package to the Community Renaissance Fellows Program (CRFP).

The CRFP, in concert with foundations, will promote graduate programs or fellowships for comprehensive community building approaches. To meet this pressing need and to shape a new generation of visionary, highly competent community building urban professionals, HUD will provide approximately $3.45 million for this program—$3.0 millions for the Fellows' stipends and $450,000 for their education.

HUD has committed to funding approximately 20 CRF to work with selected public housing developments and their residents to turn these developments into communities of opportunity. HUD is now looking for potential partners with a stake in urban neighborhoods to join in this innovative program and provide funding for an additional 20 Fellows to work with community-based organizations on comprehensive neighborhood revitalization projects.

The Department has submitted the proposal for the collection of information to OMB for emergency review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), with approval being sought by March 17, 1997.

A description of the respondents, and the proposed frequency of the response to the collection of information are listed below:

(1) For CRFP, respondents will be individuals.

(2) For CRFP the estimated number of respondents is 20.

(3) The estimate of the total reporting burden that will result from the collection of information is as follows:

Number of Respondents: 20
Total Burden Hours: 66 (@ 3 hrs. per response)

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 10, 1997.

David S. Cristy,

Director, IRM Policy and Management Division.

[FR Doc. 97–6660 Filed 3–14–97; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for an amendment to her permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–801463, Amendment #2

Applicant: Tamara Ross, Ames, Iowa.

The applicant requests an amended permit to take (collect) Iowa Pleistocene snails (*Discus macclintockii*) in Jo

Davies County, Illinois. Expansion of the scope of Ms. Ross's permit is proposed for genetic research for the purpose of survival and enhancement of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x250); FAX: (612/725–3526).

Dated: March 11, 1997.

Matthias A. Kerschbaum,

Acting Assistant Regional Director, IL, IN, MO (Ecological Services), Region 3, Fort Snelling, Minnesota.

[FR Doc. 97–6657 Filed 3–14–97; 8:45 am]

BILLING CODE 4310–55–P

Atlantic Coastal Fisheries Cooperative Management Act; Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The U.S. Fish and Wildlife Service and the National Marine Fisheries Service will hold a joint meeting to discuss coordination of activities that support Atlantic States Marine Fisheries Commission coastal fisheries management plans under the Atlantic Coastal Fisheries Cooperative Management Act and the Atlantic Striped Bass Conservation Act.

DATES: The meeting will be held on April 9, 1997, 10:00 a.m. to 3:00 p.m. and is open to the public.

ADDRESSES: The meeting will be held at the U.S. Fish and Wildlife Service, Room 200AB, 4401 N. Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Paul Perra, National Marine Fisheries Service, at (301) 427–2014.

SUPPLEMENTARY INFORMATION: This meeting is being held pursuant to Public Law 103–206, as amended, and Public Law 89–304, as amended. Minutes of the meetings will be maintained by the U.S. Fish and Wildlife Service, Room 840, 4401 North Fairfax Drive, Arlington, Virginia 22203 and the National Marine Fisheries Service, FX2, 8484 Georgia Ave., Suite 425, Silver Spring, MD 20910, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: March 10, 1997.

Gary Edwards,

Co-Chair, Atlantic Coastal Fisheries Cooperative Management Act Coordination Committee, Assistant Director—Fisheries.

[FR Doc. 97–6608 Filed 3–14–97; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[NM–910–07–1020–00]

New Mexico Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of council meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix 1, The Department of the Interior, Bureau of Land Management (BLM), announces a meeting of the New Mexico Resource Advisory Council (RAC). The meeting will be held on April 24 and 25, 1997 at the New Mexico Activities Association building, 6600 Palomas Av NE, Albuquerque, NM. This location is near the Amberley Suites Hotel in Albuquerque, NM.

The agenda for the RAC meeting will include agreement on the meeting agenda, any RAC comments on the draft summary minutes of the last RAC meeting of January 9 and 10, 1997 in Albuquerque, NM., an update and discussion on the status of the Resource Management Plan Amendment/Environmental Impact Statement for the RAC Standards for Rangeland Health and Guidelines for Livestock Grazing, and discussions by the RAC on off road vehicle use and access to BLM lands and other items appropriate for RAC discussion. The meeting will begin on April 24, 1997 at 8:00 a.m. The meeting is open to the public. The time for the public to address the RAC is on Thursday, April 24, 1997, from 3:00 p.m. to 5:00 p.m. The RAC may reduce or extend the end time of 5:00 p.m. depending on the number of people wishing to address the RAC. The length of time available for each person to address the RAC will be established at the start of the public comment period and will depend on how many people there are that wish to address the RAC. At the completion of the public comments the RAC may continue discussion on its Agenda items. The meeting on April 25, 1997, will be from 8:00 a.m. to 4:00 p.m. The end time of 4:00 p.m. for the meeting may be changed depending on the work remaining for the RAC.

FOR FURTHER INFORMATION CONTACT: Bob Armstrong, New Mexico State Office, Planning and Policy Team, Bureau of Land Management, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, telephone (505) 438–7436.

SUPPLEMENTARY INFORMATION: The purpose of the Resource Advisory Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long-range planning, establishing resource management priorities and assisting the BLM to identify State and regional standards for rangeland health and guidelines for grazing management.

Dated: March 10, 1997.

William C. Calkins,

State Director.

[FR Doc. 97–6538 Filed 3–14–97; 8:45 am]

BILLING CODE 4310–FB–M

[MT–921–07–1320–01]

Qualification for Category 5 Royalty Rate Reduction in Designated Areas of Fort Union Federal Coal Production Region

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Qualification for Category 5 Royalty Rate Reduction Region; Establishment of Competitive Royalty Rate; and Acceptance of Applications for Consideration for Royalty Relief: McLean, Mercer, and Oliver Counties, North Dakota, and Richland County, Montana.

SUMMARY: This notice is issued for the purpose of announcing: (1) The determination that the Counties of McLean, Mercer, and Oliver, North Dakota, and Richland County, Montana, within the Fort Union Federal Coal Production Region, continue to meet the criteria to qualify for royalty rate differentials under Category 5 of the Royalty Rate Reduction guidelines published February 27, 1990 (55 FR 6841), and clarified May 2, 1990 (55 FR 18401); (2) Establishment of the Category 5 royalty rate at 2.6 percent for the Counties of McLean, Mercer, and Oliver, North Dakota, and Richland

County, Montana; and (3) That applications will be accepted by the Bureau of Land Management, Montana State Office, for consideration for royalty relief for these areas effective upon publication of this Notice.

FOR FURTHER INFORMATION CONTACT: Randy D. Heuscher, Chief, Branch of Solid Minerals, telephone 406–255–2816, Montana State Office, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107–6800.

SUPPLEMENTARY INFORMATION: The ''Fort Union Region Category 5 Royalty Reduction Study'' requested by the State Director, Montana State Office, Bureau of Land Management, was completed by the Northwest Regional Evaluation Team of the Bureau of Land Management of the Department of the Interior in 1991. The geographic area qualification and the establishment of the competitive royalty rate under Category 5 of the ''Royalty Rate Reduction Guidelines for the Solid Leasable Minerals'' have been reviewed, and are the basis for the following determinations:

A. Geographic Area Qualification

The Counties of McLean, Mercer, and Oliver, North Dakota, and Richland County, Montana, continue to meet the established five criteria to qualify under Category 5 for royalty rate differentials as follows: (1) The Federal Government is not market dominant in this area; (2) Federal royalty rates are above the current market royalty rate for non-Federal rates in the area; (3) Based on a mine-by-mine examination, it is apparent that there are instances where Federal coal can be expected to be bypassed in the near future due to the royalty rate differential between Federal and non-Federal coal; (4) All three previous criteria considerations have been found to exist throughout the region; and (5) A plant-by-plant analysis, based on actual shipments, indicates that Powder River Basin coal is competitive in the area. However, it has also been shown that a reduction in the Federal royalty rate would not have a significant impact on this competitiveness.

B. Establishment of Competitive Royalty Rates

The competitive royalty rate of 2.6 percent is established to promote development of Federal coal reserves situated in the Counties of McLean, Mercer, and Oliver, North Dakota, and Richland County, Montana, that may otherwise be bypassed in favor of non-Federal coal having a lower royalty rate.

C. Category 5 Reduction in Royalty Applications

Federal lease-specific applications for Category 5 Reduction in Royalty for coal deposits within the Counties in North Dakota and Montana named above will be accepted by the Montana State Office, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107–6800 effective upon publication of this Notice. Applications will be processed pursuant to the regulations at 43 CFR part 3485 as established by the ''Royalty Rate Reduction Guidelines for the Solid Leasable Minerals.''

The geographic area qualification and the establishment of the competitive royalty rate under Category 5 of the ''Royalty Rate Reduction Guidelines for the Solid Leasable Minerals'' will be reviewed again and updated 2 years from the effective date hereof.

Dated: March 6, 1997.

John E. Moorhouse,

Acting State Director.

[FR Doc. 97–6569 Filed 3–14–97; 8:45 am]

BILLING CODE 4310–DN–P

National Park Service

Notice of Availability of the Record of Decision for the Development Concept Plan for the Entrance Area and Road Corridor, Denali National Park and Preserve, Alaska

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of the record of decision for the Development Concept Plan for the Entrance Area and Road Corridor, Denali National Park and Preserve, Alaska.

SUMMARY: The National Park Service announces the availability of the Record of Decision (ROD) for the Development Concept Plan for the Entrance Area and Road Corridor (''frontcountry'') of Denali National Park and Preserve.

The emphasis of the plan is to provide visitor facilities and services in the frontcountry to meet a wide range of visitor needs and interests. Frontcountry developments will be limited to actions in which the National Park Service has traditionally specialized, such as interpretive centers, environmental education opportunities, trails, resource protection programs, and campgrounds. Improved resource protection will be integrated with development actions throughout the frontcountry. The National Park Service will encourage the private sector to develop visitor service facilities (accommodations, food service, and other commercial services) outside the park.

A Notice of Intent to prepare an environmental impact statement (EIS), published in the Federal Register in July 1995 (60 FR 37470), formally initiated the National Park Service planning and EIS effort for the Entrance Area and Road Corridor of the park. A draft and final plan and EIS were prepared. The final plan and abbreviated EIS describe and analyze the environmental impacts of a proposed action and three other action alternatives. A no-action alternative also was evaluated.

The Record of Decision (ROD) documents the decision of the Department of the Interior, National Park Service, regarding the Entrance Area and Road Corridor plan. This ROD briefly discusses the background of the planning effort, states the decision and discusses the basis for it, describes other alternatives considered, specifies the environmentally preferable alternative, identifies measures adopted to minimize potential environmental harm, and summarizes the results of public involvement during the planning process.

ADDRESSES: Copies of the ROD are available on request from: Superintendent, Denali National Park and Preserve, Post Office Box 9, Denali Park, Alaska 99755.

FOR FURTHER INFORMATION CONTACT: Mike Tranel, Denali National Park and Preserve. Telephone: (907) 683–9552 FAX: (907) 683–9612.

Dated: March 7, 1997.

Marcia Blaszan,

Acting Regional Director, Alaska.

[FR Doc. 97–6556 Filed 3–14–97; 8:45 am]

BILLING CODE 4310–70–P

Notice of Availability of the Record of Decision for the General Management Plan/Development Concept Plan for the Klondike Gold Rush National Historical Park

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of the record of decision for the General Management Plan/Development Concept Plan for the Klondike Gold Rush National Historical Park

SUMMARY: The National Park Service announces the availability of the Record of Decision (ROD) for the General Management Plan/Development Concept Plan for the Klondike Gold Rush National Historical Park.

The plan will provide a comprehensive plan for meeting the park's legislative mandate. The plan in Alaska includes development concept

plans for Dyea and the Chilkoot Trail and will expand park management, development, resource (cultural and natural) protection, and maintenance components to meet most of the expected visitor-use increases and interests in the park. A Klondike History Research Center will be established, in cooperation with the city of Skagway and state of Alaska, to process, study, conserve, and store historical, ethnographic, and natural history artifacts. In Seattle, the plan will eventually lead to acquiring a permanent location for the park visitor center, park offices, and historic collections. The interpretive focus will shift with more emphasis toward the role of the Pacific Northwest in the gold rush.

A Notice of Intent to prepare an environmental impact statement (EIS), published in the Federal Register in May 1992, formally initiated the National Park Service planning and EIS effort for the Klondike Gold Rush National Historical Park. A draft and final plan and EIS were prepared. The final plan and EIS describes a proposed action for the three Alaska units and one Seattle unit of the park and three alternatives (two in Seattle) to provide additional opportunities for residents and visitors to enjoy the park units while protecting the park's cultural and natural resources. A no-action alternative also is evaluated.

The ROD documents the decision of the National Park Service, regarding the Klondike Gold Rush National Historical Park plan. This ROD briefly states the decision and discusses the basis for it, describes other alternatives considered, specifies the environmentally preferable alternative, and defines a course of action for implementing the decision, including mitigating measures.

ADDRESSES: Copies of the ROD are available on request from: Superintendent Willie Russell, Klondike Gold Rush-Seattle, 117 South Main St, Seattle WA, 98104, telephone: (206) 553–7220, FAX: (206) 553–0614 or Superintendent Clay Alderson, Klondike Gold Rush NHP, PO Box 517, Skagway, AK 99840, telephone: (907) 983–2921, FAX: (907) 983–2046.

FOR FURTHER INFORMATION CONTACT: Jack Mosby, National Park Service, Alaska System Support Office. Telephone: (907) 257–2650 FAX: (907) 257–2510.

Dated: March 7, 1997.

Marcia Blaszna,

Acting Regional Director, Alaska.

[FR Doc. 97–6555 Filed 3–14–97; 8:45 am]

BILLING CODE 4310–70–P

Notice of Availability of the Record of Decision for the Development Concept Plan for South Side Denali, AK

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of the record of decision for the Development Concept Plan for South Side Denali, Alaska.

SUMMARY: The National Park Service announces the availability of the Record of Decision (ROD) for the Development Concept Plan for South Side Denali. The plan was prepared cooperatively by the National Park Service, State of Alaska, Denali Borough, and Matanuska-Susitna Borough. Ahtna, Inc. and Cook Inlet Region, Inc., two Native regional corporations with substantial land ownership within the planning area, participated as planning partners pursuant to the Alaska Native Claims Settlement Act (ANCSA), Public Law 92–203, Sec. 2(b).

The emphasis of the plan is to enhance access and recreational opportunities throughout the south Denali region for a variety of visitors, including Alaskans, independent travelers, and package tour travelers, while at the same time protecting the important resource and community values in the area, including the rural lifestyle of local residents. Visitor facilities are planned for the Tokositna area at the western edge of Denali State Park near the end of an upgraded and extended Petersville Road, in the central development zone of Denali State Park along the George Parks Highway, at Chelatna Lake, and in the Dunkle Hills. Appropriately-sited bicycle and pedestrian enhancements along the Petersville Road also are part of the plan.

In cooperation and where desirable, a partnership between the National Park Service, local communities, ANCSA Native corporations, and the state of Alaska will develop visitor facilities and services in the central development zone of Denali State Park, at Broad Pass, and in Talkeetna, when the need and opportunity to do so are established. Similarly, in cooperation and where desirable, partnerships for providing additional visitor services along the George Parks Highway may be pursued.

A phasing and funding schedule will be developed by a South Side Denali Plan Implementation Partnership to be established by the governor. Phasing construction of developments will allow orderly plan implementation over an established period of time that compliments funding availability and addresses visitor needs.

A Notice of Intent to prepare an environmental impact statement (EIS), published in the Federal Register in April 1991 (56 FR 15931), formally initiated the National Park Service's planning and EIS effort for the south side. Pursuant to the National Environmental Policy Act of 1969, as amended, the National Park Service prepared a draft plan and EIS, published in 1993; however, a final was never completed. Instead, a Notice of Intent to prepare a revised draft EIS was published in the Federal Register in October 1995 (60 FR 54705), reinitiating the planning process for the south side as a cooperative effort among the major land managers in the region. A draft and final plan and EIS were prepared by the cooperating partners, with the National Park Service acting as the lead federal agency. The final plan and EIS describes and analyzes the environmental impacts of a proposed action and two other action alternatives. A no action alternative also is evaluated.

The Record of Decision (ROD) documents the decision of the Department of the Interior, National Park Service, regarding the South Side Denali plan. The State of Alaska has signed this ROD in concurrence with its findings. This ROD briefly discusses the background for the planning effort, states the decision and discusses the basis for it, describes other alternatives considered, specifies the environmentally preferable alternative, identifies measures adopted to minimize potential environmental harm, and summarizes the results of public involvement during the planning process.

ADDRESSES: Copies of the ROD are available on request from: Superintendent, Denali National Park and Preserve, Post Office Box 9, Denali Park, Alaska 99755.

FOR FURTHER INFORMATION CONTACT: Nancy Swanton, Park Planner, Denali National Park and Preserve. Telephone: (907) 257–2651 FAX: (907) 257–2485 Email: Nancy Swanton@nps.gov.

Dated: March 7, 1997.

Marcia Blaszna,

Acting Regional Director, Alaska.

[FR Doc. 97–6557 Filed 3–14–97; 8:45 am]

BILLING CODE 4310–70–P

Niobrara National Scenic River Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the

Niobrara National Scenic River Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

DATES: Wednesday, March 26, 1997; 1:30 p.m.

ADDRESSES: American Legion Post, 201 E. Buchanan, Bassett, Nebraska.

In case of inclement weather an alternate date is set, as follows:

SNOW DATE: Wednesday, April 9, 1997; 1:30 p.m.

ADDRESS: American Legion Post, Bassett, Nebraska.

AGENDA: (1) Discussion of the counties progress in developing a management council for the Niobrara National Scenic River; (2) Review and discussion of L.B. 656, to provide state funding for operation of the Niobrara Council; (3) The opportunity for public comment and proposed agenda, date, and time, of the next Advisory Group meeting. The meeting is open to the public. Interested persons may make oral/written presentation to the Commission or file written statements. Requests for time for making presentations may be made to the Superintendent prior to the meeting or to the Chairman at the beginning of the meeting. In order to accomplish the agenda for the meeting, the Chairman may want to limit or schedule public presentations.

The meeting will be recorded for documentation and a summary in the form of minutes will be transcribed for dissemination. Minutes of the meeting will be made available to the public after approval by the Commission members. Copies of the minutes may be requested by contacting the Superintendent. An audio tape of the meeting will be available at the headquarters office of the Niobrara/Missouri National Scenic Riverways in O'Neill, Nebraska.

FOR FURTHER INFORMATION CONTACT: Superintendent Warren Hill, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763–0591, or at 402–336–3970.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by the law that established the Niobrara National Scenic River, Public Law 102–50. The purpose of the group, according to its charter, is to advise the Secretary of the Interior on matters pertaining to the development of a management plan, and management and operation of the Scenic River. The Niobrara National Scenic River consists of a 76-mile segment from Borman Bridge, southeast of Valentine, downriver to State Highway 137.

Dated: February 27, 1997.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 97–6554 Filed 3–14–97; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

Proposed Long-term Contract Renewal, Angostura Irrigation District, Angostura Unit, Pick-Sloan Missouri Basin Program, South Dakota

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Pursuant to sec. 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) will prepare a draft environmental impact statement (EIS) on the proposed renewal of a long-term contract (LTC) with the Angostura Irrigation District (District) for water supply, repayment of construction costs, and payment of operation and maintenance costs. A series of public information/scoping meetings will be scheduled in connection with the development of the EIS. These meetings will be scheduled to inform the public of the status of contract renewal; to inform the public of the NEPA and LTC processes; and, to solicit from the public significant issues that should be analyzed in the draft EIS.

DATES: Five scoping meetings have been scheduled for this action. See Supplementary Information section for meeting dates.

ADDRESSES: Five scoping meetings have been scheduled for this action. See Supplementary Information section for meeting addresses.

Comments and questions concerning this notice should be addressed to Mr. Kenneth Parr, Bureau of Reclamation, Dakotas Area Office, Newell Field Office, P.O. Box 226, Newell, SD 57760.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Parr, Bureau of Reclamation, telephone: (605) 456–2695; e-mail: KPARR@GP.USBR.GOV.

SUPPLEMENTARY INFORMATION: The existing contract expired in December 1995. In July 1996, Reclamation signed an interim contract for the Angostura Unit (Unit). The interim contract will expire in July 1999. This 3-year period is intended to allow Reclamation sufficient time to conduct the NEPA process and negotiate an LTC.

The purpose of this action is to provide for the continued beneficial use of federally developed water associated with the Unit in southwestern South Dakota. Reclamation is proposing to renew the LTC with the District in accordance with current law and policy while examining all reasonable alternatives to balance contemporary surface water needs within the Basin.

The Angostura Unit, Pick-Sloan Missouri Basin Program, is located at the southeastern edge of the Black Hills in southwest South Dakota. The Unit consists of a Dam, Reservoir and surrounding uplands, and associated irrigation distribution system. The Dam impounds the Cheyenne River near Angostura Canyon.

The Unit was originally authorized by the Water Conservation and Utilization Act of 1939. The Flood Control Act of 1944 reauthorized the Unit, and construction of the Dam began August 23, 1946, and was completed December 7, 1949. The Unit was authorized as a multipurpose facility for irrigation, flood control, power generation, recreation, and fish and wildlife benefits. The first delivery of water to the District was in 1953 and full service water was available to 12,218 acres of irrigable lands in 1956. The power plant constructed with the dam was abandoned in 1959 due to an inadequate water supply.

In May 1951, Reclamation executed the initial contract with the District for water service from Angostura Reservoir and repayment of delivery system construction costs. The water service provisions of the contract provided a 40-year water supply which began in 1956 and expired in December 1995. The repayment and operation and maintenance provisions of the contract were initiated in 1966 following a 10-year development period and do not expire. In 1996, Reclamation negotiated a 3-year interim contract with the District.

Recreation and land management activities at the Reservoir are currently the responsibility of South Dakota Department of Game, Fish and Parks (SDGF&P) under a Memorandum of Understanding with Reclamation. SDGF&P has documented a continual, steady increase in recreational visitation at Angostura.

The Angostura Unit is within the lands ceded to the United States by the Great Sioux Nation in the 1868 Treaty of Fort Laramie. The Cheyenne River forms the northwest boundary of the Pine Ridge Indian Reservation and the southern boundary of the Cheyenne River Sioux Indian Reservation. These conditions indicate the potential presence of Indian Trust Assets. The Oglala, Cheyenne River, and Lower Brule Sioux Tribes have responded to

Reclamation's requests for consultations. These Tribes have expressed an interest in the management and protection of Federal reserved water rights.

Management of the Unit affects many of the environmental, recreational, agricultural, and economic resources of the region. The NEPA process required prior to negotiation of a new LTC will provide an opportunity to review the multipurpose benefits of the Reservoir.

Meetings

The following scoping meetings have been scheduled for this action:

- April 23, 1997, Wednesday, 7 p.m. to 10 p.m., Rapid City, SD, Howard Johnson Convention Center.
- April 24, 1997, Thursday, 7 p.m. to 10 p.m., Hot Springs, SD, Mueller Civic Center.
- April 29, 1997, Tuesday, 1 p.m. to 4 p.m., Lower Brule Indian Reservation, SD, Tribal Convention Center.
- April 30, 1997, Wednesday, 1 p.m. to 4 p.m., Eagle Butte, SD, Cheyenne River Super 8 Motel.
- May 1, 1997, Thursday, 1 p.m. to 4 p.m., Kyle, SD, Oglala Lakota College.

Dated: March 6, 1997.

Greg Gere,

Acting Area Manager, Dakotas Area Office.

[FR Doc. 97–6678 Filed 3–14–97; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting; Record of Vote of Meeting Closure (Public Law 94–409; 5 U.S.C. Sec. 552b)

I, Michael J. Gaines, Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately nine-thirty a.m. on Tuesday, March 11, 1997, at 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide three appeals from the National Commissioners' decisions pursuant to 28 C.F.R. Section 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Michael J. Gaines, Edward F. Reilly, Jr., and John R. Simpson.

IN WITNESS WHEREOF, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: March 12, 1997.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 97–6798 Filed 3–13–97; 2:14 pm]

BILLING CODE 4410–01–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Presidential Search Committee of the Board of Directors

TIME AND DATE: The Presidential Search Committee of the Legal Services Corporation's Board of Directors will meet on March 22–23, 1997. The meeting will begin at 9:00 a.m. on March 22, 1997, and, if necessary, reconvene at 9:00 a.m. on the following morning, March 23, 1997, and continue until conclusion of the committee's agenda.

STATUS OF MEETING: With the exception of the adoption of the agenda and the approval of minutes, the meeting will be closed pursuant to a unanimous vote of the Board of Directors to hold an executive session. At the executive session, the Committee will interview candidates for the position of President of the Corporation and develop a recommendation to make to the Board regarding selection of a President. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. § 552b(c) (2) & (6)] and the corresponding regulation of the Legal Services Corporation [45 C.F.R. § 1622.5(a) & (e)]. A copy of the General Counsel's Certification that the closing is authorized by law will be posted for public inspection at Corporation headquarters, 750 First Street, NE., Washington, D.C. 20002, in its 11th floor reception area, and will also be available upon request.

LOCATION: The Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, NW., Washington, D.C. 20037.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Approval of minutes of Feb. 27, 1997.
3. Approval of minutes of open session of March 8–9, 1997.
4. Approval of minutes of executive session of March 8–9, 1997.

Closed Session

5. Interviews with candidates for the position of President of the Legal Services Corporation.
6. Discuss the candidates for the position of President and develop a recommendation to make to the Corporation's Board of Directors.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel & Secretary of the Corporation, (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante, at (202) 336–8800.

Dated: March 13, 1997.

Victor M. Fortuno,

General Counsel.

[FR Doc. 97–6835 Filed 3–13–97; 3:43 pm]

BILLING CODE 7050–01–P

Sunshine Act Meeting of the Corporation's Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on March 23, 1997. The meeting will begin at 10:00 a.m. and continue until conclusion of the Board's agenda.

LOCATION: The Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, NW., Washington, D.C. 20037.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a unanimous vote of the Board of Directors to hold an executive session. At the executive session, the board will consider and act on the recommendation of its Presidential Search Committee. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. § 552b(c)(2) & (6)] and the corresponding regulation of the Legal Services Corporation [45 C.F.R. § 1622.5(a) & (e)]. A copy of the General Counsel's Certification that the closing is authorized by law will be posted for public inspection at Corporation headquarters, 750 First Street, NE., Washington, D.C. 20002, in its 11th floor reception area, and will also be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.

Closed Session

2. Receive, consider and act on the recommendation(s) of the Board's Presidential Search Committee.

Open Session

3. Announcement of decision concerning recommendation(s) of Presidential Search Committee.
4. Public comment.
5. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante, at (202) 336–8800.

Dated: March 13, 1997.

Victor M. Fortuno,

General Counsel.

[FR Doc. 97–6836 Filed 3–13–97; 3:43 pm]

BILLING CODE 7050–01–P

POSTAL RATE COMMISSION

[Order No. 1163; Docket No. A97–15]

Lasker, North Carolina 27848 (Leon D. Collier, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. § 404(b)(5)

Issued March 12, 1997.

Docket Number: A97–15.

Name of Affected Post Office: Lasker, North Carolina 27848.

Name(s) of Petitioner(s): Leon D. Collier.

Type of Determination: Closing.

Date of Filing of Appeal Papers: March 10, 1997.

Categories of Issues Apparently Raised:

1. Effect on the community [39 U.S.C. § 404(b)(2)(A)].
2. Effect on postal services [39 U.S.C. § 404(b)(2)(C)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. § 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by March 25, 1997.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Margaret P. Crenshaw,

Secretary.

Appendix

March 10, 1997
- Filing of Appeal letter

March 12, 1997
- Commission Notice and Order of Filing of Appeal

April 4, 1997
- Last day of filing of petitions to intervene [see 39 CFR § 3001.111(b)]

April 14, 1997
- Petitioner's Participant Statement or Initial Brief [see 39 CFR § 3001.115 (a) and (b)]

May 5, 1997
- Postal Service's Answering Brief [see 39 CFR § 3001.115(c)]

May 20, 1997
- Petitioner's Reply Brief should Petitioner choose to file one [see 39 CFR § 3001.115(d)]

May 27, 1997
- Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR § 3001.116]

July 8, 1997
- Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)]

[FR Doc. 97–6705 Filed 3–14–97; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and, Information Services, Washington, DC 20549.

Extension: Rule 17a–8 SEC File No. 270–53 OMB Control No. 3235–0092.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for approval of extension on the following rule: Rule 17a–8.

Rule 17a–8 under the Securities Exchange Act of 1934 (the ''Act'') requires brokers and dealers to make and keep certain reports and records concerning their currency and monetary instrument transactions. The requirements allow the Commission to ensure that brokers and dealers are in compliance with the Currency and Foreign Transactions Reporting Act of 1970 (''Bank Secrecy Act'') and with the Department of the Treasury regulations under that Act.

The reports and records required under this rule initially are required under Department of the Treasury regulations, and additional burden hours and costs are not imposed by this rule.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: March 10, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–6559 Filed 3–14–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38377; File No. SR–CBOE–96–63]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval to Proposed Rule Change Relating to the Collection of Commission Income by a Non-Executing Floor Broker and Pooling of Floor Brokerage

March 7, 1997.

On October 21, 1996, the Chicago Board Options Exchange, Inc. (''CBOE''

or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to delete Rules 6.25 and 14.6, relating to collection of commission income by a non-executing floor broker and pooling of floor brokerage.

The proposed rule change was published for comment in the Federal Register on December 10, 1996.[3] No comments were received on the proposal. This order approves the proposal.

The Exchange proposes deleting Rule 6.25, Pooling of Floor Brokerage, which prohibits a member organization that has one or more floor brokers who are nominees of or whose memberships are registered for the member organization to enter into any agreement, arrangement, or understanding with another such organization whereby such organizations are to handle floor brokerage for each other. The Rule 6.25 prohibition does not apply to the handling of floor brokerage by one such firm for another on an occasional basis or to an arrangement permitted by the Equity Floor Procedure Committee in writing. By its terms, Rule 6.25 also does not prohibit an independent floor broker from handling floor brokerage for a member organization.

The Exchange also proposes deleting Rule 14.6, Collection of Floor Brokerage, which requires a member who acts as a floor broker for another member to collect and retain the entire brokerage and prohibits the collecting broker from dividing the brokerage with any other person. Rule 14.6, however, does permit the brokerage earned by a nominee of, or a broker whose membership is registered for, a member organization to be paid to the member organization. In this event, the member's compensation from the member organization must be commensurate with the brokerage so contributed and other services rendered.

Both Rule 6.25 and Rule 14.6 were adopted at the infancy of the Exchange in a very different environment than exists now. The Exchange states that the adoption of these rules was a simple method to ensure that floor brokers provided good service to their customers. Specifically, Rule 6.25 was intended to prevent the larger member firm organizations from dominating the floor brokerage business, thus limiting competition. The prohibition of a floor broker from employing the services of a member organization employing more than one floor broker, however, could severally limit that brokers ability to handle his order flow in an efficient and timely manner, particularly at those posts without an independent floor broker. The Exchange believes, therefore, that this rule might actually hinder the efficient representation of customer orders on the floor and that floor broker organizations should be given the opportunity to develop such relationship as they feel can best enable them to service their customers. According to the CBOE, deletion of Rules 6.25 and 14.6 would remove the Exchange from being involved in the making of business determinations for floor brokers about what type of relationship can best meet their needs and allow them to best service their customers.

The Exchange proposes deleting these rules to ease limitations on the conduct of floor brokerage business on the floor of the Exchange. The Exchange believes that these rules are now no longer necessary to achieve their original purpose, i.e., to ensure that customer orders are handled with due diligence, in light of the adoption of rules which specifically govern floor broker behavior [4] and in light of changes in the industry over the last twenty years since these rules were adopted.[5]

The CBOE states that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade and remove impediments to and enact mechanism of a free and open market.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[6] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) [7] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in transactions in securities, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.[8] The Commission also believes the proposal is consistent with the Section 6(b)(8) requirements that the rules of an exchange do not impose any burden on competition not necessary or appropriate.[9]

The Commission supports the CBOE's efforts to continue to review the form and substance of its regulations in response to changes in market structure and eliminate requirements that no longer serve a meaningful regulatory purpose. After careful review, the Commission agrees with the CBOE's determination that the restrictions contained in Rules 6.25 and 14.6 are not necessary to ensure adequate oversight of floor brokerage activity on the CBOE. Particularly, the Commission finds that the elimination of Rules 6.25 and 14.6 should aid the efficient and orderly operation of the trading floor of the Exchange.

With respect to Rule 6.25, the CBOE has concluded that domination of the floor brokerage business by a small number of brokers is unlikely in light of the increased automation of traditional floor broker functions. The Commission notes that the CBOE has adequate rules in place relating to the way floor brokers handle customer orders that should ensure that customer orders are handled with due diligence.[10] The Commission also notes that at least several other exchanges currently do not have rules forbidding the arrangements covered by Rule 6.25, with no observed abuses in this area.[11]

With respect to the deletion of Rule 14.6, the Commission believes that the removal of the prohibition on the collection of floor brokerage by a non-executing floor broker provides an opportunity for more equitable allocation and division of earned floor

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 38012 (December 3, 1996), 61 FR 65098 (December 10, 1996).

[4] See CBOE rule 6.73, Responsibilities of Floor Brokers, which requires the use of due diligence to obtain the best price when executing an order.

[5] According to the CBOE, the use of computerized order systems on the Exchange has dramatically reduced the percentage of orders floor brokers handle. As a result, many member firms have only one floor broker at a post, creating a situation where orders must be passed from one floor broker to another on a regular basis to ensure that customer orders are always represented in a timely manner at the post. Telephone conversation between Tim Thompson, CBOE and David Sieradzki, SEC (January 14, 1997).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] In approving these rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(8).

[10] See CBOE Rule 6.71(b) Registration of Floor Brokers and Rule 6.73 Responsibilities of Floor Brokers.

[11] Neither the American Stock Exchange nor the Pacific Stock Exchange have rules to prohibit collection of commission income by a non-executing floor broker or pooling of floor brokerage. Telephone conversation between Claire McGrath, Amex and David Sieradzki, SEC (Dec. 23, 1996); telephone conversation between Mike Pierson, PSE and David Sieradzki, SEC (Dec. 23, 1996).

brokerage. The Commission does not believe the elimination of Rule 14.6 will adversely effect the quality of execution by floor brokers of customer orders. Specifically, the Commission notes that the CBOE has other rules that require floor brokers to use due diligence in executing Order.[12] In addition, the floor broker executing the trade is required to place his or her acronym on the trade ticket,[13] ensuring that the executing floor broker can be identified and held accountable for the handling of the trade. The elimination of Rule 14.6 should aid in the orderly flow of the market in that it enables floor brokers to assist each other in handling order flow on a more regular basis without penalty. The Commission also notes that at least several other exchanges currently do not have rules forbidding the arrangements covered by Rule 14.6, with no observed abuses in this area.[14]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–CBOE–96–63) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–6561 Filed 3–14–97; 8:45 am]

BILLING CODE 8010–01–M

[12] See *supra* note 10.

[13] See DBOE Rule 6.51 Reporting Duties.

[14] See *supra* note 11.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

[Release No. 34–38375; File No. SR–CBOE–97–14]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Relating to the Transfer of the Options Business of the New York Stock Exchange to the Chicago Board Options Exchange

March 7, 1997.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on March 3, 1997, the Chicago Board Options Exchange, Incorporated (''CBOE'' and ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1) (1988).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend its Constitution and Rules in order to authorize the issuance of options trading permits (''Permits'') in connection with the proposed transfer of the options business of the New York Stock Exchange, Inc. (''NYSE'') to CBOE. CBOE also proposes to define the rights and obligations associated with Permits, and to provide for the trading of options on the NYSE Composite Index.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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 CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to authorize the issuance of 75 ''Options Trading Permits'' (''Permits'') in connection with the proposed transfer of the NYSE's options business to CBOE, and to define the rights and obligations associated with such Permits.[3] In addition, the proposed rule change amends CBOE rules as necessary to provide for the trading on CBOE of options on the NYSE Composite Index. The 75 Permits are proposed to be issued pursuant to the terms of an agreement between CBOE and NYSE. The agreement represents the culmination of a process initiated by NYSE in the summer of 1996 when it announced that it intended to discontinue its options business. At that time, NYSE invited interested parties wishing to continue NYSE's options business to bid for its acquisition by offering trading rights and other benefits to NYSE members, including payment for the ''going business'' value of the business to be acquired. Based on its bid in response to NYSE's invitation, NYSE determined to enter into exclusive negotiations with CBOE. A definitive agreement between CBOE and NYSE (''Agreement'') was executed as of February 5, 1997.[4]

The Agreement contemplates that trading in NYSE Options will commence on the CBOE trading floor on April 28, 1997 (''Effective Date''), subject to the fulfillment of specified conditions and the approval of this proposed rule change and the parallel filing by NYSE.[5] The Agreement provides that CBOE will pay $5,000,000 as the purchase price for the business to be transferred, of which $1,200,000 will be retained by NYSE to cover its costs associated with the termination of its options activities and as payment for a ten-year license granted to CBOE to enable it to trade options on the NYSE Composite Index, and $3,800,000 net of a tax reserve will be distributed pro rata to all NYSE members. Details of the cash distribution to NYSE members are described in Item 3 of the parallel proposed rule change filed by NYSE.

The Agreement also provides that CBOE will issue up to a total of 75 Permits to those NYSE specialist and non-specialist firms and sole proprietors who operated pursuant to options trading rights on NYSE on December 5, 1996, and who agree to transfer their options activities to CBOE. In the case of an NYSE specialist, the specialist firm may select any qualified person to act as its nominee on CBOE. In the case of a non-specialist, the individual acting pursuant to an options trading badge on NYSE on December 5, 1996, must personally relocate to Chicago in order to receive a Permit. If less than 75 Permits are issued to NYSE specialists and non-specialists, the Agreement provides that the difference between 75 Permits and the number of Permits so issued will be deposited in a lease pool to be leased to qualified persons who wish to trade NYSE Options on CBOE. The proceeds from the lease of these Permits will be paid to certain designated persons who help options trading rights on NYSE, as described below.

The issuance of 75 Permits is proposed to be authorized pursuant to a new Section 2(e) to the Exchange's

[2] The text of the proposed rule change is available at the Office of the Secretary, CBOE and in the Public Reference Room of the Commission.

[3] On March 3, the NYSE filed with the Commission a proposed rule change, SR–NYSE–97–05, regarding the transfer of the NYSE options business to the CBOE.

[4] A copy of the Agreement is attached as Exhibit B to this filing and is available for review at the Office of the Secretary of CBOE, and in the Public Reference Room of the Commission.

[5] ''NYSE Options'' are defined as those classes of options that were trade on NYSE immediately prior to the Effective Date and not then also traded on CBOE, and those classes of options on at least 14 additional underlying stocks which CBOE has agreed to designate as NYSE Options during each of the seven years following the Effective Date.

Constitution. That section provides that all Permits expire on the seventh anniversary of the date when trading begins on the floor of CBOE in NYSE Options. It also specifies that Permit holders shall have none of the rights of members except as specified in the Rules of the Exchange.

The rights and obligations of holders of Permits are set forth in proposed new Exchange Rule 3.27, which incorporates by reference many of the other rules of the Exchange pertaining to the rights and obligations of Exchange members generally. Subparagraph (a)(1) of Rule 3.27 reflects the terms of the Agreement by providing that NYSE non-specialist firms and sole proprietors who were engaged in business on the options floor of NYSE immediately prior to the Effective Date are entitled to the same number of Permits as the number of options floor badges they held on NYSE on December 5, 1996, but that each individual who held an NYSE options floor badge and acted as a non-specialist must personally relocate to Chicago in order to be entitled to a Permit in respect of that badge. Subparagraph (a)(2) provides that each specialist firm engaged in business on the options floor of NYSE is likewise entitled to the same number of Permits as the number of options floor badges they held on NYSE, and that, subject to the rules of CBOE, each such firm may designate any qualified person to be the firm's nominee on CBOE.

Subparagraph (a)(3) of Rule 3.27 describes the terms of the lease pool pursuant to which any of the 75 Permits not issued to NYSE members active on the NYSE options floor, or any so issued but subsequently surrendered, will be leased by CBOE through an auction or other competitive process. The lease proceeds would ordinarily be paid to those person identified by NYSE as having used or leased NYSE options trading rights on December 5, 1996, or holders of options trading rights that, while not so used or leased, were formally separated from their NYSE memberships on that date, or transferees of such persons.

Subparagraph (a)(4) of Rule 3.27 provides that if a Permit issued to a NYSE options badge holder is not used during the first year following the Effective Date, the Permit shall be surrendered and shall be added to the lease pool described above, unless the inactivity of the Permit has been consented to by CBOE.

Subparagraph (a)(5) of Rule 3.27 provides that Permits issued to NYSE options badge holders pursuant to subparagraphs (a) (1) and (2) are not transferable for one year following the Effective Date, except as consented to by the Exchange in the event of death, hardship or certain successions in ownership. Following this one year period, Permits are freely transferable in accordance with Exchange rules governing the transfer of memberships generally.

Paragraph (b) of Rule 3.27 describes the trading rights to which the holder of a Permit is entitled. In general, these include the right to be admitted to the separate CBOE trading facility devoted exclusively to the trading of NYSE Options, as defined in the Rule,[6] and to engage in the activities of a Market-Maker, Designated Primary Market-Maker (''DPM'') and/or Floor Broker in respect of those options, subject to the applicable rules of the Exchange. In addition, the holder of a Permit is entitled to trade by order as principal those classes of options traded on CBOE's regular trading floor that were dually traded on both CBOE and NYSE immediately prior to the Effective Date. Permit holders are also entitled to trade by order as principal all other classes of options traded on CBOE's regular trading floor, provided that such trades during any calendar quarter (as measured by contract volume) do not exceed twenty percent of the sum of the Permit holder's total in person principal trades in NYSE Options and the Permit holder's principal trades by order in options that were dually traded on both CBOE and NYSE immediately prior to the Effective Date. Finally, a Permit holder is entitled to be admitted to the regular options trading floor in order to respond to the call of a Board Broker or Order Book Official for additional market-makers pursuant to Exchange Rule 7.5.

Paragraph (c) of Rule 3.27 provides that each NYSE specialist firm to which a Permit is issued will be appointed as the DPM in the same classes of NYSE Options as those for which it was designated as a specialist on NYSE, subject to qualifying to act as such pursuant to CBOE rules. Paragraph (c) also provides that the DPMs for the additional classes of NYSE Options designated each year shall be chosen from among Permit holders. Subject to the rules of the Exchange, specialist firms appointed as DPMs in NYSE Options shall be entitled to continue to act as such during the term of the Permits, and thereafter it they become regular members of the Exchange.

Paragraph (d) of Rule 3.27, together with Section 2(e) of the Exchange Constitution, provides that Permit holders shall have the same rights and obligations of members, except that they shall have no right to petition or vote or to be counted as part of a quorum at meetings of members, they shall have no interest in the assets or property of the Exchange, they shall not share in any distribution by the Exchange, they shall not participate in the Exchange's member death benefit program, and they shall not have the right to transact business with the public in any securities dealt in on the Exchange other than NYSE Options. Holders of Permits may serve on any committee of the Exchange to which they are appointed, and are deemed to be appointed market-makers in all classes of NYSE Options pursuant to Exchange Rule 8.3.

Paragraph (d) also provides that membership application fees shall be waived in connection with the approval of Permit holders or their nominees in connection with the original issuance of a Permit but not the subsequent transfer or lease of a Permit, and shall also be waived in connection with the approval of the initial holder or its nominee as a regular member of the Exchange or as the nominee of a regular member. Membership or nominee applications made by Permit holders or their nominees who are not subject to a statutory disqualification and are not the subjects of a self-regulatory organization investigation that may involve their fitness for membership shall be deemed effective for a temporary period of six months, so as not to interrupt their Exchange activities while their applications are being processed.

It is also proposed to amend certain of the rules in Chapters XXIV and XXIVA of the Rules of the Exchange, which govern the trading of index options and FLEX options, respectively, in order to provide for the listing and trading of options on the NYSE Composite Index. (Hereafter, such index is referred to as the ''Index'' and such options as ''NYA Options''.) The Index is a capitalization-weighted index comprising all of the over 2,500 common stocks listed on NYSE. The Index is expressed in relation to the base period market value which has been adjusted for capitalization changes over time. The base value of the Index was set at 50 on December 31, 1965. NYSE will continue to act as the reporting authority for the Index, and CBOE will trade NYA Options pursuant to a license granted by NYSE.

As traded on NYSE and as proposed to be traded on CBOE, NYA Options are European-style, A.M.-settled index options, strike prices for which are introduced at $2.50 or $5.00 intervals for strike prices below $200 or at or

[6] *Supra* note 6.

above $200, respectively. The Index Multiplier for NYA Options is $100. CBOE proposes to apply to NYA Options the same 45,000 contract position and exercise limits (no more than 25,000 contracts expiring in the nearest expiration month) and the same hedge exemption that currently apply to such options under NYSE rules. In addition to regular index options, CBOE proposes to provide for trading in Quarterly Index Expiration options (''QIX'' options), long-term and reduced-vale long-term options (''LEAPs'' and ''reduced-value LEAPs'') and A.M.-settled FLEX Options on the Index pursuant to the same rules and procedures that currently govern trading on CBOE in these types of options.

In addition, the proposed rule change includes a few corrections to the table of position limits set forth in Rule 24.4 in order to add references to classes of index options that were inadvertently omitted from the table when it was last revised, and a few clarifications to the language of Rule 24A.4(b) concerning the specification of the exercise settlement values for FLEX Index Options. No substantive changes will result from these corrections and clarifications.

CBOE believes that it has adequate facilities and resources to provide for the trading, surveillance and data dissemination called for by the transfer of the NYSE options business to its market. In this connection, CBOE intends to construct a new trading facility dedicated solely to NYSE Options, which will be configured and equipped in the same manner as its existing trading floor. The surveillance and regulatory responsibilities resulting from the transfer of the NYSE options business to CBOE are not expected to add significantly to CBOE's existing regulatory workload, and CBOE believes it has adequate resources to assume these added responsibilities. CBOE intends to add one additional output line to the OPRA processor for purposes of transmitting market information pertaining to NYSE Options. This will not increase the total input to OPRA because two lines from NYSE to the OPRA processor will be terminated at the time of the transfer to CBOE.

CBOE believes that the purposed rule change is consistent with and in furtherance of the provisions of Section 6(b)(5) of the Securities Exchange Act of 1934 because, by permitting those NYSE members who have been engaged in options activities on NYSE to continue to conduct an options business in CBOE's regulated exchange marketplace, the proposed rule change is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition. Instead, by providing a framework within which all of the members of NYSE who have been active in NYSE's options business may continue to conduct that business on CBOE, the proposed rule change is intended to strengthen the ability of those members to compete with other markets that may also wish to trade the options formerly traded on NYSE. In this regard, CBOE understands that early in 1996, NYSE determined to continue its options business regardless of whether it would be able to transfer that business to CBOE or to any other market. NYSE's effort to transfer its options business to another market was made largely in order to provide a home for those of its options members who wished to continue in the options business, as evidenced by NYSE's emphasis on trading rights for its members in its request for bids for the acquisition of its options business.

The terms governing the transfer of NYSE's options business to CBOE impose no restrictions on the ability of NYSE to resume options trading at any time, except that if NYSE were to resume trading options within one year following the Effective Date, it would have to pay CBOE $500,000 to offset a small portion of CBOE's costs associated with the transfer. Nor are any restrictions imposed on NYSE members that would limit their ability to trade options on NYSE if that exchange were to resume its options trading program. CBOE notes that any other securities market is also free at any time to trade any or all of the options formerly traded on NYSE, other than NYA Options, which will be exclusively licensed to CBOE.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 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, NW., Washington, DC 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, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–97–14 and should be submitted by April 7, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–6562 Filed 3–14–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38376; File No. SR–NYSE–97–05]

Self-Regulatory Organizations; New York Stock Exchange, Inc., Notice of Filing of Proposed Rule Change Relating to the Agreement Transferring the New York Stock Exchange Options Business to the Chicago Board Options Exchange

March 7, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

[7] 17 CFR 200.30–3(a)(12).

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 3, 1997, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. 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 has determined to cease maintaining a trading facility for transactions in options issued by The Options Clearing Corporation (''OCC'') and proposes to facilitate transfer of its options business to the Chicago Board Options Exchange, Incorporated (''CBOE'').[3]

As more fully described below, under the agreement between the Exchange and CBOE that sets forth the terms and conditions pursuant to which the transfer will take place (''Transfer Agreement''),[4] CBOE will issue trading permits to NYSE options firms in accordance with the number of NYSE floor badges held by the firms' partners, employees and affiliates. Subject to certain limitations described in the Transfer Agreement, the Exchange proposes to have discretion to condition the issuance of permits upon the payment of any amounts owed to the Exchange by the options firms or their badge holders or other affiliates, as the case may be, which may include holders of the corresponding NYSE Options Trading Rights (''OTRs'').

In addition, the Transfer Agreement gives the Exchange control over possible payments to certain holders of OTRs or their transferees arising from a lease pool of permits called for by the Transfer Agreement, as more fully described elsewhere in this notice. The Exchange proposes to have discretion to withhold permission for such payments until (1) any amounts owed to the Exchange by the OTR holder or its affiliates are paid (which may be effected by directing CBOE to make the payments directly to the Exchange until the indebtedness is satisfied) and (2) in the case where the OTR has been separated, the holder transfers his OTR to the Exchange.

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 NYSE 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 NYSE 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 the proposed rule change is to effect the fair and orderly transfer of the Exchange's options business to CBOE and to secure for traders and brokers who currently make their living on the Exchange's options floor an opportunity to continue their occupations at CBOE.

The basic parameters of the transfer and their purposes, as well as the environmental factors that led to the transfer and molded the negotiations between the Exchange and CBOE, are described below.

(i) Overview

CBOE will acquire the options business conducted through the Exchange's options facilities pursuant to the Transfer Agreement. The effective date of the acquisition is scheduled for April 28, 1997, subject to fulfillment of conditions specified in the Transfer Agreement and approval of this proposed rule change and the parallel filing by CBOE.

(ii) Background

In April 1996, the Exchange undertook a strategic review of the 13-year operation of its options business. In the course of the review, the Exchange considered the potential for overall growth in the options industry; explored the needs of the order-providing firms and the relationships through which the options business is done; assessed the existing capacity and structure in the options industry and the Exchange's existing and potential competitive position; and examined the scale of the effort necessary to make the Exchange's options business line profitable. The Exchange concluded that remaining in the options business, even at the then-current market share, would require significant capital expenditures, and that any effort to significantly improve market share would require an enormous expenditure of capital and human resources.

On May 2, 1996, upon presentation of the strategic review to the Exchange's Board of Directors, it was determined that further investigation would be made into the possibility of exiting the options business and directing the resources previously expended on that business to the Exchange's core equity business.

Publicity via Reuters and other news media followed this determination, resulting in numerous inquiries from options exchanges, commodities exchanges, member firms and others as to the possible acquisition of the Exchange's options business. Several of these inquiries mentioned the possibility of granting special trading privileges, relocation payments and other benefits to the Exchange's options members in connection with their collective relocation to the acquirer, as well as the possibility of paying licensing fees and other amounts to the Exchange.

In light of these inquiries and other factors, on June 24, 1996, the Exchange notified its members and member organizations that it would transmit to the various exchanges and others that had expressed interest in acquiring its options business the proposed terms for the sale of the business, as well as certain operational and other statistical data. This information was sent on or about June 27, 1996, except as to one recipient to whom it was sent on July 19, 1996.

These transmissions resulted in a series of telephone and face-to-face discussions with a variety of potential purchasers. The American Stock Exchange (''AMEX''), CBOE and the Philadelphia Stock Exchange (''PHLX'') provided detailed, written preliminary bids and executed confidentiality agreements with the Exchange.[5]

During these discussions, it became clear that because there are as many

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] On March 3, 1997, the CBOE filed with the Commission a proposed rule change, SR–CBOE–97–14, regarding the transfer of the NYSE options business.

[4] CBOE's parallel filing includes the Transfer Agreement as Exhibit B to the filing. The Exchange's proposed rule change and this notice incorporate Exhibit B to SR–CBOE–97–14.

[5] NYSE also met on several occasions with the New York Cotton Exchange (''Cotton Exchange''), but the Cotton Exchange did not make a written submission to NYSE and did not comply with any deadlines under NYSE's tender process during August and September 1996. Moreover, the cotton Exchange faced barriers to entry not applicable to the other exchanges, including absence of registration as a national securities exchange with the Commission and lack of requisite systems and regulatory capacity. By letter to NYSE dated December 16, 1996, (attached as a part of Exhibit A to this filing), the Cotton Exchange indicated that it had no interest in acquiring NYSE's options business.

OTRs as there are Exchange members (a total of 1366), but only 92 OTRs were directly involved in the options business, there was an excess of 1,274 OTRs, thus complicating negotiations to obtain cost-free trading permits. Accordingly, by resolution on September 5, 1996, the Exchange's Board limited the universe of OTR holders potentially entitled to direct benefits from the transfer to present and future holders of the 92 ''activated'' OTRs, that is, to: (1) Regular members who already were using or leasing out their OTRs, (2) holders of OTRs separated from equity memberships, and (3) subsequent purchasers from them.

Based upon review of these preliminary bids and other factors, the Exchange sent to those three preliminary bidders a letter dated September 10, 1996, requesting firm, written bids (the acceptance of which by NYSE would create a letter of intent between the parties), providing parameters for the bids, and asking that the bids be submitted within a week. The Exchange received written bids from CBOE and AMEX, each dated September 17, 1996, and from PHLX, dated September 16, 1996.

Based upon its comparison of these bids, telephone conferences and discussions with representatives of the bidders, the Exchange staff recommended the CBOE bid to the Exchange's Board of Directors. The recommendation was based on several factors, including that CBOE's bid was competitive with the other bids financially and generally superior in terms of the opportunity it promised for NYSE options traders and brokers to continue to make their livings in the options business. In particular, the CBOE bid, which was competitive from the standpoint of trading rights, offered a separate, state-of-the-art facility for the transferred business. The likelihood that CBOE would remain viable for the long term was also a key factor.

On October 3, 1996, the Board indicated its preference for negotiations with CBOE based upon CBOE's bid. By letter to CBOE dated October 3, 1996, NYSE accepted CBOE's bid, thereby creating a letter of intent between NYSE and CBOE.

On November 7, 1996, following further clarification of CBOE's bid and extensive discussions between CBOE and NYSE, the Board authorized execution and delivery of the requisite agreements and other appropriate actions with CBOE to consummate the proposed transaction.

On December 5, 1996, the Exchange and CBOE executed a revised letter of intent for the purpose of further clarifying certain points. On December 9, 1996, the Exchange distributed on its options floor a memorandum explaining the proposed transaction and, shortly thereafter, mailed copies thereof to the 92 OTR holders discussed above. The Exchange and CBOE executed the Transfer Agreement as of February 5, 1997.

(iii) Trading Permits and How They Benefit Exchange Options Firms and Options Trading Rights

This section highlights the key elements of the rights, privileges and benefits available to transferring NYSE options members pursuant to the rules CBOE proposes to adopt in accordance with the Transfer Agreement.

(aa) Creation and Issuance of CBOE Trading Permits

CBOE will create and issue 75 trading permits, each having a seven-year duration. Subject to limited exceptions, the permits may not be sold, leased or transferred for a period of one year after the effective date under the Transfer Agreement. The permits will provide for trading on a new and separate trading floor at CBOE's Chicago facility. Representatives of the Exchange's options community will have the opportunity to participate in the design of the new trading floor, which will have services and support facilities comparable to those used on CBOE's principal options trading floor. Upon qualification pursuant to CBOE rules, permit recipients will have (1) the right to act as broker or dealer in transferred options (i.e., options traded on NYSE and not dually listed on CBOE), as well as in options subsequently allocated to the program by CBOE; (2) the right to trade ''by order'' as principal on CBOE's principal trading facility those options dually listed on NYSE and CBOE; and (3) the right to trade ''by order'' as principal on CBOE's principal trading facility any other classes of CBOE options up to an aggregate of 20 percent of the holder's quarterly contract volume on CBOE.

In addition, each NYSE options specialist unit will be appointed as the CBOE Designated Primary Market-Maker (''DPM'') in its transferred specialty options. CBOE will allocate to the new program securities underlying at least 14 options classes per year for the first seven years after the transfer.

Permit holders will be subject generally to the same obligations under the CBOE rules as are regular CBOE members, except that application fees will be waived in certain instances. Under certain circumstances, recipients of permits or their nominees who move their principal residence to Chicago and qualify under CBOE rules may receive up to $10,000 per permit for customary moving expenses.

(bb) Recipients of Permits; Manner of Issuing Permits; Lease Pool

The 75 Permits are to be issued as follows:

(1) *Non-Specialist Firms (''Homesteader Rule'').* Each Exchange non-specialist options firm, including sole proprietors, doing business on the NYSE options floor will be offered the same number of permits as that firm had in valid NYSE floor badges as of December 5, 1996. However, in order for the firm to actually receive permits, the firm's individual badge holders on that date must personally qualify and trade on CBOE as individual permit holders or as ''nominees'' of the firms owning permits. Consistent with CBOE rules permitting partnerships and corporations to be members, the firms themselves may own permits. CBOE may impose limits on transfers of permits and prohibit substitution of nominees in a manner designed to assure that permits are not transferred, and that nominees remain with the firm at CBOE, for one year after issuance.

(2) *Specialist Firms.* As in the case of non-specialist firms, each Exchange specialist options firm, including joint books, will be offered the same number of permits as that firm had in valid NYSE floor badges as of December 5, 1996. However in contrast to non-specialist firms, no specified individual will be required to be a specialist firm's nominee or to move to or remain at CBOE as a condition of a permit's effectiveness. Instead, the specialist firms can select the persons to become nominees and use the permits. Nominees may be freely substituted, but CBOE may impose limits on transfers of permits designed to assure that permits are not transferred for one year after issuance.

(3) *Creation of Lease Pool and Distribution of Proceeds.* CBOE will lease out any of the 75 permits not issued as specified above, as well as any permits revoked due to violation of CBOE restrictions on transfer and substitution of nominees, through an auction or other competitive process. The proceeds from the leases will be distributed pro rata to the approximately 92 persons who, as a result of their OTRs, were entitled to possible benefits, as discussed above.

(cc) Transfer Agreement Provisions As Pragmatic Compromises

The elements of the transfer outlined above represent a series of pragmatic compromises negotiated to reconcile the respective goals of the Exchange and CBOE. As noted above, the Exchange sought to minimize the disruption in the lives of the option badge holders and to maximize the opportunity for its options traders and brokers to continue to make their livings in the options business after the transfer.

In contrast, CBOE sought to maximize the success of the transferred market as a whole by seeking to assure (1) That the NYSE options specialists participated in the transfer, (2) that NYSE option traders and brokers with trading experience moved to Chicago, and (3) that the number of permits issued optimized the viability of the transferred market as a whole and of the businesses of the permit holders individually. Thus, for example, the Transfer Agreement's ''homesteader'' element was designed to support CBOE's general goal of attracting experienced traders. However, the omission of a homesteading requirement for specialists reflects the higher priority attached by CBOE to assuring that all of the options specialists participated in the transfer.

(iv) Purchase Price and Economic Rationale

The purchase price under the Transfer Agreement is $5,000,000. Following is a discussion of the economic basis supporting this purchase price and the transaction, generally.

By acquiring the Exchange's options business, CBOE will obtain a trained pool of talent with experience in the trading characteristics of the transferring option classes and customer relationships. Assuming that these attributes and CBOE's own assets enable it at least to retain the Exchange's market share. CBOE will acquire a substantial revenue stream offset by only marginal increases in operating costs. CBOE also will face a one-time investment in facilities.

Typically in the sale of a going business, the seller receives a multiple of annual revenues, especially if lower fixed or marginal costs, or other factors, allow the purchaser a better opportunity than the seller to realize benefits from existing or anticipated revenues. The Exchange believes that the Transfer Agreement does no more than recognize an appropriate sharing of these revenues.

(v) Use of Proceeds

The Exchange will retain $1.2 million of the purchase price to partially offset Exchange exit costs and as compensation for a ten-year license given to CBOE to list and trade options on the NYSE Composite Index. The Exchange will distribute the remaining $3.8 million of the purchase price, net of an appropriate tax reserve, on a pro rata basis to all of its 1366 members, subject to a determination of whether or not the distribution will be taxed both to the Exchange and to the member recipients. The tax reserve recognizes that the distribution of the lease pool proceeds discussed elsewhere in this notice may also result in imputed income to the Exchange. The Exchange will apply to the Internal Revenue Service for Private Letter Rulings to resolve the two tax question. Pending receipt of the rulings, CBOE will pay the $3.8 million into an Escrow Account.

If the Exchange receives an adverse ruling on the lease proceeds, a portion of the escrow account will be released annually as needed to fund tax payments, with any surplus reverting to the Exchange's treasury after the lease pool terminates in the year 2004. If the Exchange receives an adverse ruling on the distribution to the 1366 members, distribution (net of any tax reserve for the lease pool proceeds) of some or all of the escrow account may be made to the NYSE Foundation [6] instead of the 1366 members. Under no circumstances will escrow funds, except for amounts owed to the Exchange and any tax reserves or reserve surplus, be distributed other than to the 1366 members or the NYSE Foundation.

(vi) Conditions to Receipt of Permits and Lease-Pool Payments

The discretionary conditions requiring payment of outstanding amounts owing to the Exchange implement similar existing requirements under the Exchange's Constitution and rules. (See, e.g., NYSE Constitution, Article II, Section 8; NYSE Rule 795(d)(i); and NYSE Rule 795.10, Supplementary Material.) The discretionary condition requiring transfer of separated OTRs to the Exchange is a housekeeping matter designed to assure that all OTRs, which will have only speculative value at the conclusion of the transfer, are held either by regular members or the Exchange itself.

(b) Basis

The Exchange believes the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are 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 full 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

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the 1934 Act.

The Exchange notes that in CBOE's parallel filing, Item 4 of SR–CBOE–97–14, CBOE outlines the way in which the transfer enhances the competitive environment and imposes no restrictions on trading by NYSE or other markets of the stock options now traded on NYSE, other than options on the NYSE Composite Index subject to the license agreement with CBOE. The Exchange's proposed rule change and this notice incorporate Item 4 of CBOE's filing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has received the following written comments from members or other interested parties:

Letter to Richard Grasso, Chairman and Chief Executive Officer of the Exchange, from Stephen G. O'Grady Frank Barbato and Greg Tenbekjian, Exchange options traders, dated November 22, 1996, objecting to the proposed transaction with CBOE on the grounds that various classes of options participants were not treated equally. The Exchange has not made and could not make any representation to members concerning exact equality of treatment. As more fully explained elsewhere in this notice, the bid process initiated by the Exchange brought to bear the dictates of the market which, generally, placed a higher premium on specialist participation in any transfer than on participation by brokers. The Exchange, which was under no obligation to obtain any benefits for any options participants, felt it was unreasonable to

[6] The NYSE Foundation, authorized by the Board of Directors of the Exchange in October 1983 and incorporated as a not-for-profit organization in November 1983, provides funds for educational, civic and charitable purposes. The Foundation's charitable giving focuses on three main areas: education, quality of life, and community. The escrow funds would be available for any such purposes other than those specifically targeted at the securities industry.

reject potential benefits to almost all options participants, including brokers whose badge holders were willing to transfer to CBOE, because the marketplace placed a higher premium on participation by one group than another.

Letter to Lewis J. Horowitz, Executive Vice President of the Exchange, from Joseph J. O'Neill, President of the New York Cotton Exchange, dated December 16, 1996, to the effect that the Cotton Exchange had no interest in acquiring the Exchange's options operations.

Letter to Rudolph Giuliani, Mayor of the City of New York, from Mark Green, Public Advocate of the City of New York, dated January 8, 1997, regarding possible loss of jobs in New York City as a result of the transfer to CBOE.

Letter to the Exchange from Isaac M. Ovadiah, an OTR lessor, dated January 9, 1997, reflecting the writer's intent to arbitrate against the Exchange's future plans concerning trading rights and to apply to the federal courts seeking injunctive relief. The Exchange knows of no basis pursuant to which arbitration would be available to Mr. Ovadiah and no basis for the granting of an injunction or similar relief with respect to any of the proposed transactions with CBOE. The Exchange has received no further written communication from Mr. Ovadiah concerning the matters referred to above.

Letter to William Johnston, President and Chief Operating Officer of the Exchange, from Cohen, Duffy, McGowan & Co., LLC, dated January 16, 1997, to the effect that the Exchange's process for the proposed transfer to CBOE was fair and that the economic benefit to members choosing to go to CBOE will surpass anything they could have achieved elsewhere.

Memorandum to William Johnston, President and Chief Operating Officer of the Exchange, from Mark Duffy, an Exchange options trader, dated January 20, 1997, to the effect that the proposed CBOE transaction is fair and provides beneficial opportunities.

Letter to William Johnston, President and Chief Operating Officer of the Exchange, from Lawrence Helfant, Inc., dated February 4, 1997, indicating that the firm did not support any possible legal action against the Exchange by OTR holders with respect to the proposed transfer to CBOE and that it endorsed the proposed transfer.

Letter to William Johnston, President and Chief Operating Officer of the Exchange, from BE Partners, dated February 12, 1997, to the effect that the CBOE proposal was the best of the proposals from the major exchanges for transfer of the options business.

Undated notice entitled ''An Open Letter To The Members, Directors, and Chairman of the New York Stock Exchange'' from certain NYSE options participants named therein, as distributed on the Exchange's Options floor, reflecting opposition to the proposed transaction. The Exchange notes that is could simply have terminated its options business and sought no benefits for any options participants.

However, as is more fully explained elsewhere in this notice, the Exchange has obtained substantial benefits for a broad cross-section of options participants. The objections voiced in this notice do not take into account the foregoing fact or the limitations and trade-offs inherent in the negotiation process necessarily undertaken by the Exchange in connection with the proposed transaction. The Exchange believes that all objections set forth in the notice from the options participants have been addressed in the Exchange's notice and rule filing and that the proposed transaction will be beneficial to the Exchange's overall membership.

Undated and unsigned notice entitled ''NYSE Options Update'', as distributed on the Exchange options floor, alleging various shortcomings in the proposed transaction, all of which were responded to or explained in the body of the Exchange's notice. An abbreviated reiteration of those responses with respect to all substantive issues in the notice follows: (i) The assertion that NYSE members who have not activated their OTRs will receive no compensation is not correct; depending upon rulings from the Internal Revenue Services with respect to tax treatment of certain proceeds from the transaction, members may receive a pro rata distribution of some or all of such proceeds, or will benefit indirectly from contribution of amounts to the NYSE Foundation; (ii) as to OTR lessors ''losing their income'' for OTR leases, it is anticipated that, subject to certain contingencies, OTR lessors will receive, for 7 years, payments from the lease pool to be maintained by CBOE which will exceed lease payments now received for OTRs; and (iii) as to current ''operatives'' of OTRs receiving ''severely limited trading rights on CBOE'', in fact, CBOE is creating a new and separate trading floor with new and very broad-based trading rights available in former NYSE options and other options to transferring NYSE participants who meet CBOE rules and requirements.

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, Security and Exchange Commission, 450 Fifth Street, NW., Washington, DC 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, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–97–05 and should be submitted by April 7, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–6560 Filed 3–14–97; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

State of Mississippi Declaration of Disaster #2936

Union County and the contiguous Counties of Benton, Lafayette, Lee, Marshall, Pontotoc, Prentiss, and

[7] 17 CFR 200.30–3(a)(12).

Tippah in the State of Mississippi constitute a disaster area as a result of damages caused by heavy rain and tornadoes which occurred February 28—March 1, 1997. Applications for loans for physical damage may be filed until the close of business on May 9, 1997 and for economic injury until the close of business on December 10, 1997 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	7.625
Homeowners without credit available elsewhere	3.875
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.250
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 293612 and for economic injury the number is 943000.

Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 10, 1997.

Aida Alvarez,

Administrator.

[R Doc. 97–6565 Filed 3–14–97; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Allocation of the 200,000 Metric Ton Increase in the Amount Available Under the Raw Cane Sugar Tariff-Rate Quota

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of the allocation among supplying countries and customs areas for the 200,000 metric ton increase in the amount available under the current raw cane sugar tariff-rate quota triggered by the fact that the stocks to use ratio for sugar reported in the U.S. Department of Agriculture's World Agricultural Supply and Demand Estimates on March 11, 1997, was 14 percent.

EFFECTIVE DATE: March 17, 1997.

ADDRESSES: Inquiries may be mailed or delivered to Audrae Erickson, Senior Economist, Office of Agricultural Affairs (Room 421), Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Audrae Erickson, Office of Agricultural Affairs, 202–395–6127.

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), the United States maintains a tariff-rate quota for imports of raw cane sugar. On September 13, 1996, the Secretary of Agriculture announced the in-quota quantity for the tariff-rate quota for raw cane sugar for the period October 1, 1997–September 30, 1997, and announced an administrative plan under which the quantity available would be increased by 200,000 metric tons, raw value, if the stocks-to-use ratio reported in the March 1997 U.S. Department of Agriculture's World Agricultural Supply and Demand Estimates (WASDE) is less than or equal to 15.5 percent. On March 11, 1997, the WASDE reported a stocks to use ratio of 14 percent, thereby triggering a 200,000 metric ton increase in the quantity available under the tariff-rate quota. Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under paragraph (3) of Presidential Proclamation No. 6763 (60 FR 1007). Additional U.S. Note 5(b)(i) to chapter 17 of the HTS also provides that the quota amounts established under that note may be allocated among supplying countries and areas by the United States Trade Representative.

Raw Cane Sugar Allocation

Accordingly, USTR is allocating the 200,000 metric ton increase in the amount available under the raw cane sugar tariff-rate quota to the following countries or areas in metric tons, raw value:

Country	Current FY 1997 allocation	Additional allocation	New FY 1997 allocation
Argentina	69,774	8,731	78,505
Australia	134,681	16,853	151,533
Barbados	11,359	0	11,359
Belize	17,849	2,234	20,083
Bolivia	12,981	1,624	14,606
Brazil	235,286	29,442	264,727
Colombia	38,944	4,873	43,817
Congo	7,258	0	7,258
Costa Rica	24,340	3,046	27,386
Cote d'Ivoire	7,258	0	7,258
Dominican Republic	285,588	35,736	321,324
Ecuador	17,849	2,234	20,083
El Salvador	42,189	5,279	47,468
Fiji	14,604	1,827	16,431
Gabon	7,258	0	7,258
Guatemala	77,888	9,746	87,634
Guyana	19,472	2,437	21,908
Haiti	7,258	0	7,258
Honduras	16,227	2,030	18,257
India	12,981	1,624	14,606
Jamaica	17,849	2,234	20,083
Madagascar	7,258	0	7,258

Country	Current FY 1997 allocation	Additional allocation	New FY 1997 allocation
Malawi	16,227	2,030	18,257
Mauritius	19,472	2,437	21,908
Mexico	25,000	0	25,000
Mozambique	21,095	2,640	23,734
Nicaragua	34,076	4,264	38,340
Panama	47,057	5,888	52,945
Papua New Guinea	7,258	0	7,258
Paraguay	7,258	0	7,258
Peru	66,529	8,325	74,854
Philippines	219,059	27,411	246,470
South Africa	37,321	4,670	41,991
St. Kitts & Nevis	7,258	0	7,258
Swaziland	25,963	3,249	29,211
Taiwan	19,472	2,437	21,908
Thailand	22,717	2,843	25,560
Trinidad-Tobago	11,359	1,421	12,780
Uruguay	7,258	0	7,258
Zimbabwe	19,472	2,437	21,908
Total	1,700,000	200,000	1,900,000

Each allocation to a country that is a net importer of sugar is conditioned on compliance with the requirements of section 902(c)(1) of the Food Security Act of 1985 (7 U.S.C. 1446g note).

Charlene Barshefsky,

Acting United States Trade Representative.

[FR Doc. 97–6582 Filed 3–14–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of Secretary

Fitness Determination of M & N Aviation, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—-Order 97–3–12; Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding that M & N Aviation, Inc., is fit, willing, and able to conduct scheduled passenger operations as a commuter air carrier.

DATES: Persons wishing to file objections should do so no later than March 27, 1997.

ADDRESSES: Objections and answers to objections should be filed with the Air Carrier Fitness Division, X–56, Room 6401, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Janet A. Davis, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: March 12, 1997.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97–6656 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–P

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the information collection requirement described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The FAA is requesting an emergency clearance immediately upon receipt of the request in accordance with 5 CFR 1320.13. The following information describes the nature of the information collection and its expected burden.

DATES: Please submit comments on or before May 16, 1997.

ADDRESSES: Comments on this collection may be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, Attention: Desk Officer for FAA, 725 17th Street, NW., Washington, DC 20503. A copy of the comments should also be sent to the Federal Aviation Administration, Air Transportation Division, AFS–200, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Gary Davis at the FAA address above, or on (202) 267–8166.

SUPPLEMENTARY INFORMATION:

Title: Pilot Records Improvement Act of 1996.

Abstract: Section 502 of the Pilot Records Improvement Act of 1996, Public Law 104–264, requires that an air carrier (as defined in 49 U.S.C. 40102(a)(2)), before hiring an individual as a pilot, request and receive FAA Records, Air Carrier and other records, and National Driver Register Records concerning that individual. The Administrator was directed to promulgate standard forms for use by air carriers in requesting those Pilot Records. Upon receipt of any requested records, an air carrier ''may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot.'' (Section 502(f)(11) of the Pilot Records Improvement Act of 1996, P.L. 104–264.

Use: An air carrier may use the FAA forms (numbers TBD) to request the records of all applicants for the position of pilot. The information collected on the forms will be used to facilitate search and retrieval of the requested records. Air carriers then may use the records to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot.

Respondents: The respondents are the air carriers gathering data on perspective pilots and the airmen/pilots applying for positions with the air carriers. It is estimated that there will be

105 part 121 carriers, and 2,941 part 135 carriers, and 19,280 prospective pilots.

Frequency: The frequency is determined by the need of the air carrier to hire pilots, not by statute.

Burden: It is estimated that there will be an annual burden of 28,920 hours on the air carriers and airmen applying for positions as pilots with those air carriers.

Issued in Washington, DC., on March 11, 1997.

Patricia W. Carter,

Acting Manager, Corporate Information Division, ABC–100.

[FR Doc. 97–6614 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–M

Aviation Security Advisory Committee Meeting

AGENCY: Federal Aviation Administration.

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held March 26, 1997, from 9:00 a.m. to 1 p.m.

ADDRESSES: The meeting will be held in the MacCracken Room, tenth floor, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591, telephone 202–267–7622.

SUPPLEMENTARY INFORMATION: Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub.L.92–463; 5 U.S.C. App.11), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held March 26, 1997, in the MacCracken Room, tenth floor, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. The agenda for the meeting will include: Cargo Security, Explosive Detection Training Programs, Profiling and Bag Match Updates, and Status of the Universal Access System Working Group. Attendance at the March 26, 1997, meeting is open to the public but is limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time. Persons wishing to present statements or obtain information should contact the Office of the Associate Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202–267–7622.

Issued in Washington, D.C. on March 11, 1997.

Karl Shrum,

Director of Civil Aviation Security Policy and Planning.

[FR Doc. 97–6613 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

RTCA, Inc., RTCA Special Committee 188; Minimum Aviation System Performance Standards for High Frequency Data Link

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for an RTCA Special Committee 188 meeting to be held March 31–April 3, 1997, starting at 9:30 a.m. on Monday, March 31, and at 9:00 a.m. on the subsequent days. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

March 31: Working Group 1 MASPS; April 1: Continue Working Group 1; April 2: Working Group 2 MOPS; April 3: Plenary Session (9:00 a.m.–12:00 noon).

The agenda of the Plenary Session will be as follows: (1) Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Approval of the Summary of the Previous Meeting; (4) Review of Working Group 1 (MASPS) Work; (5) Review of Working Group 2 (MOPS) Work; (6) Open Discussion; (7) Adjourn,

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http;//www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington DC, on March 1, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–6615 Filed 3–14–97; 8:45 am]

BILLING CODE 4810–13–M

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly notice of PFC approvals and disapprovals. In February 1997, there were 14 applications approved. Additionally, eight approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of 49 U.S.C. 40117 (Pub. L. 103–272) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Burbank-Glendale-Pasadena Airport Authority, Burbank, CA.

Application Number: 96–02–U–00–BUR.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to be Used in This: $27,441,000.

Charge Effective Date: September 1, 1994.

Estimated Charge Expiration Date: October 1, 2001.

Class of Air Carriers Not Required to Collect PFC's: No change from previous approval.

Brief Description of Projects Approved for Use: Acquire land—Plant B–6, Construct aircraft rescue and firefighting ARFF) station.

Decision Date: February 5, 1997.

For Further Information Contact: John Milligan, Western Pacific Region Airports Division, (310) 725–3621.

Public Agency: Melbourne Airport Authority, Melbourne, FL.

Application Number: 96–01–C–00–MLB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Application: $787,470.

Earliest Charge Effective Date: May 1, 1997.

Estimated Charge Expiration Date: April 1, 1998.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Melbourne International Airport.

Brief Description of Projects Approved for Collection and Use: Airfield signage and vault improvements, Part 107.14 security improvements, Master plan update, Construct midfield ARFF building, Environmental assessment for runway 9L extended safety area, Acquire radio equipment (107.14), Federal Inspection Station.

Decision Date: February 7, 1997.

For Further Information Contact: Vernon P. Rupinta, Orlando Airports District Office, (407) 648–6583.

Public Agency: Grand Forks Regional Airport Authority, Grand Forks, ND.

Application Number: 97–04–C–00–GFK.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue in This Decision: $339,864.

Earliest Charge Effective Date: May 1, 1997.

Estimated Charge Expiration Date: January 1, 1998.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Grand Forks International Airport.

Brief Description of Projects Approved for Collection and Use: Reconstruct/widen taxiway A, Update airport master plan/layout plan, Acquire land for runway protection zone/obstruction removal, Reconstruct B apron and install apron lighting, Purchase snow removal equipment/snowplow, Purchase snow removal equipment/loader, Rehabilitate airline apron.

Decision Date: February 7, 1997.

For Further Information Contact: Irene R. Porter, Bismarck Airports District Office, (701) 250–4385.

Public Agency: Greater Rockford Airport Authority, Rockford, IL.

Application Number: 97–04–C–00–RFD.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Approved net PFC Revenue in This Decision: $7,066,659.

Earliest Charge Effective Date: May 1, 1997.

Estimated Charge Expiration Date: August 1, 2018.

Class of Air Carriers not Required to Collect PFC'S: None.

Brief Description of Projects Approved for Collection and Use: Overlay south parallel taxiway to runway 1/19, Acquire snow removal equipment (two plow trucks), Construct parallel taxiway to runway 7/25, Reconstruct runway 19 parallel taxiway, Acquire snow removal equipment (two snow plows), Overlay taxiway G, Acquire snow removal equipment (broom and spreader), Acquire snow removal equipment (broom), PFC program administration, Acquire ARFF equipment.

Decision Date: February 12, 1997.

For Further Information Contact: Richard A. Pur, Chicago Airports District Office, (847) 294–7527.

Public Agency: Parish of East Baton Rouge and City of Baton Rouge, Baton Rouge, Louisiana.

Application Number: 97–04–C–00–BTR.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $10,157,206.

Earliest Charge Effective Date: June 1, 1997.

Estimated Charge Expiration Date: June 1, 2008.

Class of Air Carriers not Required to Collect PFC'S: All air taxi/commercial operators.

Determination: Approved. Based on information submitted in the public agency's applications, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Baton Rouge Metropolitan Airport.

Brief Description of Project Approved for Collection and Use: Terminal building renovation/expansion.

Decision Date: February 14, 1997.

For Further Information Contact: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: Central Wisconsin Joint Airport Board acting on behalf of the Counties of Marathon and Portage, Mosinee, Wisconsin.

Application Number: 97–02–U–00–CWA.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to be Used in This Decision: $7,725,600.

Charge Effective Date: November 1, 1993.

Estimated Charge Expiration Date: November 1, 2012.

Class of Air Carriers not Required to Collect PFC'S: No change from previous decision.

Brief Description of Project Approved for Use: Ramp modification and terminal concourse addition.

Decision Date: February 14, 1997.

For Further Information Contact: Robert Huber, Minneapolis Airports District Office, (612) 713–4357.

Public Agency: City of Colorado Springs, Colorado.

Application Number: 97–04–C–00–COS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $15,050,000.

Earliest Charge Effective Date: September 1, 2000.

Estimated Charge Expiration Date: December 1, 2002.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: East apron expansion, North apron expansion.

Decision Date: February 18, 1997.

For Further Information Contact: Christopher Schaffer, Denver Airports District Office, (303) 286–5525.

Public Agency: Williamsport Municipal Airport Authority, Montoursville, Pennsylvania.

Application Number: 97–01–C–00–IPT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Approved Net PFC Revenue in This Decision: $215,000.

Earliest Charge Effective Date: May 1, 1997.

Estimated Charge Expiration Date: November 1, 1998.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Williamsburg-Lycoming County Airport.

Brief Description of Projects Approved for Collection and Use: Perimeter security fence, Purchase physically challenged passenger lift, Obstruct removal.

Brief Description of Disapproved Project: Computerized parking system.

Determination: Disapproved. Paragraph 301 of FAA Order 5100.38A, Airport Improvement Program (AIP) Handbook (October 24, 1989), states that public parking facilities for passenger automobiles are not eligible for AIP. Therefore, this project did not meet the requirements of § 158.15(b)(1) and was disapproved.

Decision Date: February 18, 1997.

For Further Information Contact: L.W. Walsh, Harrisburg Airports District Office, (717) 782–4548.

Public Agency: City of Wendover, Utah.

Application Number: 96–02–U–00–ENV.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to be Used in This Decision: $5,505,196.

Charge Effective Date: August 1, 1996.

Estimated Charge Expiration Date: December 1, 2032.

Class of Air Carriers not Required to Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use: Environmental assessment for new runway 8/26, update airport layout plan, Design and construct new runway 8/26.

Brief Description of Project Partially Approved for Use: Bond preparation work (financial market study).

Determination: Partially approved. The costs associated with marketing the airport are ineligible under PFC criteria, §§ 158.3 and 158.15(b). Therefore, the approved amount was reduced by the cost of the ineligible work.

Decision Date: February 20, 1997.

For Further Information Contact: Christopher Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: City of Atlanta, Georgia.

Application Number: 97–01–C–00–ATL.

Application Type: Impose and use a PFC.

PFC Level $3.00.

Total Approved Net PFC Revenue in This Decision: $491,370,084.

Earliest Charge Effective Date: May 1, 1997.

Estimated Charge Expiration Date: February 1, 2004.

Classes of Air Carriers not Required to Collect PFC'S (1) Air taxi/commercial operators and (2) commuter or small certificated air carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at Hartsfield Atlanta International Airport.

Brief Description of Projects Approved for Collection and Use: Acquisition of land for airport expansion, Engineering design for the commuter runway, Planning and environmental studies for eastside terminal, Planning and environmental studies for road improvements.

Brief Description of Projects Approved for Collection: Design and construction of eastside terminal, Design and construction of road improvements.

Decision Date: February 26, 1997.

For Further Information Contact: Ms. Lee Kyker, Atlanta Airports District Office, (404) 305–7149.

Public Agency: Metropolitan Knoxville Airport Authority, Knoxville, Tennessee.

Application Number: 97–03–C–00–TYS.

Application Type: Impose and use a PFC.

PFC Level $3.00.

Total Approved Net PFC Revenue in This Decision: $1,617,216.

Earliest Charge Effective Date: May 1, 1997.

Estimated Charge Expiration Date: May 1, 1998.

Class of Air Carriers not Required to Collect PFC's: Nonscheduled air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at McGhee Tyson Airport.

Brief Description of Projects Approved for Collection and Use: Terminal area study and pre-design programming and schematic design, Taxiway G electrical work.

Brief Description of Project Partially and conditionally Approved for Collection and Use: Recover cost of developing PFC program.

Determination: Partially and conditionally approved. Documents submitted to the FAA in support of this project indicate that several elements contained in the letter agreement, dated January 20, 1995, between the Metropolitan Knoxville Airport Authority (Airport Authority) and Newton & Associates, Inc., are not necessary for the preparation of a PFC application. More specifically: element III, *Lead Airline Negotiations;* element IV, *Prepare Airport Use Agreements and Other Airport Contracts;* and element VII, *Plan Airport Concessions Development* and not necessary for the preparation of a PFC application and have been determined not allowable for reimbursement. Element VIII, *Provide General Financial, Development and Legal Assistance* may be partially allowable for reimbursement. Also, the travel and Metropolitan Culinary Service costs contained in the Airport Authority letter of February 10, 1997, have been determined unnecessary for the preparation of PFC application. As a condition of the partial approval of this project, the FAA requires that, upon submission of each Airport Authority quarterly report containing PFC program charges, the Airport Authority submit to the Memphis Airports District Office a detailed cost analysis of this project for review of allowable, reasonable, and necessary project costs pursuant to 49 U.S.C. 40117(d)(1); § 158.29(b)(i). As a part of the first quarterly report showing reimbursement of previously expended funds to prepare this application, the Airport Authority will submit a detailed analysis outlining the tasks accomplished to justify a total of 148.75 hours to prepare a three-project application, as contained in their letter of February 10, 1997.

Decision Date: February 26, 1997.

For Further Information Contact: Peggy S. Kelly, Memphis Airports District Office, (901) 544–3495.

Public Agency: Lee County Port Authority, Ft. Myers, Florida.

Application Number: 97–04–U–00–RSW.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to be Used in This Decision: $7,012,500.

Charge Effective Date: November 1, 1992.

Estimated Charge Expiration Date: December 1, 2015.

Class of Air Carriers not Required to Collect PFC's: No change from previous decision.

Brief Description of Project Approved for Use: Gates and related terminal facilities.

Decision Date: February 28, 1997.

For Further Information Contact: Miguel A. Martinez, Orlando Airports District Office, (407) 812–6331.

Public Agency: Metropolitan Knoxville Airport Authority, Knoxville, Tennessee.

Application Number: 97–04–U–00–TYS.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to be Used in This Decision: $647,000.

Charge Effective Date: January 1, 1994.

Estimated Charge Expiration Date: June 1, 1998.

Class of Air Carriers not Required to Collect PFC's: No change from previous decision.

Brief Description of Project Approved for Use: Airfield snow removal equipment.

Decision Date: February 28, 1997.

For Further Information Contact: Peggy S. Kelly, Memphis Airports District Office, (901) 544–3495.

Public Agency: Metropolitan Nashville Airport Authority, Nashville, Tennessee.

Application Number: 97–03–C–00–BNA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Approved Net Revenue in this Decision: $1,475,000.

Earliest Charge Effective Date: January 1, 2002.

Estimated Charge Expiration Date: April 1, 2002.

Class of Air Carriers not Required to Collect PFC's: Part 135 (air taxi) operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Nashville International Airport.

Brief Description of Project Approved for Use: Multiple user flight information display system.

For further information contact: Charles L. Harris, Memphis Airport District Office, (901) 544–3495.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
93–01–C–01–CSG, Columbus, GA	04/18/95	$534,633	$1,132,288	06/01/95	07/01/97
93–01–C–02–CSG, Columbus, GA	08/29/96	1,132,288	361,135	07/01/97	09/01/95
93–01–C–01–CRP, Corpus Christi, TX	12/20/96	5,540,745	5,566,940	01/01/98	01/01/98
94–01–C–01–FLL, Fort Lauderdale, FL	01/06/97	73,609,000	72,931,754	08/01/99	08/01/99
93–01–C–01–ILM, Wilmington, NC	01/06/97	1,505,000	1,669,168	08/01/97	02/01/97
92–01–C–03–OAK, Oakland, CA	01/31/97	16,343,000	18,503,000	05/01/97	07/01/97
94–01–C–01–DRO, Durango, CO	02/13/97	479,556	486,015	02/01/97	08/01/97
93–01–C–01–DSM, Des Moines, IA	02/14/97	4,338,128	5,766,650	04/01/97	02/01/98

Issued in Washington, D.C. on March 11, 1997.

Kendall Ball,

Acting Manager, Passenger Facility Charge Branch.

[FR Doc. 97–6622 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at the Huntsville International Airport, Huntsville, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Huntsville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 16, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Luther H. Roberts, Jr., AAE, Deputy Director of the Huntsville Madison County Airport Authority at the following address: 1000 Glenn Hearn Boulevard, Box 20008, Huntsville, AL 35824.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Huntsville Madison County Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Roderick T. Nicholson, Project Manager, FAA Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306, telephone number 601–965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Huntsville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 7, 1997, the FAA determined that the application to use the revenue from a PFC submitted by Huntsville Madison County Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 29, 1997.

The following is a brief overview of the application.

PFC Application Number: 97–07–U–00–HSV.

Level of the proposed PFC: $3.00.

Proposed charge effective date: 6/01/1992.

Proposed charge expiration date: 11/01/2008.

Total estimated PFC revenue: $5,530,790.

Brief description of proposed project(s): Land Acquisition; Directional Signage; General Aviation Apron Overlay; and 18R/36L Runway & Taxiway System Overlay.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Any Air Taxi/Commercial Operator (ATCO), Certified Air Carriers (CAC) and Certified Route Air Carriers (CRAC) having fewer than 500 annual enplanements.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Huntsville Madison County Airport Authority.

Issued in Jackson, Mississippi, on March 7, 1997.

Wayne Atkinson,

Manager, Airports District Office, Southern Region, Jackson, Mississippi.

[FR Doc. 97–6611 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Salt Lake and Davis Counties, UT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an

Environmental Impact Statement (EIS) will be prepared for a proposed transportation project in Salt Lake and Davis Counties, Utah.

FOR FURTHER INFORMATION CONTACT: Tom Allen, Project Development Engineer, U.S. Department of Transportation, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118, Telephone (801) 963–0182; Byron Parker, Utah Department of Transportation, 2060 South 2400 West, Salt Lake City, Utah 84104, Telephone (801) 975–4806; or Michael Schwinn, U.S. Army Corps of Engineers, Suite A, 1403 South 600 West, Woods Cross, Utah 84010, Telephone (801) 295–8380.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the U.S. Army Corps of Engineers, and the Utah Department of Transportation will prepare an EIS for transportation improvements in the corridor from I–80 and 5600 West Street northward and eastward to the Farmington-Kaysville, Utah area. The north terminus has not been determined. A revised notice of intent will be issued when a determination is made. The proposed improvement would involve construction of approximately 17 miles of limited access, divided highway along a new alignment.

To provide for local and regional projected travel demands, the Western Transportation Corridor Major Investment Study (MIS) has identified the need for an additional north-south route in the corridor. System connections to I–215 near the Salt Lake International Airport and to SR–89 and I–15 near Farmington as well as other appropriate interchanges would be included.

Alternatives that will be considered in this study include: (1) taking no action; (2) transportation system management, and (3) build alternatives. The findings of the MIS will be incorporated to the maximum extent possible. Transportation build alternatives to be studied include, but are not limited to: two alternative alignments from I–80 and 5600 West Street to a point northeast of the airport, two alignments northward to Farmington, and two alternative connections to SR–89 and I–15 at Farmington.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Scoping meetings are planned to be held in April. Additional public involvement activities will take place as EIS studies progress and a public hearing will be held after the draft EIS has been prepared. Public notice will be given of the time and place of meeting and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Issued on: March 11, 1997.

Michael G. Ritchie,

Division Administrator, Salt Lake City, Utah.

[FR Doc. 97–6580 Filed 3–14–97; 8:45 am]

BILLING CODE 4910–22–M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), RSPA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: J. Suzanne Hedgepeth, Director, Office of Hazardous Materials, Exemptions and Approvals, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4535.

Key to ''Reasons for Delay''

1. Awaiting additional information from applicant
2. Extensive public comment under review
3. Application is technically very complex and is of significant impact or precedent-setting and requires extensive analysis
4. Staff review delayed by other priority issues or volume of exemption applications

Meaning of Application Number Suffixes

N—New application

M—Modification request

PM—Party to application with modification request

Issued in Washington, DC, on March 4, 1997.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

Application No.	Applicant	Reason for delay	Estimated date of completion
	New Exemption Applications		
10581–N	Luxfer UK Limited, Nottingham, England	4	04/30/1997
11193–N	U.S. Department of Defense, Falls Church, VA	4	04/30/1997
11322–N	Hydra Rig, Inc., Ft. Worth, TX	1	03/31/1997
11396–N	Laidlaw Environmental Services, LaPorte, TX	4	03/31/1997
11409–N	Pure Solve, Inc., Irving, TX	4	04/30/1997
11442–N	Union Tank Car Co., East Chicago, IN	4	04/30/1997
11443–N	Hercules Inc., Wilmington, DE	4	03/31/1997
11465–N	Monsanto Co., St. Louis, MO	4	04/30/1997
11511–N	Brenner Tank Inc., Fond du Lac, WI	4	04/30/1997
11523–N	Bio-Lab, Inc. Conyers, GA	4	04/30/1997

Application No.	Applicant	Reason for delay	Estimated date of completion
11527–N	Technical Service Co., Long Beach, CA	4	03/31/1997
11537–N	Babson Bros. Co., Romeoville, IL	4	04/30/1997
11540–N	Convenience Products, Fenton, MO	1	04/30/1997
11559–N	Japan Oxygen, Inc., Long Beach, CA	4	03/31/1997
11561–N	Solkatronic Chemicals, Fairfield, NJ	4	04/30/1997
11572–N	North American Biologicals, Inc., Miami, FL	4	04/30/1997
11578–N	General Alum & Chemical Co., Searsport, MA	4	04/30/1997
11586–N	Chem Coast Inc., La Porte, TX	4	04/30/1997
11591–N	Clearwater Distributors, Inc., Woodridge, NY	4	12/31/1996
11592–N	Amtrol Inc., West Warwick, RI	4	04/30/1997
11597–N	Zeneca, Inc., Wilmington, DE	4	04/30/1997
11598–N	Metalcraft Inc., Baltimore, MD	1	03/31/1997
11599–N	Haviland Products Co., Grand Rapids, MI	1	03/31/1997
11606–N	Safety-Kleen Corp., Elgin, IL	4	04/30/1997
11609–N	Rubbermaid Commercial Products Inc., Winchester, VA	4	03/31/1997
11621–N	Aerojet Industrial Products, North Las Vegas, NV	4	04/30/1997
11627–N	Cabot Corporation, Revere, PA	4	04/30/1997
11631–N	Health Care Incinerators, Fargo, ND	4	04/30/1997
11645–N	Chemical Products Corp., Cartersville, GA	4	03/31/1997
11646–N	Barton Solvents Inc., Des Moines, IO	4	01/31/1997
11653–N	Phillips Petroleum Co., Bartlesville, OK	4	04/30/1997
11654–N	Hoechst Celanese Corp., Dallas, TX	4	04/30/1997
11662–N	FIBA Technologies, Inc., Westboro, MA	4	04/30/1997
11663–N	Pfizer Inc., Groton, CT	4	04/30/1997
11664–N	Breed Technologies, Inc., Lakeland, FL	4	04/30/1997
11667–N	Weldship Corp., Bethlehem, PA	4	04/30/1997
11668–N	AlliedSignal, Inc., Morristown, NJ	4	04/30/1997
11671–N	Matheson Gas Products, Secaucus, NJ	4	04/30/1997
11677–N	Chaparral, Inc., Lubbock, TX	4	04/30/1997
11678–N	Air Transport Association, Washington, DC	4	04/30/1997
11679–N	Dorbyl Engineering Container Division (DHE), Republic of South Africa	4	04/30/1997
11682–N	Cryolor, Argancy, 57365 Ennery—France	4	04/30/1997
11687–N	Tri Tank Corp., Syracuse, NY	4	04/30/1997
11692–N	SCM Technologies, Tilbury, ON	4	04/30/1997
11699–N	GEO Specialty Chemicals, Bastrop, LA	4	05/30/1997
11701–N	Dept. of Defense, Falls Church, VA	4	05/30/1997
11711–N	N.C. Department of Agriculture, Raleigh, NC	4	03/31/1997
4354–M	PPG Industries, Inc., Pittsburgh, PA	4	04/30/1997
4453–M	Dyno Nobel Inc., Salt Lake City, UT	4	03/31/1997
5493–M	Montana Sulphur & Chemical Co., Billings, MT	4	03/31/1997
5876–M	FMC Corp., Philadelphia, PA	4	03/31/1997
6117–M	Montana Sulphur & Chemical Co., Billings, MT	4	03/31/1997
8556–M	Air Products & Chemicals, Inc., Allentown, PA	4	03/31/1997
9184–M	The Carbide/Graphite Group, Inc., Louisville, KY	4	04/30/1997
9413–M	EM Science, Cincinnati, OH	4	03/31/1997
9706–M	Taylor-Wharton, Harrisburg, PA	4	04/30/1997
10511–M	Schlumberger Technology Corporation, Houston, TX	4	03/31/1997
10517–M	Nalco Chemical Co., Naperville, Il	4	03/31/1997
10798–M	Olin Corp. Stamford, CT	4	04/30/1997
11058–M	Spex Certiprep Inc., Metuchen, NJ	4	03/31/1997
11262–M	Caire, Inc., Burnsville, MN	4	04/30/1997
11321–M	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE	4	04/30/1997

[FR Doc. 97–6553 Filed 3–14–97; 8:45 am]
BILLING CODE 4910–60–M

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (97–2)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved a second quarter 1997 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The second quarter 1997 RCAF (Unadjusted) is 1.115. The second quarter 1997 RCAF (Adjusted) is 0.764. The second quarter 1997 RCAF–5 is 0.746.

EFFECTIVE DATE: April 1, 1997.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1549. TDD for the hearing impaired: (202) 565–1695.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision write to, call, or pick up in person from: DC NEWS & DATA, INC., Suite 210, 1925 K Street, NW, Washington, DC 20423, telephone (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: March 10, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–6651 Filed 3–14–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Creditor's Consent To Disposition Of United States Securities And Related Checks Without Administration Of Deceased Owner's Estate.

DATES: Written comments should be received on or before May 13, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Creditor's Consent To Disposition Of United States Securities And Related Checks Without Administration Of Deceased Owner's Estate.

OMB Number: 1535–0055.

Form Number: PD F 1050.

Abstract: The information is requested to obtain a creditor's consent to dispose of savings bonds/notes in settlement of a deceased owner's estate without administration.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 300.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 10, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–6490 Filed 3–14–97; 8:45 am]

BILLING CODE 4810–39–P

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Request For Reissue of United States Savings Bonds/Notes in The Name of a Person or Persons Other Than The Owner (Including Legal Guardian, Custodian for a Minor Under a Statue, etc.).

DATES: Written comments should be received on or before May 13, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Request For Reissue of United States Savings Bonds/Notes In The Name Of A Person Or Persons Other Than The Owner (Including Legal Guardian, Custodian For A Minor Under a Statue, etc.)

OMB Number: 1535–0025.

Form Number: PD F 3360.

Abstract: The information is used to support a request by the owner to reissue the savings bonds/notes in the name of another person.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 8,350.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 10, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–6491 Filed 3–14–97; 8:45 am]

BILLING CODE 4810–39–P

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application For Disposition Of Retirement Plan and/or Individual Retirement Bonds Without Administration Of Deceased Owner's Estate.

DATES: Written comments should be received on or before May 13, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Application For Disposition Of Retirement Plan and/or Individual Retirement Bonds Without Administration Of Deceased Owner's Estate.

OMB Number: 1535–0032.

Form Number: PD F 3565.

Abstract: The information is used to support a request for disposition by the heirs of deceased owners or Retirement Plan and/or Individual Retirement bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 17.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 10, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–6492 Filed 3–14–97; 8:45 am]

BILLING CODE 4810–39–P

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Order For Series EE U.S. Savings Bonds, and Order For Series EE U.S. Savings Bonds To Be Registered In Name Of Fiduciary.

DATES: Written comments should be received on or before May 13, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Order For Series EE U.S. Savings Bonds and Order For Series EE U.S. Savings Bonds To Be Registered In Name of Fiduciary.

OMB Number: 1535–0084.

Form Number: PD F 5263 and 5263–1.

Abstract: The information is requested from the purchaser to issue Series EE Savings Bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 10,000,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 830,000.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 10, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–6493 Filed 3–14–97; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group, Notice of Meeting

As required by the Federal Advisory Committee Act, the VA hereby gives notice that the Special Medical Advisory Group has scheduled a meeting on April 3, 1997. The meeting will convene at 8:30 a.m. and end at about 4:00 p.m. The meeting will be held in Room 830 at VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The purpose of the meeting is to advise the Secretary and Under Secretary for Health relative to the care and treatment of disabled veterans, and other matters pertinent to the Department's Veterans Health Administration (VHA).

The agenda for the meeting will include discussion of associated health review, resource allocation methodology, eligibility reform and

special emphasis programs, taking care of veterans in a budget neutral environment, residency reallocations, and research program emphasis.

All sessions will be open to the public up to the seating capacity of the meeting room. Those wishing to attend should contact Brenda Goodworth, Office of the Under Secretary for Health, Department of Veterans Affairs. Her phone number is 202–273–5878.

Dated: March 11, 1997.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–6677 Filed 3–14–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 62, No. 51
Monday, March 17, 1997

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 THE INTERIOR

Geological Survey

Federal Geographic Data Committee (FGDC); Application Notice Establishing the Closing Date for Transmittal of Applications Under the FGDC National Spatial Date Infrastructure (NSDI) Framework Demonstration Projects Program for Fiscal Year (FY) 1997

Correction

In notice document 97–4904, beginning on page 8981, in the issue of Thursday, February 27, 1997, make the following correction:

On page 8982, in the third column, in the FR Doc. line, ''97–6904'' should read ''97–4904''.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Manangement

[AZ–040–7122–00–5514; AZA 28789]

Notice of Decision of Exchange of Lands in Greenlee, Graham, Cochise and Pima Counties

Correction

In notice document 97–5523, beginning on page 10577 in the issue of Friday, March 7, 1997, make the following corection:

On page 10578, in the first column, under Gila and Salt River Meridian, Arizona, in the twelfth line, ''Sec. 27'' should read ''Sec. 28''.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38266; File No. SR–NASD–97–03]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Filing of Changes to Total Shares Outstanding and Corporate Name of Nasdaq Issuers

Correction

In notice document 97–3067, beginning on page 5870 in the issue of Friday, Febraury 7, 1997, make the following correction:

On page 5870, in the second column, under Qualification Requirements for Domestic and Canadian Securities, in *Rule 4310(c)(24)*, in the fifth line, insert ''or decrease'' after ''increase''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 93, 121, and 135

[Docket No. 28537; Amendment Nos. 91–253, 93–73, 121–262, 135–66]

RIN 2120–AF93

Special Flight Rules in the Vicinity of Grand Canyon National Park

Correction

In rule document 97–4824, beginning on page 8862, in the issue of Wednesday, February 26, 1997, make the following corrections:

On page 8862, in the first column, in the DATES: entry, in the fifth line, ''No. 560–2'' should read ''No. 50–2''; and in the seventh line, ''Sections 2, 3, 6, 6, 7 and 8'' should read ''Sections 2, 3, 6, 7 and 8''.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209824–96]

RIN 1545–AU24

Definition of Limited Partner for Self-Employment Tax Purposes

Correction

In proposed rule document 97–701, beginning on page 1702 in the issue of Monday, January 13, 1997, make the following correction:

§ 1.1402(a)–2 [Corrected]

On page 1704, in the third column, in the last line, ''1705'' should be removed.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8712]

RIN 1545–AU62

Definition of Private Activity Bonds

Correction

In rule document 97–710, beginning on page 2275 in the issue of Thursday, January 16, 1997, make the following correction:

§ 1.141–15 [Corrected]

On page 2302, in the first column, in § 1.141–15 (b), in the seventh line, ''1977'' should read ''1997''.

BILLING CODE 1505-01-D

federal register

Monday
March 17, 1997

Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter I, Part 3, et al.

Federal Acquisition Circular 90–46, Introduction and Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 90–46; Introduction

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

ACTION: Summary presentation of final and interim rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules issued by the FAR Council in this Federal Acquisition Circular (FAC) 90–46. Each rule follows this document in the order listed below. A companion document, the Small Entity Compliance Guide, follows this FAC and may be located on the internet at http://www.gsa.gov/far/SECG.

DATES: For effective dates and comment dates, see separate documents which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears (in the table below) in relation to each FAR case or subject area. For general information, contact Beverly Fayson, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–46 and specific FAR case number(s).

SUPPLEMENTARY INFORMATION: Federal Acquisition Circular 90–46 amends the Federal Acquisition Regulation (FAR) as specified below:

Item	Subject	FAR Case	Analyst
I	Gratuities	96–300	Linfield.
II	Electronic Contracting	91–104	DeStefano.
III	Office of Federal Procurement Policy Letter 93–1, Management Oversight of Service Contracting	94–008	O'Neill.
IV	Performance Incentives for Fixed-Price Contracts	93–603	DeStefano.
V	Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements (Interim)	92–054B	Linfield.
VI	Buy American Act—Construction (Grimberg Decision)	91–119	Linfield.
VII	Collection of Historically Black Colleges and Universities/Minority Institutions Award Data	95–306	Klein.
VIII	Allowability of Foreign Selling Costs	95–021	DeStefano.
IX	Independent Research and Development/Bid and Proposal Costs in Cooperative Agreements	95–024	Olson.
X	Prompt Payment	91–091	Olson.
XI	Attorneys' Fees in GAO Protests	96–016	O'Neill.
XII	Contractors' Purchasing Systems Reviews	94–605	Klein.
XIII	Performance-Based Payments	96–005	Olson.
XIV	Technical Corrections		

Item I—Gratuities (FAR Case 96–300)

The interim rule published as Item III of Federal Acquisition Circular (FAC) 90–40 is converted to a final rule without change. The rule amended FAR 3.202 and 52.203–3 to exempt solicitations and contracts which do not exceed the simplified acquisition threshold from the prescribed use of the ''Gratuities'' clause.

Item II—Electronic Contracting (FAR Case 91–104)

The interim rule published as Item II of FAC 90–29 is converted to a final rule with amendments in Parts 5, 14, 15, and 52. The rule facilitates the use of electronic data interchange in Government contracting and complements the rule published as Item II of FAC 90–40 pertaining to the Federal Acquisition Computer Network.

Item III—Office of Federal Procurement Policy Letter 93–1, Management Oversight of Service Contracting (FAR Case 94–008)

This final rule amends FAR 37.000 and 37.102, and adds a new Subpart 37.5, to implement OFPP Policy Letter 93–1, Management Oversight of Service Contracting. The policy letter provides Governmentwide guiding principles which are intended to improve the acquisition, management, and administration of service contracts. This rule also amends FAR 9.505–3 and 35.017–2 to remove references to OMB Circular A–120, Guidelines for the Use of Advisory and Assistance Services, which was rescinded by OMB on November 19, 1993.

Item IV—Performance Incentives for Fixed-Price Contracts (FAR Case 93–603)

This final rule amends FAR Parts 16 and 52 to permit the use of award-fee provisions as performance incentives in fixed-price contracts.

Item V—Federal Compliance With Right-To-Know Laws and Pollution Prevention Requirements (FAR Case 92–054B)

This interim rule adds a new FAR Subpart 23.10, and a new clause at 52.223–5 to implement Executive Order (E.O.) 12856 of August 3, 1993, Federal Compliance with Right-To-Know Laws and Pollution Prevention Requirements. The E.O. requires that a contract performed on a Federal facility shall provide that the contractor supply information on its use of certain hazardous or toxic substances in the performance of the contract. This information is required to enable Federal facilities to comply with the reporting and emergency planning requirements of the Pollution Prevention Act of 1990 and the Emergency Planning and Community Right-To-Know Act of 1986.

Item VI—Buy American Act—Construction (Grimberg Decision) (FAR Case 91–119)

This final rule amends FAR Subpart 25.2 and the associated clauses at 52.225–5 and 52.225–15 to add guidance on exceptions to the Buy American Act, both pre-award and post-award. The rule adds two new solicitation provisions at 52.225–12 and 52.225–13 for use in solicitations for construction in the United States. These solicitation provisions set forth procedures by which offerors may request determinations regarding the inapplicability of the Buy American Act. The rule also adds a new section at 25.206, which provides guidance regarding instances of noncompliance with the Buy American Act.

Item VII—Collection of Historically Black Colleges and Universities/ Minority Institutions Award Data (FAR Case 95–306)

This final rule adds a new FAR Subpart 26.3 and a new solicitation provision at 52.226–2 to implement Executive Order 12928, which requires agencies to provide periodic reporting on the progress made in award of contracts to Historically Black Colleges and Universities and Minority Institutions.

Item VIII—Allowability of Foreign Selling Costs (FAR Case 95–021)

This final rule revises FAR 31.205–38(c)(2) by removing the ceiling on allowable foreign selling costs. The rule also amends 31.205–1, Public relations and advertising costs, by deleting reference to the ceiling limitation, and further revises 31.205–38(c)(2) by deleting obsolete language.

Item IX—Independent Research and Development/Bid and Proposal Costs in Cooperative Agreements (FAR Case 95–024)

This final rule amends the cost principle at FAR 31.205–18, Independent research and development (IR&D) and bid and proposal costs, by removing from paragraph (e) the prohibition against treatment of contractor IR&D contributions under NASA cooperative arrangements as allowable indirect costs.

Item X—Prompt Payment (FAR Case 91–091)

This final rule amends FAR 32.102, Subpart 32.9, and related clauses at 52.212–4, 52.232–5, 52.232–8, 52.232–25, 52.232–26, and 52.232–27 in order to implement changes made in OMB Circular A–125 (Revised), dated December 12, 1989, to comply with the Prompt Payment Act Amendments of 1988 (Public Law 100–496). The rule also contains amendments to clarify and simplify the FAR text and clauses.

Item XI—Attorneys' Fees in GAO Protests (FAR Case 96–016)

This final rule amends FAR 33.104 to clarify that the $150 hourly cap on attorneys' fees applies only to those protests filed on or after October 1, 1995. Protests filed with the General Accounting Office prior to October 1, 1995, are not subject to the hourly cap on attorneys' fees, in accordance with Sections 10001 and 10002 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355).

Item XII—Contractors' Purchasing Systems Reviews (FAR Case 94–605)

This final rule amends FAR 44.302 to (1) add a requirement for the cognizant contract administration agency to determine the need for a contractor purchasing system review (CPSR) based on, but not limited to, the past performance of the contractor and volume, complexity, and dollar value of the contractor's subcontracting activity; and (2) delete the requirement for a CPSR to be performed initially and at least every 3 years thereafter, for contractors exceeding a certain sales level. Also, FAR sections 44.303 through 44.307 are amended to conform to amendments at 44.302.

Item XIII—Performance-Based Payments (FAR Case 96–005)

This final rule amends FAR 52.232–32, Performance-Based Payments, by adding paragraphs (f)(6) and (7) to address title to residual material and liability for Government-furnished property, for consistency with paragraphs (d)(6) and (7) of FAR 52.232–16, Progress Payments.

Item XIV—Technical Corrections

Corrections have been made to Federal Acquisition Circular 90–44, which appeared in the Federal Register at 61 FR 69286, December 31, 1996, to correct clause dates to correspond with the effective dates of the rules, and Federal Acquisition Circular 90–45, published in the Federal Register at 62 FR 224, January 2, 1997, to replace a reference inadvertently omitted in the original document.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 97–6309 Filed 3–14–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 3 and 52

[FAC 90–46; FAR Case 96–300; Item I]

RIN 9000–AH06

Federal Acquisition Regulation; Gratuities

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

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to exempt solicitations and contracts which do not exceed the simplified acquisition threshold from the prescribed use of the clause relating to gratuities.This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Effective May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Linfield at (202) 501–1757 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–46, FAR case 96–300.

SUPPLEMENTARY INFORMATION:

A. Background

The interim rule published as Item III of Federal Acquisition Circular 90–40 in the Federal Register at 61 FR 39199, July 26, 1996, is adopted as final without change. The interim rule implemented Section 801 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106). Section 801 amended 10 U.S.C. 2207, generally referred to as the Gratuities Act, to exempt contracts which do not exceed the simplified acquisition threshold from application of the Gratuities Act. Therefore, the clause at 52.203–3, Gratuities, is prescribed for inclusion in only those contracts which exceed the simplified acquisition threshold.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because only a small number of Federal contractors have been subject to action under the Gratuities clause.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public

which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 3 and 52

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Parts 3 and 52 which was published at 61 FR 39199 on July 26, 1996, is adopted as a final rule without change.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

[FR Doc. 97–6310 Filed 3–14–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 14, 15, and 52

[FAC 90–46; FAR Case 91–104; Item II]

RIN 9000–AF50

Federal Acquisition Regulation; Electronic Contracting

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to address the use of electronic commerce/electronic data interchange in Government contracting. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Effective May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–46, FAR case 91–104.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register at 58 FR 69588, December 30, 1993. The rule proposed amendments to the FAR to remove any barriers to the use of electronic data interchange in Government contracting. Thirty-six comments from ten respondents were received during the public comment period. After evaluating the public comments, the Councils agreed to publish another proposed rule as a result of significant changes to the previous proposed rule being deemed necessary. The revised proposed rule was published in the Federal Register at 60 FR 12384, March 6, 1995, and an interim rule was published at 60 FR 34735, July 3, 1995. Additional changes to the final rule include—

—Revisions at FAR 5.101(a)(2)(iv) to clarify requirements for electronic posting of solicitations;

—Revisions at FAR 14.209(b) to clarify procedures for informing bidders of cancellation of electronic invitations before opening; and

—Clarification of when electronic bids and proposals will be considered to have been received by the Government for the purposes of the late bid and late proposal rules in various clauses within FAR Part 52.

This rule complements the FACNET rule (FAR Case 94–770; 61 FR 39189, July 26, 1996), which implemented provisions of the Federal Acquisition Streamlining Act of 1994 (FASA) (Pub. L. 103–355) and the Clinger-Cohen Act of 1996 (Pub. L. 104–106).

B. Regulatory Flexibility Act

A Final Regulatory Flexibility Analysis (FRFA) has been performed and will be provided to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the FRFA may be obtained from the FAR Secretariat. The FRFA is summarized as follows:

This final rule authorizes the use of electronic commerce/electronic data interchange in Government contracting. The legal authority to use electronic commerce for Government contracting actions was confirmed in General Accounting Office (GAO) Advisory Opinion B–238449. The rule will apply to all actual or potential bidders or offerors, large and small, when the solicitation authorizes the use of electronic commerce/electronic data interchange. It is estimated that the rule will apply to at least 8,615,190 small entities. There are no significant alternatives which would accomplish the objectives of the rule.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 5, 14, 15, and 52

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 5, 14, 15, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 5, 14, 15, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 5—PUBLICIZING CONTRACT ACTIONS

2. Section 5.101 is amended by revising the first sentence of paragraph (a)(2)(iv) to read as follows:

5.101 Methods of disseminating information.

* * * * *

(a) * * *

(2) * * *

(iv) Electronic posting of requirements in a place accessible by the general public at the Government installation may be used to satisfy the public display requirement. * * *

* * * * *

PART 14—SEALED BIDDING

3. Section 14.209 is amended by revising paragraph (b) to read as follows:

14.209 Cancellation of invitations before opening.

* * * * *

(b) When an invitation issued other than electronically is cancelled, bids that have been received shall be returned unopened to the bidders and notice of cancellation shall be sent to all prospective bidders to whom invitations were issued. When an invitation issued electronically is cancelled, a general notice of cancellation shall be posted electronically, the bids received shall not be viewed, and the bids shall be purged from primary and backup data storage systems.

* * * * *

4. Section 14.304–1 is amended by revising paragraph (a)(4) to read as follows:

14.304–1 General.

* * * * *

(a) * * *

(4) It was transmitted through an electronic commerce method authorized by the solicitation and was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of bids.

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

5. Section 15.410 is amended by revising the second and third sentences of paragraph (b) to read as follows:

15.410 Amendment of solicitations before closing date.

* * * * *

(b) * * * If the time available before closing is insufficient, prospective offerors or quoters shall be notified by electronic data interchange, facsimile transmission, telegram, or telephone of an extension of the closing date. Telephonic, facsimile, and telegraphic notices shall be confirmed in the written amendment to the solicitation. * * *

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 52.214–7 is amended by revising the provision date, and paragraph (a)(4) to read as follows:

52.214–7 Late Submissions, Modifications, and Withdrawals of Bids.

* * * * *

Late Submissions, Modifications, and Withdrawals of Bids (May 1997)

(a) * * *

(4) Was transmitted through an electronic commerce method authorized by the solicitation and was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of bids.

* * * * *

7. Section 52.214–23 is amended by revising the provision date, and paragraph (a)(4) to read as follows:

52.214–23 Late Submissions, Modifications, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.

* * * * *

Late Submissions, Modfications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (MAY 1997)

(a) * * *

(4) Was transmitted through an electronic commerce method authorized by the solicitation and was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of technical proposals; or

* * * * *

8. Section 52.214–32 is amended by revising the date of the provision, and paragraph (a)(2) to read as follows:

52.214–32 Late Submissions, Modifications, and Withdrawals of Bids (Overseas).

* * * * *

Late Submissions, Modifications, and Withdrawals of Bids (Overseas) (May 1997)

(a) * * *

(2) Was transmitted through an electronic commerce method authorized by the solicitation and was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of bids. The term ''working day'' excludes weekends and U.S. Federal holidays.

* * * * *

9. Section 52.214–33 is amended by revising the clause date, and paragraph (a)(2) to read as follows:

52.214–33 Late Submissions, Modifications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (Overseas).

* * * * *

Late Submissions, Modifications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (May 1997)

(a) * * *

(2) Was transmitted through an electronic commerce method authorized by the solicitation and was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of technical proposals. The term ''working day'' excludes weekends and U.S. Federal holidays; or

* * * * *

10. Section 52.215–10 is amended by revising the provision date and paragraph (a)(4) to read as follows:

52.215–10 Late Submissions, Modifications, and Withdrawals of Proposals.

* * * * *

Late Submissions, Modifications, and Withdrawals of Proposals (May 1997)

(a) * * *

(4) It was transmitted through an electronic commerce method authorized by the solicitation and was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals;

* * * * *

11. Section 52.215–15 is revised to read as follows:

52.215–15 Failure to Submit Offer.

As prescribed in 15.407(d)(3), insert the following provision:

Failure to Submit Offer (May 1997)

Recipients of this solicitation not responding with an offer should not return this solicitation, unless it specifies otherwise. Instead, for paper transactions, they should advise the issuing office by letter, postcard, or established electronic commerce methods, whether they want to receive future solicitations for similar requirements. Electronic solicitations do not require notification of desire to receive future solicitations, since these solicitations will be openly available to any interested party. If a recipient does not submit an offer and does not notify the issuing office that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

(End of provision)

12. Section 52.215–36 is amended by revising the provision date and paragraph (a)(2) to read as follows:

52.215–36 Late Submissions, Modifications, and Withdrawals of Proposals (Overseas).

* * * * *

Late Submissions, Modifications, and Withdrawals of Proposals (OVERSEAS) (MAY 1997)

(a) * * *

(2) It was transmitted through an electronic commerce method authorized by the solicitation and was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals. The term ''working day'' excludes weekends and U.S. Federal holidays;

* * * * *

[FR Doc. 97–6311 Filed 3–14–97; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9, 35, and 37

[FAC 90–46; FAR Case 94–008; Item III]

RIN 9000–AG86

Federal Acquisition Regulation; Office of Federal Procurement Policy Letter 93–1, Management Oversight of Service Contracting

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to provide agency guidance on the management of service contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Effective May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–46, FAR case 94–008.

SUPPLEMENTARY INFORMATION:

A. Background

On May 24, 1994, the Office of Federal Procurement Policy (OFPP) reissued, as a final policy letter, and published in the Federal Register at 59 FR 26818, Policy Letter 93–1, Management Oversight of Service Contracting. The policy letter provides Governmentwide guiding principles which are intended to improve the acquisition, management, and administration of service contracts.

A proposed rule was published in the Federal Register at 61 FR 14946, April 3, 1996, to address FAR implementation of OFPP Policy Letter 93–1. Two sources submitted comments in response to the proposed rule. All comments were considered in the development of the final rule.

B. Regulatory Flexibility Act

A Final Regulatory Flexibility Analysis (FRFA) has been performed and will be provided to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the FRFA may be obtained from the FAR Secretariat. The analysis is summarized as follows:

There were no public comments in response to the Initial Regulatory Flexibility Analysis. There were approximately 16,662 small businesses with service contracts valued at $25,000 or more in fiscal year 1996. The rule does not impose any reporting, recordkeeping, or other compliance requirements upon small entities. This rule is expected to have a beneficial impact on small and large entities because the rule emphasizes the need for good Government management practices. Although this rule does not specifically propose different procedures for small versus large entities, it should reduce the economic and administrative burden on small entities. Consistent with the stated objectives of OFPP Policy Letter 93–1, routine services, frequently provided by small entities, will require less oversight than services that tend to affect Government decision-making, influence policy development, or affect program management, which are more susceptible to abuse and require a greater level of scrutiny.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 9, 35, and 37

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 9, 35, and 37 are amended as set forth below:

1. The authority citation for 48 CFR Parts 9, 35, and 37 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

2. Section 9.505–3 is revised to read as follows:

9.505–3 Providing evaluation services.

Contracts for the evaluation of offers for products or services shall not be awarded to a contractor that will evaluate its own offers for products or services, or those of a competitor, without proper safeguards to ensure objectivity to protect the Government's interests.

PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

3. Section 35.017–2 is amended by revising paragraph (i) to read as follows:

35.017–2 Establishing or changing an FFRDC.

* * * * *

(i) Quantity production or manufacturing is not performed unless authorized by legislation.

* * * * *

PART 37—SERVICE CONTRACTING

4. Section 37.000 is revised to read as follows:

37.000 Scope of part.

This part prescribes policy and procedures that are specific to the acquisition and management of services by contract. This part applies to all contracts for services regardless of the type of contract or kind of service being acquired. Additional guidance for research and development services is in part 35; architect-engineering services is in part 36; information technology is in part 39; and transportation services is in part 47. Parts 35, 36, 39, and 47 take precedence over this part in the event of inconsistencies. This part includes, but is not limited to, contracts for services to which the Service Contract Act of 1965, as amended, applies (see subpart 22.10).

5. Section 37.102 is amended by adding paragraphs (d) through (g) to read as follows:

37.102 Policy.

* * * * *

(d) Agency program officials are responsible for accurately describing the need to be filled, or problem to be resolved, through service contracting in a manner that ensures full understanding and responsive performance by contractors and, in so doing, should obtain assistance from contracting officials, as needed.

(e) Agencies shall establish effective management practices in accordance with Office of Federal Procurement Policy (OFPP) Policy Letter 93–1, Management Oversight of Service Contracting, to prevent fraud, waste, and abuse in service contracting.

(f) Services are to be obtained in the most cost-effective manner, without barriers to full and open competition, and free of any potential conflicts of interest.

(g) Agencies shall ensure that sufficiently trained and experienced officials are available within the agency to manage and oversee the contract administration function.

6. Subpart 37.5 is added to read as follows:

Subpart 37.5—Management Oversight of Service Contracts

Sec.

37.500 Scope of subpart.
37.501 Definition.
37.502 Exclusions.
37.503 Agency-head responsibilities.
37.504 Contracting officials' responsibilities.

37.500 Scope of subpart.

This subpart establishes responsibilities for implementing Office of Federal Procurement Policy (OFPP) Policy Letter 93–1, Management Oversight of Service Contracting.

37.501 Definition.

Best practices, as used in this subpart, means techniques that agencies may use to help detect problems in the acquisition, management, and administration of service contracts. Best practices are practical techniques gained from experience that agencies may use to improve the procurement process.

37.502 Exclusions.

(a) This subpart does not apply to services that are

(1) Obtained through personnel appointments and advisory committees;

(2) Obtained through personal service contracts authorized by statute;

(3) For construction as defined in 36.102; or

(4) Obtained through interagency agreements where the work is being performed by in-house Federal employees.

(b) Services obtained under contracts below the simplified acquisition threshold and services incidental to supply contracts also are excluded from the requirements of this subpart. However, good management practices and contract administration techniques should be used regardless of the contracting method.

37.503 Agency-head responsibilities.

The agency head or designee should ensure that—

(a) Requirements for services are clearly defined and appropriate performance standards are developed so that the agency's requirements can be understood by potential offerors and that performance in accordance with contract terms and conditions will meet the agency's requirements;

(b) Service contracts are awarded and administered in a manner that will provide the customer its supplies and services within budget and in a timely manner;

(c) Specific procedures are in place before contracting for services to ensure compliance with OFPP Policy Letters 92–1, Inherently Governmental Functions, 91–2, Service Contracting, and 89–1, Conflicts of Interest Policies Applicable to Consultants; and

(d) Strategies are developed and necessary staff training is initiated to ensure effective implementation of the policies in 37.102.

37.504 Contracting officials' responsibilities.

Contracting officials should ensure that ''best practices'' techniques are used when contracting for services and in contract management and administration (see OFPP Policy Letter 93–1).

[FR Doc. 97–6312 Filed 3–14–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 16 and 52

[FAC 90–46; FAR Case 93–603; Item IV]

RIN 9000–AH07

Federal Acquisition Regulation; Performance Incentives for Fixed-Price Contracts

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to permit the use of award-fee provisions as performance incentives in fixed-price contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Effective May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–46, FAR case 93–603.

SUPPLEMENTARY INFORMATION:

A. Background

The FAR currently provides for the use of performance incentives when used with cost incentives. This FAR revision allows the use of performance incentives alone. This revision will allow agencies to recognize and reward contractors who exceed minimum standards in terms of quality, timeliness, technical ingenuity, and effective management.

A proposed rule was published in the Federal Register at 61 FR 31798, June 20, 1996. One comment was received from one respondent. The comment was considered in developing the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely authorizes the use of performance incentives for contractors under fixed-price contracts. The rule authorizes the Government to reward a contractor for exceeding minimum performance standards.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 16 and 52

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 16 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 16 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 16—TYPES OF CONTRACTS

16.204 [Amended]

2. Section 16.204 is amended in the last sentence by removing the citation ''16.405'' and inserting ''16.406''.

16.304 [Amended]

3. Section 16.304 is amended by removing ''16.404–1'' and inserting ''16.405–1''.

16.305 [Amended]

4. Section 16.305 is amended by removing ''16.404–2'' and inserting ''16.405–2'' each time it appears.

5. Section 16.401 is amended in paragraph (c) by revising the first sentence; and adding paragraph (d) to read as follows:

16.401 General.

* * * * *

(c) The two basic categories of incentive contracts are fixed-price incentive contracts (see 16.403 and

16.404) and cost-reimbursement incentive contracts (see 16.405). * * *

(d) Award-fee contracts are a type of incentive contract.

16.402–1 [Amended]

6. Section 16.402–1 is amended in paragraph (b) by removing ''16.404–2'' and inserting ''16.405–2''.

16.404 and 16.405 [Redesignated as 16.405 and 16.406]

7. Sections 16.404 and 16.405 are redesignated as 16.405 and 16.406, respectively.

8. A new section 16.404 is added to read as follows:

16.404 Fixed-price contracts with award fees.

(a) Award-fee provisions may be used in fixed-price contracts when the Government wishes to motivate a contractor and other incentives cannot be used because contractor performance cannot be measured objectively. Such contracts shall—

(1) Establish a fixed price (including normal profit) for the effort. This price will be paid for satisfactory contract performance. Award fee earned (if any) will be paid in addition to that fixed price; and

(2) Provide for periodic evaluation of the contractor's performance against an award-fee plan.

(b) A solicitation contemplating award of a fixed-price contract with award fee shall not be issued unless the following conditions exist:

(1) The administrative costs of conducting award-fee evaluations are not expected to exceed the expected benefits;

(2) Procedures have been established for conducting the award-fee evaluation;

(3) The award-fee board has been established; and

(4) An individual above the level of the contracting officer approved the fixed-price-award-fee incentive.

16.404–1 and 16.404–2 [Redesignated as 16.405–1 and 16.405–2].

9. Sections 16.404–1 and 16.404–2 are redesignated as 16.405–1 and 16.405–2, respectively.

10.–11. The newly designated section 16.406 is amended by revising the introductory text of paragraph (e) to read as follows:

16.406 Contract clauses.

* * * * *

(e) The contracting officer shall insert an appropriate award-fee clause in solicitations and contracts when an award-fee contract is contemplated, provided that the clause—

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

12. Section 52.216–16 is amended by revising the introductory paragraph, and Alternate I introductory text to read as follows:

52.216–16 Incentive Price Revision—Firm Target.

As prescribed in 16.406(a), insert the following clause:

* * * * *

Alternate I (APR 1984). As prescribed in 16.406(a), add the following paragraph (o) to the basic clause:

* * * * *

13. Section 52.216–17 is amended by revising the introductory paragraph, and Alternate I introductory text to read as follows:

52.216–17 Incentive Price Revision Successive Targets.

As prescribed in 16.406(b), insert the following clause:

* * * * *

Alternate I (APR 1984). As prescribed in 16.406(b), add the following paragraph (q) to the basic clause:

* * * * *

[FR Doc. 97–6313 Filed 3–14–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 23 and 52

[FAC 90–46; FAR Case 92–054B; Item V]

RIN 9000–AH39

Federal Acquisition Regulation; Federal Compliance With Right-To-Know Laws and Pollution Prevention Requirements

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

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order 12856 of August 3, 1993, ''Federal Compliance with Right-To-Know Laws and Pollution Prevention Requirements.'' This Executive order requires that Federal facilities comply with the planning and reporting requirements of the Pollution Prevention Act of 1990 (42 U.S.C. 13101–13109), and the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001–11050). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: Effective Date: March 17, 1997.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before May 16, 1997.to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 18th & F Streets, NW., Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

E-Mail comments submitted over the Internet should be addressed to:

92–054B@www.ARNET.gov

Please cite FAC 90–46, FAR case 92–054B in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Linfield at (202) 501–1757 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–46, FAR case 92–054B.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements Executive Order 12856 of August 3, 1993, ''Federal Compliance with Right-To-Know Laws and Pollution Prevention Requirements.'' The Executive Order requires that Federal facilities comply with the planning and reporting requirements of the Pollution Prevention Act of 1990 (PPA) and the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA).

The amendments at FAR Parts 23 and 52 require that contracts to be performed on a Federal facility provide for the contractor to supply to the Federal agency all information the Federal agency deems necessary to comply with the reporting requirements of the PPA and EPCRA.

B. Regulatory Flexibility Act

This interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because this rule will apply to any contractor that uses certain hazardous or

toxic substances in the performance of a contract at a Federal facility. It is estimated that approximately 50 percent of these contracts are performed by small entities. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subparts also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C 601, *et seq.* (FAC 90–46, FAR case 92–054B), in correspondence. The IRFA is summarized as follows:

This interim rule implements the requirements of Executive Order 12856 of August 3, 1993, ''Federal Compliance with Right-To-Know Laws and Pollution Prevention Requirements.'' The Executive order requires that Federal facilities comply with the planning and reporting requirements of the Pollution Prevention Act of 1990 (PPA) and the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). The Executive order also requires that contracts to be performed on a Federal facility provide for the contractor to supply to the Federal agency all information the Federal agency deems necessary to comply with these reporting requirements. The objective of this rule is to enable Federal facilities to comply with the planning and reporting requirements of PPA and EPCRA by requiring contractors who perform contracts on such facilities to provide information on their use of certain substances in the performance of the contracts.

This interim rule will apply to all contractors that use certain hazardous or toxic substances in the performance of contracts on a Federal facility. We estimate that there are approximately 7,250 small business contractors to which the rule will apply. Such contractors must provide any information necessary to enable the Federal facility to fulfill its reporting requirements under EPCRA, PPA, and Executive order 12856. The information collection would be prepared by contractor employees using records that the contractor is required to maintain under existing law and regulation. No special professional skills are needed for preparation of the required information.

C. Paperwork Reduction Act

The Paperwork Reduction Act is deemed to apply because the final rule contains information collection requirements. Accordingly, a request for approval of a new information collection requirement has been submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Public comments concerning this request were invited through a Federal Register notice published on January 13, 1997.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because Executive Order 12856, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements, required implementation and incorporation of its policies into the FAR by August 3, 1995. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 23 and 52

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 23 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 23 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 23—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Subpart 23.10, consisting of sections 23.1001 through 23.1005, is added to read as follows:

Subpart 23.10—Federal Compliance With Right-To-Know Laws and Pollution Prevention Requirements

Sec.
23.1001 Purpose.
23.1002 Applicability.
23.1003 Definition.
23.1004 Requirements.
23.1005 Contract clause.

23.1001 Purpose.

This subpart implements requirements of Executive Order (E.O.) 12856 of August 3, 1993, Federal Compliance with Right-To-Know Laws and Pollution Prevention Requirements.

23.1002 Applicability.

The requirements of this subpart apply to facilities owned or operated by a Federal agency except those facilities located outside the several states of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

23.1003 Definition.

Federal agency, as used in this subpart, means an executive agency (see 2.101).

23.1004 Requirements.

(a) E.O. 12856 requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA)(42 U.S.C. 11001–11050) and the Pollution Prevention Act of 1990 (PPA)(42 U.S.C. 13101–13109).

(b) Pursuant to Section 1–104 of E.O. 12856, and any agency implementing procedures, every new contract that provides for performance on a Federal facility shall require the contractor to provide information necessary for the Federal agency to comply with the emergency planning and toxic release reporting requirements of EPCRA and PPA.

23.1005 Contract clause.

The contracting officer shall insert the clause at 52.223–5, Pollution Prevention and Right-to-Know Information, in all solicitations and contracts that provide for performance, in whole or in part, on a Federal facility.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.223–5 is added to read as follows:

52.223–5 Pollution Prevention and Right-to-Know Information.

As prescribed in 23.1005, insert the following clause:

Pollution Prevention and Right-to-Know Information (March 1997)

(a) Executive Order 12856 of August 3, 1993, requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001–11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101–13109).

(b) The Contractor shall provide all information needed by the Federal facility to comply with the emergency planning reporting requirements of Section 302 of EPCRA, the emergency notice requirements of Section 304 of EPCRA, the list of Material Data Safety Sheets required by Section 311 of EPCRA, the emergency and hazardous chemical inventory forms of Section 312 of EPCRA, and the toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA.

(End of clause)

[FR Doc. 97–6314 Filed 3–14–97; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAC 90–46; FAR Case 91–119; Item VI]

RIN 9000–AG81

Federal Acquisition Regulation; Buy American Act—Construction (Grimberg Decision)

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to add guidance on pre-award and post-award exceptions to the Buy American Act for construction, and also to provide guidance regarding instances of noncompliance with the Buy American Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Effective May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Linfield at (202) 501–1757 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–46, FAR case 91–119.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register at 60 FR 67028, December 27, 1995. The revisions in the final rule are based on the analysis of public comments and further clarification of the rule. The final rule—

—Permits the contracting officer to specify in the solicitation if there is insufficient time to consider requests for determinations under the Buy American Act in advance of receipt of offers;

—Uses more precise terminology for determinations regarding the inapplicability of the Buy American Act;

—Adds guidance regarding exceptions to the Buy American Act that are based on the Trade Agreements Act and North American Free Trade Agreement; and

—Clarifies when supporting information and price comparisons are needed.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not change the impact of the Buy American Act or alter the exceptions to the Act, but only clarifies the procedures for implementation of the Act.

C. Paperwork Reduction Act

The Paperwork Reduction Act is deemed to apply because the clauses at FAR 52.225–5 and 52.225–15 require offerors/contractors requesting a determination regarding the inapplicability of the Buy American Act to provide the Government with certain information relating to foreign construction material the offeror/contractor proposes to use on the contract. A request for clearance of the information collection requirement previously was submitted to the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*, and approved through February 28, 1999, under OMB Control Number 9000–0141.

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 25 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 25—FOREIGN ACQUISITION

25.108 [Amended]

2. Section 25.108 is amended in paragraph (b) by removing ''25.202(a)(3)'' and inserting ''25.202(a)(2)''.

25.201 [Amended]

3. Section 25.201 is amended in the definition of ''Domestic construction material'' by removing ''25.202(a)(3)'' and inserting ''25.202(a)(2)''.

4. Subpart 25.2 is amended by revising sections 25.202 through 25.205 and adding sections 25.206 and 25.207 to read as follows:

25.202 Policy.

(a) The Buy American Act requires that only domestic construction materials be used in construction in the United States, except when—

(1) The cost would be unreasonable, i.e., the cost of domestic construction material exceeds the cost of foreign construction material by more than 6 percent, unless the agency head determines a higher percentage to be appropriate (see Executive Order 10582);

(2) The head of the contracting activity or designee determines the construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality (see 25.108);

(3) The agency head determines that application of the restrictions of the Buy American Act to a particular construction material would be impracticable; or

(4) The agency head determines that application of the restrictions of the Buy American Act to a particular construction material would be inconsistent with the public interest. Under this authority, agencies may have agreements with foreign governments that provide blanket exceptions to the Buy American Act (e.g., Trade Agreements Act and North American Free Trade Agreement (NAFTA)).

(b) Unless the contracting officer determines that insufficient time is available, offerors should request determinations regarding the inapplicability of the Buy American Act in time to allow determination before submission of offers.

(c) When it is determined for any of the reasons stated in this section that certain foreign construction materials may be used, the excepted materials shall be listed in the contract. Findings justifying the exception shall be available for public inspection.

(d) For construction contracts with an acquisition value of $6,500,000 or more, but less than $7,311,000, see 25.402(a)(3). If the acquisition value is $7,311,000 or more, see 25.402(a)(1).

25.203 Determinations requested before submission of offers.

(a) Any request for a determination regarding the inapplicability of the Buy American Act made before receipt of offers shall be evaluated based on the information requested in the applicable clause at 52.225–5, Buy American Act—Construction Materials, paragraphs (c) and (d), or 52.225–15, Buy American Act—Construction Materials under Trade Agreements Act and North

American Free Trade Agreement, paragraphs (c) and (d), and may be supplemented by other information readily available to the contracting officer.

(b) If the Government determines before receipt of offers that an exception to the Buy American Act applies (other than a general exception based on the Trade Agreements Act or NAFTA), the excepted material shall be identified by the Government in the clause at 52.225–5(b)(2) or 52.225–15(b)(3).

25.204 Evaluating offers of foreign construction material.

(a) Offerors proposing to use foreign construction material other than that listed by the Government in the applicable clause at 52.225–5(b)(2) or 52.225–15(b)(3) or excepted under the Trade Agreements Act or NAFTA (52.225-15(b)(2)) must provide the information required by paragraphs (c) and (d) of the respective clauses.

(b) Unless agency regulations specify a higher percentage, the Government will add to the offered price 6 percent of the cost of any foreign construction material proposed for exception from the requirements of the Buy American Act based on the unreasonable cost of domestic construction materials. If the evaluation of offers results in a tie between an offer including foreign construction material excepted on the basis of unreasonable cost, as evaluated, and an offer including solely domestic construction material or other foreign construction material that is excepted by the Government in the solicitation under the clause at 52.225–5(b) (2) or 52.225–15(b)(2) or (3) or subsequently excepted on a basis other than unreasonable cost, award shall be made to the offeror that submitted the latter offer.

(c) Offerors also may submit alternate offers based on use of equivalent domestic construction material to avoid possible rejection of the entire offer, if the Government determines that an exception permitting use of a particular foreign construction material does not apply.

(d) If, upon evaluation of an offer, the Government determines that an exception to the Buy American Act applies, and the Government accepts that offer, the excepted material shall be listed in the contract at 52.225–5(b)(2) or 52.225–15(b)(3).

25.205 Postaward determinations.

(a) If a contractor requests a determination regarding the inapplicability of the Buy American Act after contract award, the contractor shall explain why the determination could not have been requested before contract award or why the need for such determination otherwise was not reasonably foreseeable. If the contractor does not submit a satisfactory explanation, the Government need not make a determination regarding the inapplicability of the Buy American Act.

(b) Evaluation of any request for a determination regarding the inapplicability of the Buy American Act made after contract award shall be based on information similar to that required before award by the applicable clause at 52.225–5 (c) and (d) or 52.225–15 (c) and (d) and/or other information readily available to the contracting officer.

(c) If a determination is made after contract award that an exception to the Buy American Act applies, the contract shall be modified to allow use of foreign construction material, and adequate consideration shall be negotiated. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration shall not be less than the differential established in 25.202(a)(1) or agency procedures.

25.206 Noncompliance.

(a) The contracting officer is responsible for conducting Buy American Act investigations when available information indicates such action is warranted.

(b) Unless fraud is suspected, the contracting officer shall notify the contractor of the apparent unauthorized use of foreign construction material and request a reply, to include proposed corrective action.

(c) If an investigation reveals that a contractor or subcontractor has used foreign construction material without authorization, the contracting officer shall take appropriate action, including one or more of the following:

(1) Process a determination with regard to inapplicability of the Buy American Act in accordance with 25.205.

(2) Consider requiring the removal and replacement of the unauthorized foreign construction material.

(3) If removal and replacement of foreign construction material incorporated in a building or work would be impracticable, cause undue delay, or otherwise be detrimental to the interests of the Government, the contracting officer may determine in writing that the foreign construction material need not be removed and replaced. Such a determination to retain foreign construction material does not constitute a determination that an exception to the Buy American Act applies, and this should be so stated in the determination. Further, such a determination to retain foreign construction material does not affect the Government's right to suspend and/or debar a contractor, subcontractor, or supplier for violation of the Buy American Act, or to exercise other contractual rights and remedies, such as reducing the contract price or terminating the contract for default.

(4) If the noncompliance is sufficiently serious, consider exercising appropriate contractual remedies, such as terminating the contract for default. Also consider preparing and forwarding a report for suspension and/or debarment, including findings and supporting evidence in accordance with subpart 9.4, Debarment, Suspension, and Ineligibility. If the noncompliance appears to be fraudulent, consider referring the matter to other appropriate agency officials, such as the officer responsible for criminal investigation and prosecution.

25.207 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the clause at 52.225–5, Buy American Act—Construction Materials, in solicitations and contracts for construction inside the United States, except when the clause at 52.225–15, Buy American Act—Construction Materials under Trade Agreements Act and North American Free Trade Agreement, is prescribed.

(b)(1) The contracting officer shall insert the provision at 52.225–12, Notice of Buy American Act Requirement—Construction Materials, in solicitations for construction that contain the clause at 52.225–5, Buy American Act—Construction Materials.

(2) If the contracting officer determines that insufficient time is available to process a determination regarding the inapplicability of the Buy American Act prior to receipt of offers, the contracting officer shall use the provision with its Alternate I.

(c)(1) The contracting officer shall insert the provision at 52.225–13, Notice of Buy American Act Requirement—Construction Materials under Trade Agreements Act and North American Free Trade Agreement, in solicitations for construction that contain the clause at 52.225–15, Buy American Act—Construction Materials under Trade Agreements Act and North American Free Trade Agreement.

(2) If the contracting officer determines that insufficient time is available to process a determination regarding the inapplicability of the Buy American Act prior to receipt of offers,

the contracting officer shall use the provision with its Alternate I.

(d)(1) The contracting officer shall insert the clause at 52.225–15, Buy American Act—Construction Materials under Trade Agreements Act and North American Free Trade Agreement, in solicitations and contracts for construction inside the United States with an estimated acquisition value of $7,311,000 or more.

(2) For solicitations and contracts for construction inside the United States with an estimated acquisition value of $6,500,000 or more, but less than $7,311,000, the contracting officer shall use the clause with its Alternate I.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 52.225–5 is amended by revising the introductory paragraph; revising the clause date; revising paragraph (a) introductory text; by removing the phrase ''as used in this clause'' from the definitions of ''Components'', ''Construction material'' and ''Domestic construction material''; by removing from the definition of Domestic construction material'' ''25.202(a)(3)'' and inserting ''25.202(a)(2)''; by revising paragraph (b) (the undesignated paragraph following paragraph (b) is removed); and adding paragraphs (c) and (d) to read as follows:

52.225–5 Buy American Act—Construction Materials.

As prescribed in 25.207(a), insert the following clause:

Buy American Act—Construction Materials (May 1997)

(a) *Definitions.* As used in this clause—

* * * * *

(b)(1) The Buy American Act (41 U.S.C. 10a–10d) requires that only domestic construction material be used in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to the excepted construction material or components listed by the Government as follows:

_____

(*List applicable accepted materials or indicate ''none''*)

(3) Other foreign construction material may be added to the list in paragraph (b)(2) of this clause if the Government determines that—

(i) The cost would be unreasonable (the cost of a particular domestic construction material shall be determined to be unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent, unless the agency head determines a higher percentage to be appropriate);

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(4) The Contractor agrees that only domestic construction material will be used by the Contractor, subcontractors, material men, and suppliers in the performance of this contract, except for foreign construction materials, if any, listed in paragraph (b)(2) of this clause.

(c) *Request for determination.* (1) Contractors requesting to use foreign construction material under paragraph (b)(3) of this clause shall provide adequate information for Government evaluation of the request for a determination regarding the inapplicability of the Buy American Act. Each submission shall include a description of the foreign and domestic construction materials, including unit of measure, quantity, price, time of delivery or availability, location of the construction project, name and address of the proposed contractor, and a detailed justification of the reason for use of foreign materials cited in accordance with paragraph (b)(3) of this clause. A submission based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause. The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(2) If the Government determines after contract award that an exception to the Buy American Act applies, the contract shall be modified to allow use of the foreign construction material, and adequate consideration shall be negotiated. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration shall not be less than the differential established in paragraph (b)(3)(i) of this clause.

(3) If the Government does not determine that an exception to the Buy American Act applies, the use of that particular foreign construction material will be a failure to comply with the Act.

(d) For evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the following information and any applicable supporting data based on the survey of suppliers shall be included in the request:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

Construction material description	Unit of measure	Quantity	Price (dollars) [1]
Item 1:			
Foreign construction material	.....	.....	.....
Domestic construction material	.....	.....	.....
Item 2:			
Foreign construction material	.....	.....	.....
Domestic constructionmaterial	.....	.....	.....
List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary. Include other applicable supporting information.			

[1] Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).

(End of clause)

6. Sections 52.225–12 and 52.225–13 are added to read as follows:

52.225–12 Notice of Buy American Act Requirement-Construction Materials.

As prescribed in 25.207(b), insert the following provision:

Notice of Buy American Act Requirement-Construction Materials (May 1997)

(a) Offerors are required to comply with the requirements of Federal Acquisition Regulation (FAR) clause 52.225–5, Buy American Act Construction Materials, of this solicitation. The terms ''construction material'' and ''domestic construction material,'' as used in this provision, have the meanings set forth in FAR clause 52.225–5.

(b) Offerors should request a determination regarding the inapplicability of the Buy American Act in time to allow determination before submission of offers. For evaluation of a request for a determination regarding the inapplicability of the requirements of the Buy American Act prior to the time set for receipt of offers, the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225–5 shall be included in the request. If an offeror has not requested a detemination regarding the inapplicability of the Buy American Act prior to submission of its offer, or has not received

a response to a request made prior to submission of its offer, the information and supporting data shall be included in the offer.

(c) *Evaluation of offers.* (1) For evaluation of offers, (unless agency regulations specify a higher percentage) the Government will add to the offered price 6 percent of the cost of any foreign construction material proposed for exception from the requirements of the Buy American Act based on claimed unreasonable cost of domestic construction materials in accordance with paragraph (b)(3)(i) of FAR clause 52.225–5.

(2) If the evaluation of offers results in a tie between an offer including such foreign construction material excepted on the basis of unreasonable cost, as evaluated, and an offer including solely domestic construction material or other foreign construction material listed in the solicitation at paragraph (b)(2) of FAR clause 52.225–5, or subsequently excepted in accordance with paragraphs (b)(3) (ii) or (iii) of FAR clause 52.225–5, award shall be made to the offeror that submitted the latter offer.

(d) *Alternate offers.* (1) When an offer includes foreign construction material not listed by the Government in the solicitation at paragraph (b)(2) of FAR clause 52.225–5, offerors also may submit alternate offers based on use of equivalent domestic construction material.

(2) If alternate offers are submitted, a separate Standard Form 1442 shall be submitted for each alternate offer, and a separate price comparison table, prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-5, shall be submitted for each offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception to apply.

(3) If the Government determines that a particular exception requested under paragraph (c) of FAR clause 52.225–5 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material.

(i) In sealed bid procurements, any offer based on use of that particular foreign construction material shall be rejected as nonresponsive.

(ii) In negotiated procurements, any offer based on use of that particular foreign construction material may not be accepted unless revised during negotiations.

(End of provision)

Alternate I. (MAY 1997) As prescribed in 25.207(b)(2), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) An offeror requesting a determination regarding the inapplicability of the Buy American Act shall submit such request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225–5.

52.225–13 Notice of Buy American Act Requirement—Construction Materials under Trade Agreements Act and North American Free Trade Agreement.

As prescribed in 25.207(c)(1), insert the following provision:

Notice of Buy American Act Requirement—Construction Materials under Trade Agreements Act and North American Free Trade Agreement (May 1997)

(a) Offerors are required to comply with the requirements of Federal Acquisition Regulation (FAR) clause 52.225–15, Buy American Act—Construction Materials Under Trade Agreements Act and North American Free Trade Agreement, of this solicitation. The terms defined in FAR clause 52.225–15 have the same meaning in this provision.

(b) Offerors should request a determination regarding the inapplicability of the Buy American Act in time to allow determination before submission of offers. For evaluation of a request for a determination regarding the inapplicability of the requirements of the Buy American Act prior to the time set for receipt of offers, the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225–15 shall be included in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act prior to submission of its offer, or has not received a response to a request made prior to submission of its offer, the information and supporting data shall be included in the offer.

(c) *Evaluation of offers.* (1) For evaluation of offers, (unless agency regulations specify a higher percentage) the Government will add to the offered price 6 percent of the cost of any foreign construction material proposed for exception from the requirements of the Buy American Act based on claimed unreasonable cost of domestic construction materials in accordance with paragraph (b)(4)(i) of FAR clause 52.225–15.

(2) If the evaluation of offers results in a tie between an offer including such foreign construction material excepted on the basis of unreasonable cost, as evaluated, and an offer including solely domestic construction material or other foreign construction material, listed in the solicitation at paragraph (b)(3) of FAR clause 52.225–15, or subsequently excepted in accordance with paragraphs (b)(4)(ii) or (iii) of FAR clause 52.225–15, award shall be made to the offeror that submitted the latter offer.

(d) *Alternate offers.* (1) When an offer includes foreign construction material not listed by the Government in the solicitation at paragraph (b)(3) of FAR clause 52.225–15, offerors also may submit alternate offers based on use of equivalent domestic construction material.

(2) If alternate offers are submitted, a separate Standard Form 1442 shall be submitted for each alternate offer, and a separate price comparison table, prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225–15, shall be submitted for each offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception to apply.

(3) If the Government determines that a particular exception requested under paragraph (c) of FAR clause 52.225–15 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material.

(i) In sealed bid procurements, any offer based on use of that particular foreign construction material shall be rejected as nonresponsive.

(ii) in negotiated procurements, any offer based on use of that particular foreign construction material may not be accepted unless revised during negotiations.

(End of provision)

Alternate I (MAY 1997). As prescribed in 25.207(c)(2), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) An offeror requesting a determination regarding the inapplicability of the Buy American Act shall submit such request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225–15.

7. Section 52.225–15 is amended by revising the introductory paragraph, and the clause date; in the definition of ''Domestic construction material'' by removing ''25.202(a)(3)'' and inserting ''25.202(a)(2)''; by revising paragraphs (b) and (c); and by adding paragraph (d) to read as follows:

52.225–15 Buy American Act—Construction Materials under Trade Agreements Act and North American Free Trade Agreement.

As prescribed in 25.207(d), insert the following clause:

Buy American Act—Construction Materials Under Trade Agreements Act and North American Free Trade Agreement (May 1997)

* * * * *

(b)(1) The Buy American Act (41 U.S.C. 10a—10d) requires that only domestic construction material be used in performing this contract, except as provided in paragraphs (b)(2), (b)(3), and (b)(4) of this clause.

(2) The Trade Agreements Act and the North American Free Trade Agreement (NAFTA) provide that designated country and NAFTA country construction materials are exempted from application of the Buy American Act.

(3) The requirement in paragraph (b)(1) of this clause does not apply to the excepted construction material or components listed by the Government as follows:

_____

(*List applicable accepted materials or indicate ''none''*)

(4) Other foreign construction material may be added to the list in paragraph (b)(3) of this clause if the Government determines that—

(i) The cost would be unreasonable (the cost of a particular domestic construction material shall be determined to be unreasonable when the cost of such material

exceeds the cost of foreign material by more than 6 percent, unless the agency head determines a higher percentage to be appropriate);

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(5) The Contractor agrees that only domestic construction materials, NAFTA country construction materials, or designated country construction materials will be used by the Contractor, subcontractors, material men, and suppliers in the performance of this contract, except for foreign construction materials, if any, listed in paragraph (b)(3) of this clause.

(c) *Request for determination.* (1) Contractors requesting to use foreign construction material under paragraph (b)(4) of this clause shall provide adequate information for Government evaluation of the request for a determination regarding the inapplicability of the Buy American Act. Each submission shall include a description of the foreign and domestic construction materials, including unit of measure, quantity, price, time of delivery or availability, location of the construction project, name and address of the proposed contractor, and a detailed justification of the reason for use of foreign materials cited in accordance with paragraph (b)(4) of this clause. A submission based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause. The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(2) If the Government determines after contract award that an exception to the Buy American Act applies, the contract shall be modified to allow use of the foreign construction material, and adequate consideration shall be negotiated. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration shall not be less than the differential established in paragraph (b)(4)(i) of this clause.

(3) If the Government does not determine that an exception to the Buy American Act applies, the use of that particular foreign construction material will be a failure to comply with the Act.

(d) For evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the following information and any applicable supporting data based on the survey of suppliers shall be included in the request:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

Construction material description	Unit of measure	Quantity	Price (dollars) [1]
Item 1:			
Foreign construction material	.....	.....	.....
Domestic construction material	.....	.....	.....
Item 2:			
Foreign construction material	.....	.....	.....
Domestic construction material	.....	.....	.....
List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary. Include other applicable supporting information.			

[1] Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).

(End of clause)

Alternate I (MAY 1997). As prescribed in 25.207(d)(2), substitute the following paragraphs (b)(2) and (b)(5) for paragraphs (b)(2) and (b)(5) of the basic clause:

(b)(2) The North American Free Trade Agreement (NAFTA) provides that NAFTA construction materials are exempted from application of the Buy American Act.

(b)(5) The Contractor agrees that only domestic construction materials or NAFTA country construction materials will be used by the Contractor, subcontractors, material men, and suppliers in the performance of this contract, except for other foreign construction materials, if any, listed in paragraph (b)(3) of this clause.

52.225–22 [Amended]

8. Section 52.225–22 is amended by revising the clause date to read ''(MAY 1997)''; and in the definition of ''Domestic construction material'' by removing ''25.202(a)(3)'' and inserting ''25.202(a)(2)''.

[FR Doc. 97–6315 Filed 3–14–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 26 and 52

[FAC 90–46; FAR Case 95–306; Item VII]

RIN 9000–AH02

Federal Acquisition Regulation; Collection of Historically Black Colleges and Universities/Minority Institutions Award Data

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order 12928, which requires agencies to provide periodic reporting on the progress made in award of contracts to Historically Black Colleges and Universities and Minority Institutions. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Effective May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–46, FAR case 95–306.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Parts 26 and 52 to implement Executive Order 12928, which states that agencies will provide periodic reporting on their progress made in awards to Historically Black Colleges and Universities and Minority Institutions. The rule contains a new FAR subpart and solicitation provision.

A proposed rule was published in the Federal Register at 61 FR 31792, June 20, 1996. Five sources submitted comments in response to the proposed

rule. All comments were considered in the development of the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule primarily pertains to Government reporting requirements and merely requires offerors to provide certain identification information when responding to a solicitation.

C. Paperwork Reduction Act

The Paperwork Reduction Act is deemed to apply because the final rule contains a new information collection requirement. Accordingly, a request for approval of a new information collection requirement has been submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Public comments concerning this request were invited through a Federal Register notice published on January 16, 1997.

List of Subjects in 48 CFR Parts 26 and 52

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal AcquisitionPolicy Division.

Therefore, 48 CFR Parts 26 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 26 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 26—OTHER SOCIOECONOMIC PROGRAMS

2. Subpart 26.3, consisting of sections 26.300 through 26.304, is added to read as follows:

Subpart 26.3—Historically Black Colleges and Universities and Minority Institutions

Sec.
26.300 Scope of subpart.
26.301 Definitions.
26.302 General policy.
26.303 Data collection and reporting requirements.
26.304 Solicitation provision.

26.300 Scope of subpart.

(a) This subpart implements Executive Order 12928 of September 16, 1994, which promotes participation of Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs) in Federal procurement.

(b) This subpart does not pertain to contracts performed entirely outside the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands.

26.301 Definitions.

As used in this subpart—

Historically Black College or University means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For DoD, NASA, and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

Minority Institution means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d–5(3)) which, for the purpose of this subpart, includes a Hispanic-serving institution of higher education as defined in Section 316(b)(1) of the Act (20 U.S.C. 1059c(b)(1)).

26.302 General policy.

It is the policy of the Government to promote participation of HBCUs and MIs in Federal procurement.

26.303 Data collection and reporting requirements.

Executive Order 12928 requires periodic reporting to the President on the progress of departments and agencies in complying with the laws and requirements mentioned in the Executive order.

26.304 Solicitation provision.

The contracting officer shall insert the provision at 52.226–2, Historically Black College or University and Minority Institution Representation, in solicitations exceeding the micro-purchase threshold, for research, studies, supplies, or services of the type normally acquired from higher educational institutions.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.226–2 is added to read as follows:

52.226–2 Historically Black College or University and Minority Institution Representation.

As prescribed in 26.304, insert the following provision:

HISTORICALLY BLACK COLLEGE OR UNIVERSITY AND MINORITY INSTITUTION REPRESENTATION (MAY 1997)

(a) *Definitions.* As used in this provision—*Historically Black College or University* means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

Minority Institution means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d–5(3)) which, for the purpose of this provision, includes a Hispanic-serving institution of higher education as defined in Section 316(b)(1) of the Act (20 U.S.C. 1059c(b)(1)).

(b) *Representation.* The offeror represents that it—

☐ is ☐ is not a Historically Black College or University;

☐ is ☐ is not a Minority Institution.

(End of provision)

[FR Doc. 97–6316 Filed 3–14–97; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 90–46; FAR Case 95–021; Item VIII]

RIN 9000–AH04

Federal Acquisition Regulation; Allowability of Foreign Selling Costs

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to remove the ceiling on allowable foreign selling costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Effective May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755.

Please cite FAC 90–46, FAR case 95–021.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule revises FAR 31.205–38(c)(2) by removing the ceiling on allowable foreign selling costs. The rule also revises FAR 31.205–1, Public relations and advertising costs, by deleting reference to the ceiling limitation, and further revises FAR 31.205–38(c)(2) by deleting obsolete language. A proposed rule was published in the Federal Register at 61 FR 31800, June 20, 1996. The proposed rule retained an allowability ceiling but increased the threshold for its application from $2.5 million to $5.0 million.

Two sources submitted public comments in response to the proposed rule. All comments were considered in developing the final rule. The final rule removes the ceiling on allowable foreign selling costs in lieu of the proposed rule's doubling of the present threshold for its application, i.e., $2.5 million to $5.0 million. The final rule achieves a greater reduction in the administrative burden of contractors than would result from retaining a ceiling but doubling the threshold for its applicability. In addition, elimination of the allowability ceiling further promotes the Government's policy of stimulating the export of U.S. products.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive, fixed-price basis, and do not require application of the FAR cost principles. In addition, this rule applies to only those entities that incur foreign selling costs.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–1 is amended in paragraph (d)(2) by revising the second sentence to read as follows:

31.205–1 Public relations and advertising costs.

* * * * *

(d) * * *

(2) * * * Such costs are allowable, notwithstanding paragraphs (f)(1), (f)(3), (f)(4)(ii), and (f)(5) of this subsection. * * *

* * * * *

3. Section 31.205–38 is amended by revising paragraph (c)(2) to read as follows:

31.205–38 Selling costs.

* * * * *

(c) * * *

(2) The costs of broadly targeted and direct selling efforts and market planning other than long-range, that are incurred in connection with a significant effort to promote export sales of products normally sold to the U.S. Government, including the costs of exhibiting and demonstrating such products, are allowable on contracts with the U.S. Government provided the costs are allocable, reasonable, and otherwise allowable under this subpart 31.2.

* * * * *

[FR Doc. 97–6317 Filed 3–14–97; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 90–46; FAR Case 95–024; Item IX]

RIN 9000–AH03

Federal Acquisition Regulation; Independent Research and Development/Bid and Proposal Costs in Cooperative Arrangements

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to permit contractor contributions of independent research and development (IR&D) costs under NASA cooperative arrangements to be treated as allowable indirect costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATES: Effective May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–46, FAR case 95–024.

SUPPLEMENTARY INFORMATION:

A. Background

NASA published a class deviation (final rule) in the Federal Register at 59 FR 46359, September 8, 1994. The class deviation eliminates the prohibition at FAR 31.205–18(e) against treatment of contractor IR&D contributions under NASA cooperative arrangements as allowable indirect costs. This final rule eliminates the need for the NASA class deviation.

A proposed rule was published in the Federal Register at 61 FR 31796, June 20, 1996. Two sources submitted public comments. All comments were considered in developing the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive, fixed-price basis, and do not require application of the FAR cost principles. In addition, this rule affects only those entities that perform independent research and development effort under NASA cooperative arrangements.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–18(e) is revised to read as follows:

31.205–18 Independent research and development and bid and proposal costs.

* * * * *

(e) *Cooperative arrangements.* (1) IR&D costs may be incurred by contractors working jointly with one or more non-Federal entities pursuant to a cooperative arrangement (for example, joint ventures, limited partnerships, teaming arrangements, and collaboration and consortium arrangements). IR&D costs also may include costs contributed by contractors in performing cooperative research and development agreements, or similar arrangements, entered into under—

(i) Section 12 of the Stevenson-Wydler Technology Transfer Act of 1980 (15 U.S.C. 3710(a));

(ii) Sections 203(c) (5) and (6) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(c) (5) and (6));

(iii) 10 U.S.C. 2371 for the Defense Advanced Research Projects Agency; or

(iv) Other equivalent authority.

(2) IR&D costs incurred by a contractor pursuant to these types of cooperative arrangements should be considered as allowable IR&D costs if the work performed would have been allowed as contractor IR&D had there been no cooperative arrangement.

[FR Doc. 97–6318 Filed 3–14–97; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 32 and 52

[FAC 90–46; FAR Case 91–091; Item X]

RIN 9000–AF61

Federal Acquisition Regulation; Prompt Payment

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to incorporate changes required by the Prompt Payment Act Amendments of 1988. This regulatory action was not subject to Office of Management and Budget (OMB) review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–46, FAR case 91–091.

SUPPLEMENTARY INFORMATION:

A. Background

Federal Acquisition Circular (FAC) 84–45 contained a final rule which was published in the Federal Register at 54 FR 13332, March 31, 1989, to incorporate changes required by the Prompt Payment Act Amendments of 1988 (Public Law 100–496). OMB implemented the statutory requirements by revising OMB Circular A–125, Prompt Payment. The OMB Circular was published as a final rule in the Federal Register on December 21, 1989, and became effective 30 days after publication. OMB's final guidance differed somewhat from earlier proposed coverage which served as the basis for the FAR changes published in FAC 84–45. This final rule amends the FAR to reflect the changes in the OMB circular.

A proposed FAR rule to implement the guidance published in OMB Circular A–125 (Revised) was published in the Federal Register at 59 FR 23776, May 6, 1994. Ten sources submitted public comments. These comments were considered in developing the final rule.

B. Regulatory Flexibility Act

A Final Regulatory Flexibility Analysis (FRFA) has been performed. A copy of the FRFA may be obtained from the FAR Secretariat. The FRFA is summarized as follows:

The need for, and the objectives of, the final rule, are to implement changes made in Office of Management and Budget (OMB) Circular A–125 (Revised), dated December 12, 1989, to comply with the Prompt Payment Act Amendments of 1988 (Public Law 100–496). The Prompt Payment Act, as amended, requires Executive departments and agencies to make payments on time, to pay interest penalties when payments are late, and to take discounts only when payments are made on or before the discount date. We did not receive any public comments in response to the Initial Regulatory Flexibility Analysis. This rule will apply to all small entities that are awarded Government contracts, except contracts with payment terms and late payment penalties established by other Governmental authority (e.g., tariffs). The rule will also apply to all small entities that enter into construction contracts with contractors holding prime Federal construction contracts. To date, no supporting data has been collected; therefore, there is no available estimate of the number of small businesses that will be subject to the rule. The Federal Procurement Data System Federal Procurement Report for Fiscal Year (FY) 1995 states that 203,241 awards and contract modifications valued at more than $25,000 were placed with small entities in FY 1995. However, information is not available as to the number of small entities that received these awards, the number of small entities that receive awards not subject to this rule, or the number of small entities that enter into construction contracts with contractors holding prime Federal construction contracts. The corresponding information for actions valued at $25,000 or less is also not available. There are no significant alternatives that could accomplish the objectives of this rule.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 32 and 52

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 32 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 32 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 32—CONTRACT FINANCING

2. Section 32.102 is amended by revising paragraph (d) to read as follows:

32.102 Description of contract financing methods.

* * * * *

(d) Partial payments for accepted supplies and services that are only a part of the contract requirements are authorized under 41 U.S.C. 255 and 10 U.S.C. 2307. Office of Management and Budget Circular A–125, Prompt Payment, requires agencies to pay for partial delivery of supplies or partial performance of services unless specifically prohibited by the contract. Although partial payments generally are treated as a method of payment and not as a method of contract financing, using partial payments can assist contractors to participate in Government contracts without, or with minimal, contract financing. When appropriate, contract statements of work and pricing arrangements shall be designed to permit acceptance and payment for discrete portions of the work, as soon as accepted (but see 32.903(f)(2)).

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3. Section 32.902 is amended by revising the definitions of ''Day'', ''Designated billing office'', and ''Discount for prompt payment''; and by adding a definition of ''Invoice'' to read as follows:

32.902 Definitions.

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Day, as used in this subpart, means calendar day, including weekends and holidays, unless otherwise indicated. (However, see 32.903(e)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

Designated billing office, as used in this subpart, means the office or person (governmental or nongovernmental) designated in the contract where the contractor first submits invoices and contract financing requests. This might be the Government disbursing office, contract administration office, office accepting the supplies delivered or services performed by the contractor, contract audit office, or a nongovernmental agent. In some cases, different offices might be designated to receive invoices and contract financing requests.

* * * * *

Discount for prompt payment means an invoice payment reduction voluntarily offered by the contractor, in conjunction with the clause at 52.232–8, Discounts for Prompt Payment, if payment is made by the Government prior to the due date. The due date is calculated from the date of the contractor's invoice. If the contractor has not placed a date on the invoice, the due date is calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day and a discount may be taken.

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Invoice means a contractor's bill or written request for payment under the contract for supplies delivered or services performed.

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4. Sections 32.903, 32.904, and 32.905 are revised to read as follows:

32.903 Policy.

(a) All solicitations and contracts subject to this subpart shall specify payment procedures, payment due dates, and interest penalties for late invoice payment.

(b) The Government shall not make invoice and contract financing payments earlier than 7 days prior to the due dates specified in the contract unless the agency head, or designee, determines to make earlier payment on a case-by-case basis (see 32.908 for required clauses).

(c) Payment will be based on receipt of a proper invoice or contract financing request and satisfactory contract performance.

(d) Agency procedures shall ensure that, when specifying due dates, full consideration is given to the time reasonably required by Government officials to fulfill their administrative responsibilities under the contract.

(e)(1) Checks shall be mailed on the same day they are dated.

(2) For payments made by electronic funds transfer, the date specified by the Government (see 32.902 for definition of ''specified payment date'') for settlement of the payment at a Federal Reserve Bank shall be on or before the established due date.

(3) When the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(f)(1) Contracting officers shall, where the nature of the work permits, write contract statements of work and pricing arrangements that allow contractors to deliver, and receive invoice payments for, discrete portions of the work as soon as completed and found acceptable by the Government (see 32.102(d)).

(2) Unless specifically prohibited by the contract, the contractor is entitled to payment for accepted partial deliveries of supplies or partial performance of services that comply with all applicable contract requirements and for which prices can be calculated from the contract terms.

(3) Under some types of contracts, such as many cost-reimbursement contracts, partial payments cannot be made because the invoice price cannot be determined until after settlement of total contract costs and other contract-wide final arrangements. However, interim payments or contract financing payments may be made in accordance with the terms of the contract.

(g) Discounts for prompt payment offered by the contractor shall be taken only when payments are made within the discount period specified by the contractor.

(h) Agencies shall pay an interest penalty, without request from the contractor, for late invoice payments or improperly taken discounts for prompt payment. The temporary unavailability of funds to make a timely payment does not relieve an agency from the obligation to pay interest penalties or the additional interest penalties discussed in paragraph (i) of this section and paragraph (g) of 32.907–1.

(i) For contracts awarded after October 1, 1989, if the interest penalty is not paid within 10 days after it is due and the contractor makes a written demand for payment within 40 days after payment of the principal amount due, agencies shall pay an additional penalty amount, which shall be calculated in accordance with 32.907–1(g).

(j) If the contractor has assigned a contractor identifier (such as an invoice number) to an invoice or financing request, each payment or remittance advice shall use the contractor identifier (in addition to any Government or contract information) in describing any payment made.

(k) For payments made by electronic funds transfer, the specified payment date, included in the Government's order to pay the contractor, is the date of payment for prompt payment purposes, whether or not the Federal Reserve System actually makes the payment by that date, and whether or not the contractor's financial agent credits the contractor's account on that date. However, a specified payment date must be a valid date under the rules of the Federal Reserve System. For example, if the Federal Reserve System requires 2 days' notice before a specified payment date to process a transaction, release of a payment transaction instruction to the Federal Reserve Bank 1 day before the specified payment date could not constitute a valid date under the rules of the Federal Reserve System.

32.904 Responsibilities.

(a) Agency heads—

(1) Shall establish the policies and procedures necessary to implement this subpart;

(2) May prescribe additional standards for establishing due dates on invoice payments (see 32.905) and contract financing payments (see 32.906) necessary to support agency programs and foster prompt payment to contractors;

(3) May adopt different payment procedures in order to accommodate unique circumstances, provided that such procedures are consistent with the policies set forth in this subpart; and

(4) Shall inform contractors of points of contact within their cognizant payment offices to enable contractors to obtain status of invoices.

(b) Contracting officers, in drafting solicitations and contracts, shall identify for each contract line item number, subline item number, or exhibit line item number—

(1) Which of the applicable Prompt Payment clauses applies to each item when the solicitation or contract contains items that will be subject to different payment terms; and

(2) The applicable Prompt Payment food category (e.g., which item numbers are meat or meat food products, which are perishable agricultural commodities), when the solicitation or contract contains multiple payment terms for various classes of foods and edible products.

32.905 Invoice payments.

(a) *General.* Except as prescribed in paragraphs (b), (c), and (d) of this section, the due date for making an invoice payment by the designated payment office shall be as follows:

(1) The 30th day after the designated billing office has received a proper invoice from the contractor (except as provided in paragraph (a)(2) of this section); or the 30th day after Government acceptance of supplies delivered or services performed by the contractor, whichever is later.

(i) On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) For the sole purpose of computing an interest penalty that might be due the contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day after the contractor has delivered supplies or performed services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract requirement. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities. Except in the case of a contract for the purchase of a commercial item as defined in 2.101, including a brand-name commercial item for authorized resale (e.g., commissary items), the contracting officer may specify a longer period for constructive acceptance in the solicitation and resulting contract, if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or to evaluate the services performed. The contract file shall indicate the justification for extending the constructive acceptance period beyond 7 days. Extended acceptance periods shall not be a routine agency practice but shall be used only when necessary to permit proper Government inspection and testing of the supplies delivered or services performed.

(iii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(2) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the contractor's invoice, provided a proper invoice is received and there is no disagreement over quantity, quality, or contractor compliance with contract requirements.

(b) *Architect-engineer contracts.* The due date for making payments on contracts that contain the clause at 52.232–10, Payments Under Fixed-Price Architect-Engineer Contracts, shall be as follows:

(1) The due date for work or services completed by the contractor shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the contractor.

(ii) The 30th day after Government acceptance of the work or services completed by the contractor. On a final invoice where the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance shall be deemed to have occurred on the effective date of the settlement. For the sole purpose of computing an interest penalty that might be due the contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day after the contractor has completed the work or services in accordance with the terms and conditions of the contract (see also paragraph (b)(4) of this section). In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance.

(2) The due date for progress payments shall be the 30th day after Government approval of contractor estimates of work or services accomplished. For the sole purpose of computing an interest penalty that might be due the contractor, Government approval shall be deemed to have occurred constructively on the 7th day after contractor estimates have been received by the designated billing office (see also paragraph (b)(4) of this section). In the event that actual approval occurs within the constructive approval period, the determination of an interest penalty shall be based on the actual date of approval.

(3) If the designated billing office fails to annotate the invoice or payment request with the actual date of receipt at the time of receipt, the payment due date shall be the 30th day after the date of the contractor's invoice or payment request, provided a proper invoice or payment request is received and there is no disagreement over quantity, quality, or contractor compliance with contract requirements.

(4) The constructive acceptance and constructive approval requirements described in paragraphs (b)(1) and (b)(2) of this section are conditioned upon receipt of a proper payment request and no disagreement over quantity, quality, contractor compliance with contract

requirements, or the requested progress payment amount. These requirements do not compel Government officials to accept work or services, approve contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities. The contracting officer may specify a longer period for constructive acceptance or constructive approval, if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or to evaluate the services performed.

(c) *Construction contracts.* (1) The due date for making payments on construction contracts shall be as follows:

(i) The due date for making progress payments based on contracting officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project, shall be 14 days after receipt of a proper payment request by the designated billing office. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date shall be deemed to be the 14th day after the date of the contractor's payment request, provided a proper payment request is received and there is no disagreement over quantity, quality, or contractor compliance with contract requirements. The contracting officer may specify a longer period in the solicitation and resulting contract if required to afford the Government a reasonable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract. The contract file shall indicate the justification for extending the due date beyond 14 days. The contracting officer or a representative shall not approve progress payment requests unless the certification and substantiation of amounts requested are provided as required by the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts.

(ii) The due date for payment of any amounts retained by the contracting officer in accordance with the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts, shall be as specified in the contract or, if not specified, 30 days after approval by the contracting officer for release to the contractor. This release of retained amounts shall be based on the contracting officer's determination that satisfactory progress has been made.

(iii) The due date for final payments based on completion and acceptance of all work (including any retained amounts), and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract) shall be as follows:

(A) Either the 30th day after receipt by the designated billing office of a proper invoice from the contractor, or the 30th day after Government acceptance of the work or services completed by the contractor, whichever is later. If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date shall be deemed to be the 30th day after the date of the contractor's invoice, provided a proper invoice is received and there is no disagreement over quantity, quality, or contractor compliance with contract requirements.

(B) On a final invoice where the payment amount is subject to contract settlement actions (e.g., release of contractor claims), acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(iv) For the sole purpose of computing an interest penalty that might be due the contractor for payments described in paragraph (c)(1)(iii)(A) of this section, Government acceptance or approval shall be deemed to have occurred constructively on the 7th day after the contractor has completed the work or services in accordance with the terms and conditions of the contract (see also paragraph (c)(1)(v) of this section). In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance.

(v) The constructive acceptance and constructive approval requirements described in paragraph (c)(1)(iv) of this section are conditioned upon receipt of a proper payment request and no disagreement over quantity, quality, contractor compliance with contract requirements, or the requested amount. These requirements do not compel Government officials to accept work or services, approve contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities. The contracting officer may specify a longer period for constructive acceptance or constructive approval in the solicitation and resulting contract, if required to afford the Government a reasonable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract.

(2) Construction contracts contain special provisions concerning contractor payments to subcontractors, along with special contractor certification requirements. The Office of Management and Budget has determined that these certifications are not to be construed as final acceptance of the subcontractor's performance. The certification in 52.232–5(c) implements this determination; however, certificates are still acceptable if the contractor deletes paragraph (c)(4) of 52.232–5 from the certificate.

(3)(i) Paragraph (d) of the clause at 52.232–5, Payments under Fixed-Price Construction Contracts, and paragraph (e)(6) of the clause at 52.232–27, Prompt Payment for Construction Contracts, provide for the contractor to pay interest on unearned amounts in certain circumstances. This interest shall be recovered from subsequent payments to the contractor. Therefore, normally no demand for payment shall be made. Contracting officers shall—

(A) Compute the amount in accordance with the clause;

(B) Provide the contractor with a final decision; and

(C) Notify the payment office of the amount to be withheld.

(ii) The payment office shall be responsible for making the deduction of interest. Amounts collected in accordance with these provisions shall revert to the Treasury of the United States.

(d) *Food and specified items.* Due dates for payments of contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are as follows:

(1) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Public Law 98–181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(2) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(3) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(4) For dairy products (as defined in section 111(e) of the Dairy Production

Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices should be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the contractor making the representation.

(e) *Content of invoices.* A proper invoice must include the items listed in paragraphs (e)(1) through (e)(8) of this section. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice (3 days on contracts for meat, meat food products, or fish; 5 days on contracts for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), with a statement of the reasons why it is not a proper invoice. If such notice is not timely, then an adjusted due date for the purpose of determining an interest penalty, if any, will be established in accordance with 32.907–1(b):

(1) Name and address of the contractor.

(2) Invoice date. (Contractors are encouraged to date invoices as close as possible to the date of mailing or transmission.)

(3) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(4) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(5) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(6) Name and address of contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(7) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(8) Any other information or documentation required by the contract (such as evidence of shipment).

(9) While not required, contractors are strongly encouraged to assign an identification number to each invoice.

(f) *Authorization to pay.* All invoice payments shall be supported by a receiving report or any other Government documentation authorizing payment. The agency receiving official should forward the receiving report or other Government documentation to the designated payment office by the 5th working day after Government acceptance or approval, unless other arrangements have been made. This period of time does not extend the due dates prescribed in this section. Acceptance should be completed as expeditiously as possible. The receiving report or other Government documentation authorizing payment shall, as a minimum, include the following:

(1) Contract number or other authorization for supplies delivered or services performed.

(2) Description of supplies delivered or services performed.

(3) Quantities of supplies received and accepted or services performed, if applicable.

(4) Date supplies delivered or services performed.

(5) Date supplies or services were accepted by the designated Government official (or progress payment request was approved if being made under the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts, or the clause at 52.232–10, Payments Under Fixed-Price Architect-Engineer Contracts).

(6) Signature, or when permitted by agency regulations, electronic equivalent, printed name, title, mailing address, and telephone number of the designated Government official responsible for acceptance or approval functions.

(7) If the contract provides for the use of Government certified invoices in lieu of a separate receiving report, the Government certified invoice also must contain the information described in paragraphs (f)(1) through (f)(6) of this section.

(g) *Discounts.* When a discount for prompt payment is to be taken, payment will be made as close as possible to, but not later than, the end of the discount period. Payment terms are specified in the clause at 52.232–8, Discounts for Prompt Payment.

(h) *Billing office.* The designated billing office shall immediately annotate each invoice with the actual date it receives the invoice.

(i) *Payment office.* The designated payment office shall annotate each invoice and receiving report with the date a proper invoice or receiving report was received by the designated payment office.

(j) *Multiple payment rates.* Contractors may be encouraged, but cannot be required, to submit separate invoices for products with different payment due dates under the same contract or order. When an invoice is received that contains items with different payment periods (a mixed invoice), the payment office shall comply with all contractual and statutory payment provisions. In dealing with mixed invoices the payment office may, subject to agency policy—

(1) Pay all items at the later of the due dates, provided applicable interest penalties also are paid;

(2) Pay all items at the earlier of the due dates; or

(3) Split invoice payments, making payment by the due date applicable to each payment class.

5. Section 32.906 is amended by revising the first sentence of paragraph (a) to read as follows:

32.906 Contract financing payments.

(a) Unless otherwise prescribed in policies and procedures issued by the agency head, or designee, the due date for making contract financing payments by the designated payment office will be the 30th day after the designated billing office has received a proper request.

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6. Section 32.907–1 is amended by revising paragraphs (a), (b), (d), and (g) to read as follows:

32.907–1 Late invoice payment.

(a) An interest penalty shall be paid automatically by the designated payment office, without request from the contractor, when all of the following conditions, if applicable, have been met:

(1) A proper invoice was received by the designated billing office.

(2) A receiving report or other Government documentation authorizing payment was processed, and there was no disagreement over quantity, quality, or contractor compliance with any contract requirement.

(3) In the case of a final invoice, the payment amount is not subject to further contract settlement actions between the Government and the contractor.

(4) The designated payment office paid the contractor after the due date.

(b) The interest penalty computation shall not include—

(1) The time taken by the Government to notify the contractor of a defective

invoice, unless it exceeds the periods prescribed in 32.905(e);

(2) The time taken by the contractor to correct the invoice. If the designated billing office failed to notify the contractor of a defective invoice within the periods prescribed in 32.905(e), the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the contractor will be based on this adjusted due date; and

(3) The period between the date of an attempted electronic funds transfer and the date the contractor furnishes correct electronic funds transfer data; provided the Government notifies the contractor of the defective data within 7 days after the Government receives notice that the transfer could not be completed because of defective data.

* * * * *

(d) The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). The rate in effect on the day after the due date shall remain fixed during the period for which an interest penalty is calculated. This rate is referred to as the ''Renegotiation Board Interest Rate,'' and it is published in the Federal Register semiannually on or about January 1 and July 1. Information concerning this interest rate can be obtained from the Department of the Treasury, Financial Management Service, Washington, DC 20227, telephone (202) 874–6995. Interest calculations shall be based upon a 360-day year. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. The interest penalty amount, the interest rate, and the period for which the interest penalty was computed, will be stated separately by the designated payment office on the check, in accompanying remittance advice, or, for an electronic funds transfer, by an appropriate electronic or other remittance advice. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

* * * * *

(g)(1) For contracts awarded on or after October 1, 1989, a penalty amount (calculated in accordance with subparagraph (g)(3) of this section) shall be paid, in addition to the interest penalty amount, only if the contractor—

(i) Is owed an interest penalty of $1 or more;

(ii) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(iii) Makes a written demand to the designated payment office for additional penalty payment in accordance with paragraph (g)(2) of this section, postmarked not later than 40 days after the date the invoice amount is paid.

(2)(i) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall—

(A) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(B) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(C) State that payment of the principal has been received, including the date of receipt.

(ii) Demands must be postmarked on or before the 40th day after payment was made, except that—

(A) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(B) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(3)(i) The additional penalty shall be equal to 100 percent of any original late payment interest penalty that is due on or after January 22, 1990, except—

(A) For additional penalties due on or before January 22, 1992, such penalties shall not exceed $2,500;

(B) After January 22, 1992, the additional penalty shall not exceed $5,000;

(C) The additional penalty shall never be less than $25; and

(D) No additional penalty is owed if the amount of the underlying interest penalty is less than $1.

(ii) If the interest penalty ceases to accrue in accordance with the limits stated in paragraphs (e)(1) and (e)(2) of this section, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, but shall not exceed the limits specified in paragraph (g)(3)(i) of this subsection.

(iii) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(iv) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

7. Section 32.908 is revised to read as follows:

§ 32.908 Contract clauses.

(a) The contracting officer shall insert the clause at 52.232–26, Prompt Payment for Fixed-Price Architect-Engineer Contracts, in solicitations and contracts that contain the clause at 52.232–10, Payments Under Fixed-Price Architect-Engineer Contracts.

(1) As authorized in 32.905(b)(4), the contracting officer may modify the date in paragraph (a)(4)(i) of the clause to specify a period longer than 7 days for constructive acceptance or constructive approval, if required to afford the Government a practicable opportunity to inspect and test the supplies furnished or evaluate the services performed.

(2) If applicable, as authorized in 32.906(a) and only as permitted by agency policies and procedures, the contracting officer may insert in paragraph (b) of the clause a period shorter than 30 days (but not less than 7 days) for making contract financing payments.

(b) The contracting officer shall insert the clause at 52.232–27, Prompt Payment for Construction Contracts, in all solicitations and contracts for construction (see part 36).

(1) As authorized in 32.905(c)(1)(i), the contracting officer may modify the date in paragraph (a)(1)(i)(A) of the clause to specify a period longer than 14

days if required to afford the Government a reasonable opportunity to adequately inspect the work and to determine the adequacy of the Contractor's performance under the contract.

(2) As authorized in 32.905(c)(1)(v), the contracting officer may modify the date in paragraph (a)(4)(i) of the clause to specify a period longer than 7 days for constructive acceptance or constructive approval if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or evaluate the services performed.

(3) If applicable, as authorized in 32.906(a) and only as permitted by agency policies and procedures, the contracting officer may insert in paragraph (b) of the clause a period shorter than 30 days (but not less than 7 days) for making contract financing payments.

(c) The contracting officer shall insert the clause at 52.232–25, Prompt Payment, in all other solicitations and contracts (including contracts at or below the simplified acquisition threshold), except where the clause at 52.212–4, Contract Terms and Conditions—Commercial Items, applies, and except as indicated in 32.901.

(1) As authorized in 32.905(a)(1)(ii), the contracting officer may modify the date in paragraph (a)(5)(i) of the clause to specify a period longer than 7 days for constructive acceptance, if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or to evaluate the services performed, except in the case of a contract for the purchase of a commercial item as defined in 2.101, including a brand-name commercial item for authorized resale (e.g., commissary items).

(2) As authorized in 32.906(a) and only as permitted by agency policies and procedures, the contracting officer may insert in paragraph (b) of the clause a period shorter than 30 days (but not less than 7 days) for making contract financing payments.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Section 52.212–4 is amended by revising the clause date and the undesignated paragraph following paragraph (g)(8) to read as follows:

52.212–4 Contract Terms and Conditions—Commercial Items.

* * * * *

CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (MAY 1997)

* * * * *

(g) * * *

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A–125, Prompt Payment. Contractors are encouraged to assign an identification number to each invoice.

* * * * *

9. Section 52.232–5 is amended by—

(a) Revising the clause date, and paragraphs (a), (b), and (c);

(b) By adding a paragraph heading at the beginning of the introductory text of paragraph (d) and revising paragraph (d)(2);

(c) Adding paragraph headings to paragraph (e), the introductory text of paragraph (f), paragraph (g), and the introductory text of paragraph (h) and paragraph (i); and

(d) Adding paragraph (j).

The revised and added text reads as follows:

52.232–5 Payments under Fixed-Price Construction Contracts.

* * * * *

PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (MAY 1997)

(a) *Payment of price.* The Government shall pay the Contractor the contract price as provided in this contract.

(b) *Progress payments.* The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.

(1) The Contractor's request for progress payments shall include the following substantiation:

(i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.

(ii) A listing of the amount included for work performed by each subcontractor under the contract.

(iii) A listing of the total amount of each subcontract under the contract.

(iv) A listing of the amounts previously paid to each such subcontractor under the contract.

(v) Additional supporting data in a form and detail required by the Contracting Officer.

(2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if—

(i) Consideration is specifically authorized by this contract; and

(ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) *Contractor certification.* Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

I hereby certify, to the best of my knowledge and belief, that—

(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and

(4) This certification is not to be construed as final acceptance of a subcontractor's performance.

_____

(Name)

_____

(Title)

_____

(Date)

(d) *Refund of unearned amounts.* * * *

* * * * *

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until—

* * * * *

(e) *Retainage.* * * *

* * * * *

(f) *Title, liability, and reservation of rights.* * * *

* * * * *

(g) *Reimbursement for bond premiums.* * * *

* * * * *

(h) *Final payment.* * * *

* * * * *

(i) *Limitation because of undefinitized work.* * * *

* * * * *

(j) *Interest computation on unearned amounts.* In accordance with 31 U.S.C. 3903(c)(1), the amount payable under subparagraph (d)(2) of this clause shall be—

(1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and

(2) Deducted from the next available payment to the Contractor.

(End of clause)

11. Section 52.232–8 is amended by revising the clause date and paragraph (b) to read as follows:

52.232–8 Discounts for Prompt Payment.

* * * * *

DISCOUNTS FOR PROMPT PAYMENT (MAY 1997)

* * * * *

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

(End of clause)

12. Sections 52.232–25, 52.232–26, and 52.232–27 are revised to read as follows:

52.232–25 Prompt Payment.

As prescribed in 32.908(c), insert the following clause:

PROMPT PAYMENT (MAY 1997)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments* (1) *Due Date.* (i) Except as indicated in subparagraph (a)(2) and paragraph (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(A) The 30th day after the designated billing office has received a proper invoice from the Contractor (except as provided in subdivision (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) *Certain food products and other payments.* (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are—

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98–181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraph (a)(3)(i) through (a)(3)(viii) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils), with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(5) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) Any other information or documentation required by the contract (such as evidence of shipment).

(ix) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(4) *Interest penalty.* An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) *Computing penalty amount.* The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the ''Renegotiation Board Interest Rate,'' and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest

penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(3) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233–1, Disputes, or for more than 1 year. Interest penalties of less than $1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233–1, Disputes.

(6) *Prompt payment discounts.* An interest penalty also shall be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated as described in subparagraph (a)(5) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(7) *Additional interest penalty.* (i) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with paragraph (a)(7)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor—

(A) Is owed an interest penalty of $1 or more;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall—

(*1*) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(*2*) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(*3*) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that—

(*1*) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(*2*) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty that is due on or after January 22, 1990, except—

(*1*) For additional penalties due on or before January 22, 1992, such penalties shall not exceed $2,500;

(*2*) After January 22, 1992, the additional penalty shall not exceed $5,000;

(*3*) The additional penalty shall never be less than $25; and

(*4*) No additional penalty is owed if the amount of the underlying interest penalty is less than $1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in paragraph (a)(5)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in paragraph (a)(7)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payments*—(1) *Due dates for recurring financing payments.* If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the (*insert day as prescribed by Agency head; if not prescribed, insert 30th day*) day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) *Due dates for other contract financing.* For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) *Interest penalty not applicable.* Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) *Fast payment procedure due dates.* If this contract contains the clause at 52.213–1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(End of clause)

52.232–26 Prompt Payment for Fixed-Price Architect-Engineer Contracts.

As prescribed in 32.908(a), insert the following clause:

PROMPT PAYMENT FOR FIXED-PRICE ARCHITECT-ENGINEER CONTRACTS (MAY 1997)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(3) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments.*—(1) *Due date.* The due date for making invoice payments shall be—

(i) For work or services completed by the Contractor, the later of the following two events:

(A) The 30th day after the designated billing office has received a proper invoice from the Contractor (except as provided in paragraph (a)(1)(iii) of this clause).

(B) The 30th day after Government acceptance of the work or services completed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) The due date for progress payments shall be the 30th day after Government approval of Contractor estimates of work or services accomplished.

(iii) If the designated billing office fails to annotate the invoice or payment request with the actual date of receipt at the time of receipt, the payment due date shall be the 30th day after the date of the Contractor's invoice or payment request, provided a proper invoice or payment request is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(viii) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice, with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(4) of this clause:

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., prompt payment discount terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) Any other information or documentation required by the contract.

(ix) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(3) *Interest penalty.* An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) *Computing penalty amount.* The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the ''Renegotiation Board Interest Rate,'' and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(2) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance or approval shall be deemed to have occurred constructively as shown in paragraphs (a)(4)(i) (A) and (B) of this clause. In the event that actual acceptance or approval occurs within the constructive acceptance or approval period, the determination of an interest penalty shall be based on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, Contractor compliance with a contract provision, or requested progress payment amounts. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(A) For work or services completed by the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract.

(B) For progress payments, Government approval shall be deemed to have occurred on the 7th day after Contractor estimates have been received by the designated billing office.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days.

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233–1, Disputes, or for more than 1 year. Interest penalties of less than $1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable will be resolved in accordance with the clause at 52.233–1, Disputes.

(5) *Prompt payment discounts.* An interest penalty also shall also be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(6) *Additional interest penalty.* (i) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with paragraph (a)(6)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor—

(A) Is owed an interest penalty of $1 or more;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall—

(*1*) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(*2*) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(*3*) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that—

(*1*) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(*2*) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty that is due on or after January 22, 1990, except—

(*1*) For additional penalties due on or before January 22, 1992, such penalties shall not exceed $2,500;

(*2*) After January 22, 1992, the additional penalty shall not exceed $5,000;

(*3*) The additional penalty shall never be less than $25; and

(*4*) No additional penalty is owed if the amount of the underlying interest penalty is less than $1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in paragraph (a)(4)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in paragraph (a)(6)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (*e.g.*, payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payments—(1) Due dates for recurring financing payments.* If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the (*insert day as prescribed by Agency head; if not prescribed, insert 30th day*) day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) *Due dates for other contract financing.* For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) *Interest penalty not applicable.* Contract financing payments shall not be assessed an interest penalty for payment delays.

(End of clause)

52.232–27 Prompt Payment for Construction Contracts.

As prescribed in 32.908(b), insert the following clause:

PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (MAY 1997)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments*—(1) *Types of invoice payments.* For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project:

(A) The due date for making such payments shall be 14 days after receipt of the payment request by the designated billing office. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date shall be the 14th day after the date of the Contractor's payment request, provided a proper payment request is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts, shall be as specified in the contract or, if not specified, 30 days after approval for release to the Contractor by the Contracting Officer.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract):

(A) The due date for making such payments shall be either the 30th day after receipt by the designated billing office of a proper invoice from the Contractor, or the 30th day after Government acceptance of the work or services completed by the Contractor, whichever is later. If the designated billing office fails to annotate the invoice with the date of actual receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) On a final invoice where the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(2) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(ix) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice, with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(4) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., prompt payment discount terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) For payments described in paragraph (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts.

(ix) Any other information or documentation required by the contract.

(x) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(3) *Interest penalty.* An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was

processed and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) *Computing penalty amount.* The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (*e.g.,* tariffs). This rate is referred to as the ''Renegotiation Board Interest Rate,'' and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(2) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval shall be deemed to have occurred constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. In the event that actual acceptance or approval occurs within the constructive acceptance or approval period, the determination of an interest penalty shall be based on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days.

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233–1, Disputes, or for more than 1 year. Interest penalties of less than $1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233–1, Disputes.

(5) *Prompt payment discounts.* An interest penalty also shall be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(6) *Additional interest penalty.* (i) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with subdivision (a)(6)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor—

(A) Is owed an interest penalty of $1 or more;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with subdivision (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall—

(*1*) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(*2*) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(*3*) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that—

(*1*) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(*2*) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty that is due on or after January 22, 1990, except—

(*1*) For additional penalties due on or before January 22, 1992, such penalties shall not exceed $2,500;

(*2*) After January 22, 1992, the additional penalty shall not exceed $5,000;

(*3*) The additional penalty shall never be less than $25; and

(*4*) No additional penalty is owed if the amount of the underlying interest penalty is less than $1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(4)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in subdivision (a)(6)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (*e.g.,* payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payments*—(1) *Due dates for recurring financing payments.* If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the (*insert day as prescribed by Agency head; if not prescribed, insert 30th day*) day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) *Due dates for other contract financing.* For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) *Interest penalty not applicable.* Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) *Subcontract clause requirements.* The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) *Prompt payment for subcontractors.* A payment clause that obligates the Contractor

to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) *Interest for subcontractors.* An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause—

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) *Subcontractor clause flowdown.* A clause requiring each subcontractor to include a payment clause and an interest penalty clause conforming to the standards set forth in subparagraphs (c)(1) and (c)(2) of this clause in each of its subcontracts, and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) *Subcontract clause interpretation.* The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that—

(1) *Retainage permitted.* Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) *Withholding permitted.* Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) *Withholding requirements.* Permit such withholding without incurring any obligation to pay a late payment penalty if—

(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and

(ii) A copy of any notice issued by a Contractor pursuant to subdivision (d)(3)(i) of this clause has been furnished to the Contracting Officer.

(e) *Subcontractor withholding procedures.* If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall—

(1) *Subcontractor notice.* Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) *Contracting Officer notice.* Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to subparagraph (e)(1) of this clause;

(3) *Subcontractor progress payment reduction.* Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under subparagraph (e)(1) of this clause;

(4) *Subsequent subcontractor payment.* Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and—

(i) Make such payment within—

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph (e)(5)(i)) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) *Notice to Contracting Officer.* Notify the Contracting Officer upon—

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying—

(A) The amounts withheld under subparagraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended; and

(6) *Interest to Government.* Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until—

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under subdivision (e)(5)(i) of this clause.

(f) *Third-party deficiency reports*—(1) *Withholding from subcontractor.* If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a ''second-tier subcontractor'') a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b, Miller Act), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under subparagraph (e)(6) of this clause—

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (f)(1)(i) of this clause.

(2) *Subsequent payment or interest charge.* As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall—

(i) Pay the amount withheld under paragraph (f)(1)(ii) of this clause to such first-tier subcontractor; or

(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) *Written notice of subcontractor withholding.* A written notice of any withholding shall be issued to a subcontractor (with a copy to the Contracting Officer of any such notice issued by the Contractor), specifying—

(1) The amount to be withheld;

(2) The specific causes for the withholding under the terms of the subcontract; and

(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) *Subcontractor payment entitlement.* The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) *Prime-subcontractor disputes.* A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) *Preservation of prime-subcontractor rights.* Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or

nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) *Non-recourse for prime contractor interest penalty.* The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the United States for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

(End of clause)

[FR Doc. 97–6319 Filed 3–14–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 33

[FAC 90–46; FAR Case 96–016; Item XI]

RIN 9000–AH38

Federal Acquisition Regulation; Attorneys' Fees in GAO Protests

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to clarify the effective date of the $150.00 hourly cap on attorneys' fees imposed by Section 1403(b)(2) of the Federal Acquisition Streamlining Act (FASA) of 1994 (Public Law 103–355). The hourly cap on attorneys' fees applies only to those protests filed on or after October 1, 1995. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–46, FAR case 96–016.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 33.104 to clarify that the $150.00 hourly cap on attorneys' fees applies only to those protests filed on or after the effective date of FASA. Protests filed with the General Accounting Office prior to October 1, 1995, are not subject to the hourly cap on attorneys' fees.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–46, FAR case 96–016), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 33

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 33 is amended as set forth below:

PART 33—PROTESTS, DISPUTES, AND APPEALS

1. The authority citation for 48 CFR Part 33 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 33.104 is amended by revising the introductory text of paragraph (h)(3) to read as follows:

33.104 Protests to GAO.

* * * * *

(h) * * *

(3) For protests filed on or after October 1, 1995, no agency shall pay a party, other than a small business concern within the meaning of section 3(a) of the Small Business Act (see 19.001, Small business concern), costs under paragraph (h)(2) of this section—

* * * * *

[FR Doc. 97–6320 Filed 3–14–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 44

[FAC 90–46; FAR Case 94–605; Item XII]

RIN 9000–AG75

Federal Acquisition Regulation; Contractors' Purchasing Systems Reviews

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to revise the requirements relating to Contractors' Purchasing Systems Reviews (CPSRs). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–46, FAR case 94–605.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR section 44.302, to (1) add a requirement for the cognizant contract administration agency to determine the need for a CPSR based on, but not limited to, the past performance of the contractor; and volume, complexity, and dollar value of the subcontracting activity, and (2) delete the requirement for a CPSR to be performed initially and at least every 3 years thereafter, for contractors over a certain sales level. In addition, sections 44.303 through 44.307 are amended to conform to the revisions at 44.302.

A proposed rule was published in the Federal Register at 60 FR 66472, December 21, 1995. Three sources submitted public comments. The public comments were considered in the development of the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule applies to only those contractors whose sales (excluding sales under sealed bid procedures and sales of commercial items) are expected to exceed $25 million during the subsequent year.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 44

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 44 is amended as set forth below:

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

1. The authority citation for 48 CFR Part 44 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 44.302 is revised to read as follows:

44.302 Requirements.

(a) Determine the need for a CPSR based on, but not limited to, the past performance of the contractor, and volume, complexity and dollar value of the subcontracting activity. If a contractor's sales to the Government (excluding sales under sealed bid procedures and sales of commercial items pursuant to part 12) are expected to exceed $25 million during the next year, perform a review to determine if a CPSR is needed. Such sales include those represented by prime contracts, subcontracts under Government prime contracts, and modifications. Generally, a CPSR is not performed for a specific contract. The head of the agency responsible for contract administration may raise or lower the $25 million review level if such action is considered to be in the Government's best interest.

(b) Once an initial determination has been made under paragraph (a) of this section, at least every 3 years the cognizant contract administration activity will determine whether a purchasing system review is necessary. If necessary, the cognizant contract administration activity will conduct a purchasing system review.

3. Section 44.303 is amended by revising the introductory text to read as follows:

44.303 Extent of review.

A CPSR requires an evaluation of the contractor's purchasing system. This evaluation shall not include subcontracts awarded by the contractor exclusively in support of Government contracts awarded to the contractor that used sealed bid procedures or that are for commercial items pursuant to part 12. The considerations listed in 44.202–2 for consent evaluation of particular subcontracts also shall be used to evaluate the contractor's purchasing system, including the contractor's policies, procedures, and performance under that system. Special attention shall be given to—

* * * * *

4. Section 44.304 is amended by revising paragraph (a) to read as follows:

44.304 Surveillance.

(a) The ACO shall maintain a sufficient level of surveillance to ensure that the contractor is effectively managing its purchasing program.

* * * * *

5. Section 44.305–1 is revised to read as follows:

44.305–1 Responsibilities.

The cognizant ACO is responsible for granting, withholding, or withdrawing approval of a contractor's purchasing system. The ACO shall—

(a) Approve a purchasing system only after determining that the contractor's purchasing policies and practices are efficient and provide adequate protection of the Government's interests; and

(b) Promptly notify the contractor in writing of the granting, withholding, or withdrawal of approval.

6. Section 44.305–2 is amended by revising paragraph (a) to read as follows:

44.305–2 Notification.

(a) The notification granting system approval shall include—

(1) Identification of the plant or plants covered by the approval;

(2) The effective date of approval; and

(3) A statement that system approval—

(i) Applies to all Federal Government contracts at that plant to the extent that cross-servicing arrangements exist;

(ii) Waives the contractual requirement for advance notification in fixed-price contracts, but not for cost-reimbursement contracts;

(iii) Waives the contractual requirement for consent to subcontracts in fixed-price contracts and for specified subcontracts in cost-reimbursement contracts but not for those subcontracts, if any, selected for special surveillance and identified in the contract Schedule; and

(iv) May be withdrawn at any time at the ACO's discretion.

* * * * *

7. Sections 44.306 and 44.307 are revised to read as follows:

44.306 Disclosure of approval status.

Upon request, the ACO may inform a contractor that the purchasing system of a proposed subcontractor has been approved or disapproved, but shall caution that the Government will not keep the contractor advised of any changes in the approval status. If the proposed subcontractor's purchasing system has not been reviewed, the contractor shall be so advised.

44.307 Reports.

The ACO shall distribute copies of CPSR reports; notifications granting, withholding, or withdrawing system approval; and Government recommendations for improvement of an approved system, including the contractor's response, to at least—

(a) The cognizant contract audit office;

(b) Activities prescribed by the cognizant agency; and

(c) The contractor (except that furnishing copies of the contractor's response is optional).

[FR Doc. 97–6321 Filed 3–14–97; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 90–46; FAR Case 96–005; Item XIII]

RIN 9000–AH22

Federal Acquisition Regulation; Performance-Based Payments

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to address title to residual material and certain liability provisions concerning performance-based payments. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–46, FAR case 96–005.

SUPPLEMENTARY INFORMATION:

A. Background

The clause at 52.232–32, Performance-Based Payments, addresses a method of contract financing, and was printed in Federal Acquisition Circular 90–33, and published in the Federal Register at 60 FR 49707, September 26, 1995. Paragraph (f), Title, of the clause was intended to be functionally equivalent to paragraph (d) of FAR clause 52.232–16, Progress Payments, which addresses another type of contract financing. However, the topics of title to residual material and liability for Government-furnished property acquired under the contract, addressed in paragraphs (d) (6) and (7) of the Progress Payments clause, were inadvertently omitted from the Performance-Based Payments clause. This rule amends FAR 52.232–32 by adding paragraphs (f) (6) and (7) to address these topics.

A proposed rule was published in the Federal Register at 61 FR 47798, September 10, 1996. Two sources submitted public comments. All comments were considered in developing the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive basis, and, therefore, do not use the performance-based method of contract financing.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 52 amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 42 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 52.232–32 is amended by revising the clause date; redesignating the heading of paragraph (f)(1) as the heading of paragraph (f), and adding new paragraphs (f) (6) and (7) to read as follows:

52.232–32 Performance-Based Payments.

* * * * *

PERFORMANCE-BASED PAYMENTS (MAY 1997)

* * * * *

(f) *Title.* * * *

* * * * *

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all performance-based payments, title shall vest in the Contractor for all property (or the proceeds thereof) not—

(i) Delivered to, and accepted by, the Government under this contract; or

(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

* * * * *

[FR Doc. 97–6322 Filed 3–14–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 13 and 52

[FAC 90–46; Item XIV]

Federal Acquisition Regulation; Technical Corrections

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

ACTION: Corrections.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are issuing corrections to documents previously published in the Federal Register.

EFFECTIVE DATE: May 16, 1997.

FOR FURTHER INFORMATION CONTACT: FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–46, Technical Corrections.

Corrections

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.602 [Corrected]

1. At 62 FR 266, January 2, 1997, in the third column, 13.602 is corrected in the introductory text of paragraph (a) by removing from the parenthetical ''section 4202 of the Clinger-Cohen Act'' and inserting ''10 U.S.C. 2304 or 41 U.S.C. 253''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. At 61 FR 67408, December 20, 1996, in the first column of page 67422, amendatory instruction 15 is corrected to read as follows:

52.219–18 [Amended]

15. 52.219–18 is amended by removing Alternate II and redesignating Alternate III as Alternate II; and by revising the date of the newly designated Alternate II to read as follows:

52.219–18 Notification of Competition Limited to Eligible 8(a) Concerns.

* * * * *

Alternate II (DEC 1996). * * *

* * * * *

52.214–5, 52.214–7, 52.214–23, 52.214–32, 52.214–33, 52.215–9, 52.215–10, 52.215–36, 52.216–7, 52.216–8, 52.216–9, 52.216–10, and 52.216–13 [Corrected]

3. At 61 FR 69286, December 31, 1996, remove the clause date ''(FEB 1997)'' and insert ''(MAR 1997)'' in the following sections:

(a) On page 69293, in the middle and third columns, sections 52.214–5, 52.214–7, 52.214–23, 52.214–32, and 52.214–33;

(b) On page 69294, in the first and second columns, sections 52.215–9, 52.215–10, and 52.215–36;

(c) On page 69296, in all three columns, sections 52.216–7, 52.216–8, 52.216–9, 52.216–10, and 52.216–13; and

(d) On page 69297, in the first column, Alternate I.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 97–6323 Filed 3–14–97; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

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

ACTION: Small entity compliance guide notice.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration as the Federal Acquisition Regulation (FAR) Council. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 90–46 which amend the FAR. The rules marked with an asterisk (*) are those for which a regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Further information regarding these rules may be obtained by referring to FAC 90–46 which precedes this notice. This document may be obtained from the Internet at http://www.gsa.gov/far/SECG.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, FAR Secretariat, (202) 501–4755.

LIST OF RULES IN FAC 90–46

Item	Subject	FAR Case	Analyst
I	Gratuities	96–300	Linfield.
II	*Electronic Contracting	91–104	DeStefano.
III	*Office of Federal Procurement Policy Letter 93–1, Management Oversight of Service Contracting	94–008	O'Neill
IV	Performance Incentives for Fixed-Price Contracts	93–603	DeStefano.
V	*Environmentally Preferable Products (Interim)	92–054B	Linfield.
VI	Buy American Act—Construction (Grimberg Decision)	91–119	Linfield.
VII	Collection of Historically Black Colleges and Universities/Minority Institutions Award Data	95–306	Klein.
VIII	Allowability of Foreign Selling Costs	95–021	DeStefano.
IX	Independent Research and Development/Bid and Proposal Costs in Cooperative Agreements	95–024	Olson.
X	*Prompt Payment	91–091	Olson.
XI	Attorneys' Fees in GAO Protests	96–016	O'Neill.
XII	Contractors' Purchasing Systems Reviews	94–605	Klein.
XIII	Performance-Based Payments	96–005	Olson.

Item I—Gratuities (FAR Case 96–300)

The interim rule published as Item III of Federal Acquisition Circular (FAC) 90–40 is converted to a final rule without change. The rule amended FAR 3.202 and 52.203–3 to exempt solicitations and contracts which do not exceed the simplified acquisition threshold from the prescribed use of the ''Gratuities'' clause.

Item II—Electronic Contracting (FAR Case 91–104)

The interim rule published as Item II of FAC 90–29 is converted to a final rule with amendments in Parts 5, 14, 15, and 52. The rule facilitates the use of electronic data interchange in Government contracting and complements the rule published as Item II of FAC 90–40 pertaining to the Federal Acquisition Computer Network.

Item III—Office of Federal Procurement Policy Letter 93–1, Management Oversight of Service Contracting (FAR Case 94–008)

This final rule amends FAR 37.000 and 37.102, and adds a new Subpart 37.5, to implement OFPP Policy Letter 93–1, Management Oversight of Service Contracting. The policy letter provides Governmentwide guiding principles which are intended to improve the acquisition, management, and administration of service contracts. This rule also amends FAR 9.505–3 and 35.017–2 to remove references to OMB Circular A–120, Guidelines for the Use of Advisory and Assistance Services, which was rescinded by OMB on November 19, 1993.

Item IV—Performance Incentives for Fixed-Price Contracts (FAR Case 93–603)

This final rule amends FAR Parts 16 and 52 to permit the use of award-fee provisions as performance incentives in fixed-price contracts.

Item V—Federal Compliance With Right-To-Know Laws and Pollution Prevention Requirements (FAR Case 92–054B)

This interim rule adds a new FAR Subpart 23.10, and a new clause at 52.223–5 to implement Executive Order (E.O.) 12856 of August 3, 1993, Federal Compliance with Right-To-Know Laws and Pollution Prevention Requirements. The E.O. requires that a contract performed on a Federal facility shall provide that the contractor supply information on its use of certain hazardous or toxic substances in the

performance of the contract. This information is required to enable Federal facilities to comply with the reporting and emergency planning requirements of the Pollution Prevention Act of 1990 and the Emergency Planning and Community Right-To-Know Act of 1986.

Item VI—Buy American Act—Construction (Grimberg Decision) (FAR Case 91–119)

This final rule amends FAR Subpart 25.2 and the associated clauses at 52.225–5 and 52.225–15 to add guidance on exceptions to the Buy American Act, both pre-award and post-award. The rule adds two new solicitation provisions at 52.225–12 and 52.225–13 for use in solicitations for construction in the United States. These solicitation provisions set forth procedures by which offerors may request determinations regarding the inapplicability of the Buy American Act. The rule also adds a new section at 25.206, which provides guidance regarding instances of noncompliance with the Buy American Act.

Item VII—Collection of Historically Black Colleges and Universities/Minority Institutions Award Data (FAR Case 95–306)

This final rule adds a new FAR Subpart 26.3 and a new solicitation provision at 52.226–2 to implement Executive Order 12928, which requires agencies to provide periodic reporting on the progress made in award of contracts to Historically Black Colleges and Universities and Minority Institutions.

Item VIII—Allowability of Foreign Selling Costs (FAR Case 95–021)

This final rule revises FAR 31.205–38(c)(2) by removing the ceiling on allowable foreign selling costs. The rule also amends 31.205–1, Public relations and advertising costs, by deleting reference to the ceiling limitation, and further revises 31.205–38(c)(2) by deleting obsolete language.

Item IX—Independent Research and Development/Bid and Proposal Costs in Cooperative Agreements (FAR Case 95–024)

This final rule amends the cost principle at FAR 31.205–18, Independent research and development (IR&D) and bid and proposal costs, by removing from paragraph (e) the prohibition against treatment of contractor IR&D contributions under NASA cooperative arrangements as allowable indirect costs.

Item X—Prompt Payment (FAR Case 91–091)

This final rule amends FAR 32.102, Subpart 32.9, and related clauses at 52.212–4, 52.232–5, 52.232–8, 52.232–25, 52.232–26, and 52.232–27 in order to implement changes made in OMB Circular A–125 (Revised), dated December 12, 1989, to comply with the Prompt Payment Act Amendments of 1988 (Public Law 100–496). The rule also contains amendments to clarify and simplify the FAR text and clauses.

Item XI—Attorneys' Fees in GAO Protests (FAR Case 96–016)

This final rule amends FAR 33.104 to clarify that the $150 hourly cap on attorneys' fees applies only to those protests filed on or after October 1, 1995. Protests filed with the General Accounting Office prior to October 1, 1995, are not subject to the hourly cap on attorneys' fees, in accordance with Sections 10001 and 10002 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355).

Item XII—Contractors' Purchasing Systems Reviews (FAR Case 94–605)

This final rule amends FAR 44.302 to (1) add a requirement for the cognizant contract administration agency to determine the need for a contractor purchasing system review (CPSR) based on, but not limited to, the past performance of the contractor and volume, complexity, and dollar value of the contractor's subcontracting activity; and (2) delete the requirement for a CPSR to be performed initially and at least every 3 years thereafter, for contractors exceeding a certain sales level. Also, FAR sections 44.303 through 44.307 are amended to conform to amendments at 44.302.

Item XIII—Performance-Based Payments (FAR Case 96–005)

This final rule amends FAR 52.232–32, Performance-Based Payments, by adding paragraphs (f) (6) and (7) to address title to residual material and liability for Government-furnished property, for consistency with paragraphs (d) (6) and (7) of FAR 52.232–16, Progress Payments.

Dated: March 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 97–6324 Filed 3–14–97; 8:45 am]

BILLING CODE 6820–EP–P

federal register

Monday
March 17, 1997

Part III

Department of Transportation

Federal Aviation Administration

14 CFR 108

Certification of Screening Companies; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 108

[Docket No. 28852; Notice No. 97–3]

RIN 2120–AG31

Certification of Screening Companies

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The FAA seeks public comment on issues relating to the certification of screening companies (other than air carriers) by the FAA, and other enhancements to the screening by air carriers of passengers and property that will be carried in the cabin of an aircraft, and of checked baggage. This advance notice responds to a recommendation made by the White House Commission on Aviation Safety and Security, and to a requirement in the Federal Aviation Reauthorization Act of 1996. It is intended to improve the screening of passengers, property, and baggage. After reviewing any comments made in response to this advance notice, the FAA will issue a notice of proposed rulemaking with specific regulatory proposals.

DATES: Comments must be received on or before May 1, 1997.

ADDRESSES: Comments on this notice may be delivered or mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Docket No. 28852, Room 915G, 800 Independence Avenue, SW., Washington, DC 20591. Comments submitted must be marked: ''Docket No. 28852.'' Comments may also be sent electronically to the following internet address: 9-nprm-cmtsfaa.dot.gov. Comments may be examined in Room 915G on weekdays, except Federal holidays, between 8:30 am. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Penny J. Anderson, Office of Civil Aviation Security Policy and Planning, ACP–100, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–5183.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit comments by providing such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket address specified above.

Except as noted below, all comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

The Associate Administrator for Civil Aviation Security has determined that air carrier security programs required by part 108 contain sensitive security information. As such, the availability of information pertaining to air carrier security programs is governed by 14 CFR part 191 and 14 CFR 108.7(b) (4) and (5). Air carriers who wish to comment on this notice should be cautious not to include information contained in the security program in their comments.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. 28852.'' The postcard will be date stamped and mailed to the commenter.

Availability of ANPRMs

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339), the Federal Register's electronic bulletin board service (telephone: 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: 202–267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov or the Federal Register's webpage at http://www.access.gpo.gov/su__docs for access to recently published rulemaking documents.

Any person may obtain a copy of this ANPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this ANPRM.

Persons interesting in being placed on the mailing list for future ANPRMs or NPRMs should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

Following the tragic crash of TWA 800 on July 17, 1996, the President created the White House Commission on Aviation Safety and Security (the Commission). The Commission issued an initial Report on September 9, 1996, with 20 specific recommendations for improving security, one of which was the development of uniform performance standards for the selection, training, certification, and recertification of screening companies and their employees.

On October 9, 1996, the President signed the Federal Aviation Reauthorization Act of 1996, Pub.L. 104–264 (the Act). Section 302 provides:

> The Administrator of the Federal Aviation Administration is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.

The rulemaking initiated by this advance notice is intended to provide an initial response to these mandates. It requests comments on improving the screening system and on the certification of screening companies.

Rulemaking Process

This ANPRM does not propose specific regulatory changes. Rather, it requests comments and suggestions as to what regulatory changes should be made to carry out the Act and the Commission's recommendations. After review of all of the comments submitted in response to his ANPRM the FAA will issue a notice of proposed rulemaking (NPRM), proposing specific regulations. Interested persons will have the opportunity to comment on those proposed changes before a final rule is adopted.

History and Current Requirements

Title 49, United Stated Code, section 44901, requires the FAA to prescribe regulations requiring air carriers to screen all passengers and property that will be carried in a cabin of an aircraft in air transportation or intrastate air transportation. This screening must be done before the aircraft is boarded, using weapon-detecting facilities or

procedures used or operated by an employee or agent of an air carrier, intrastate air carrier, or foreign air carrier.

Part 108 of Title 14, Code of Federal Regulations, contains rules in §§ 108.9, 108.17, and 108.20 for the conduct of screening operations. These rules, which are available to the general public, provide basic standards for the screeners, equipment, and procedures to be used. In addition, each air carrier that is required to conduct screening has a non-public security program (issued under §§ 108.5 and 108.7) that contains detailed requirements for screening. Essentially all approved air carrier security programs are actually the Air Carrier Standard Security Program (ACSSP). The ACSSP provides identical measures for all air carriers to use in most situations. Individual air carriers may request alternate procedures in specific situations to allow more efficient operations, where the required level of security can be maintained.

There are several means by which an air carrier may conduct screening. It may use its own employees. It may contract with another company to conduct the screening in accordance with the air carrier's security program. It may contract with another air carrier to conduct screening. In each case, the air carrier is required to provide oversight to ensure that all requirements are met. For example, § 108.29 requires that the air carrier's ground security coordinator (GSC) review security-related functions and initiate corrective action for noncompliance, and § 108.31(d) requires that the GSC conduct an annual evaluation of each person assigned screening duties.

In addition to screening persons and property to be carried in the cabin of an aircraft, § 108.9(a) requires air carriers to prevent or deter the carriage of any explosive or incendiary in checked baggage. The ACSSP contains various measures to carry out this duty, including screening of checked baggage.

The term ''screening location'' refers to any site at which the screening of passengers, property, or baggage is conducted. A ''screening checkpoint'' is a type of screening location. Specifically, a ''screening checkpoint'' refers to a screening location at which the screening of passengers and property that will be carried in the cabin of an aircraft is conducted. Another example of a specific type of screening location would be a site at which the screening of checked baggage is conducted.

Some screening locations are used by only one air carrier. However, most locations are used by more than one air carrier (often referred to as ''joint-use checkpoints''), resulting in more than one air carrier having the regulatory responsibility to oversee the operation of the location. The use of the ACSSP ensures that all air carriers using the location are held to the same standards.

Foreign air carriers that operate in the United States are required to have a security program and carry out security procedures under 14 CFR 129.25, 129.26, and 129.27. It is anticipated that foreign air carriers will be subject to the same provisions for the use of certificated screening companies as U.S. air carriers, and comment is specifically invited on this.

General Discussion and Request for Comments

There are a number of issues that arise in connection with certification of screening companies. The FAA requests comments and suggestions on all issues related to the certification of screening companies and the improvement of screening. The FAA will consider all comments and suggestions. The following are issues of particular interest:

1. Oversight by Air Carriers

There has been no change to the requirement in 49 U.S.C. 44901(a) that screening of passengers and property that will be carried in the cabin of an aircraft in air transportation or intrastate air transportation be conducted by an employee or agent of an air carrier. Further, the FAA does not anticipate any change in the air carrier's responsibility for screening of checked baggage. Accordingly, certificated screening companies must be agents of air carriers, and air carriers will remain ultimately responsible for the proper screening of passengers, property, and baggage. However, as certificate holders, the screening companies will be responsible for carrying out their regulatory duties to properly screen passengers, property, and baggage. In the case of a failure to properly screen, both regulated parties, i.e., the air carriers and the certificated screening company, potentially bear responsibility.

This gives rise to questions about how air carriers should select a screening company, and then oversee the operations of that screening company, and the extent to which screening companies should be held directly responsible for the operation of screening locations. The fact that screening companies will have certificates will not relieve air carriers of responsibility for screening. These questions are similar to others that have been dealt with regarding air carrier oversight of contractors and employees. For example, the FAA recently has emphasized to air carriers the need for stronger oversight of certificated repair stations performing maintenance on their aircraft. As another example, the FAA currently requires pilots to have certificates, yet under Title V of the Act, the air carrier must obtain extensive information on pilots before they are hired.

The FAA anticipates that details of selecting a screening company, and then overseeing the operations of that screening company, will be placed in the security programs. However, the FAA requests comments as to the general rules that should appear in part 108 regarding what guidelines an air carrier should follow with respect to selection and oversight of a screening company. For example, what information should an air carrier collect prior to contracting with a screening company. Of what should air carrier oversight of a screening company consist? Should it include periodic inspections? Training audits? Records audit? Screening surveillance? Unannounced, anonymous testing? Other surveillance?

In addition to substantive comments or suggestions relating to this issue, the FAA requests estimates of the costs of carrying out oversight responsibilities.

2. Joint-Use Screening Locations

The FAA is evaluating how best to address common, or joint-use screening locations. Currently, joint-use screening locations are handled in a number of ways. Some locations have a managing air carrier that has accepted responsibility for administrative functions relating to the location, and for responsibility in the event of certain security violations. At other checkpoints the responsibility for these events may be spread among many air carriers.

The FAA requests comments on the best method of structuring air carrier selection of a screening company for joint use screening locations, and oversight of that screening company's activities. Should there be an agreement between all affected air carriers? What form should this agreement take? How should it be documented? How much involvement should air carriers other than the managing air carrier have regarding the day to day and long-term activities of the location?

3. Screening Security Program

As discussed above, there currently exist requirements for the screening of passengers, property, and baggage to be carried aboard air carrier aircraft, in part

108 and in the ACSSP. The ACSSP provides a uniform standard for screening, which assists in having a coordinated effort when more than one air carrier is using the same screening location. Further, the ACSSP is made available only to those persons with an operational need to know, not to the general public, in order to avoid unauthorized persons from obtaining information that could be used to attempt to defeat the security system. It is evident that large portions of the requirements for screening by screening companies must be in a non-public security program, just as they are for air carriers.

The FAA is considering establishing by regulation a uniform security program for use by all air carriers and screening companies. This screening security program would incorporate the screening standards currently provided in the ACSSP. This screening security program could be incorporated as part of the ACSSP (as it is now) or be developed as a separate security program for screening companies. In this case, all air carriers and certificated screening companies would be subject to the same standards for conducting screening. Screening companies would be made directly responsible for protecting the security program from access by unauthorized persons, similar to the requirement on air carriers under § 108.7(b) (4) and (5). There would be no confusion as to which air carrier's security program a screening company would carry out at a given location.

The FAA requests comments on this approach, and requests suggestions as to any other means that might be used to ensure that uniform standards are used to perform screening, and to ensure that the standards are protected from unauthorized use.

It has long been recognized that screener performance standards must be measurable. Although the FAA intends to begin measuring screener performance using the Threat Image Projection System (TIPS), it remains open to suggestions for other methods of evaluating performance.

In addition to substantive comments or suggestions relating to this issue, the FAA also requests estimates of the costs of implementing and carrying out a uniform security program.

4. Screener Training

The FAA has been working on ways to improve screener training, such as computer-based instruction. We anticipate that the details of most such changes will, of necessity, be placed in the ACSSP. The FAA is also considering a requirement to incorporate into each security program the specific curriculum to be used to train screeners. This would require the approval of the training curriculum by the FAA.

In addition to substantive comments or suggestions relating to this issue, the FAA requests any cost information that would assist it in evaluating the cost impact of the commenter's suggested changes to training methods or curriculum.

5. Qualifications and Operations of Screening Companies

The FAA is considering what qualifications companies should be required to demonstrate before the FAA issues a screening company certificate. The FAA requests comments on what should be the minimal showings to qualify for a screening company certificate.

Local and National Qualifications

A screening company may carry out its functions at many different locations throughout the country. Each location may have different types of equipment in place to conduct screening and to train screeners. The FAA requests comments on whether screening companies should be qualified on a national basis, or should companies be required to make specific showings of qualification for each location?

Aviation Screening Experience

The screening of passengers, property, and baggage at airports is a unique task. While there are some similarities to security functions performed in other settings (such as security at sports arenas and other public events), there are many differences. The FAA is considering whether a screening company should be required to have management personnel with specialized aviation experience or training, similar to that required for various air carrier management personnel under §§ 119.65 and 119.67.

Screening Equipment

Under current requirements, the equipment used for screening (such as x-ray machines and metal detectors) must be approved by or acceptable to the FAA. Further, the equipment must be checked or calibrated on a specified interval, and taken out of service if it fails to perform as required. Currently, most equipment is owned by air carriers, and that seems likely to remain true in the future. The FAA requests comments on the responsibility the air carriers and the screening companies each should have for both the equipment initially obtained to use at each location and the periodic checking and testing of the equipment, as well as its continued use after failure.

Training Equipment

Currently training equipment generally is owned by air carriers, and there may be different training programs in use by different air carriers. However, certificated screening companies will be responsible for ensuring that their screeners are properly trained. This raises the question whether each screening company should use whatever program is in place at each airport, or should be responsible for conducting its own training using its own equipment. The use of different training programs at different airports by the same screening company may be hard to manage, and make it difficult to determine to what standard the screening company must comply. The FAA requests comments on how training of screeners should be accomplished. For example, should training programs be approved for each site rather than for the screening company as a whole? Also, how should training for use of new equipment be addressed?

In addition to substantive comments or suggestions relating to this issue, the FAA requests estimates of the costs of meeting any of the qualifications or operational requirements described above.

6. Screeners

There is a concern that screeners should be encouraged to have a stronger sense of professionalism. There are a number of potential ways to accomplish this.

It has been suggested that it should be easier for screeners to switch employment from one screening company to another (screener mobility). Currently, when a screener wishes to switch companies, or one company stops operating a screening location for an air carrier and is replaced by another screening company, the first company does not necessarily transfer the training records to the new company. The screeners then must completely requalify for the new company. The FAA is considering whether there should be a means for certain records to be transferred, at the screener's request, to ease the transition.

Mobility of documentation also raises issues in regard to the accuracy of the documents, screener rights relating to corrections to the documents, and screening company liability in the event an inaccurate document is transferred.

Another means of encouraging professionalism is to provide a special recognition of the screener's successful completion of training.

The FAA requests comments on ways that the regulations could encourage a stronger sense of professionalism in screeners.

In addition to substantive comments or suggestions relating to this issue, the FAA requests estimates of the costs of increasing the professionalism of the screener position through implementation of the measures described above and any recommendation made by the commenter.

7. Screening by Air Carriers

Some air carriers conduct screening with their own employees. They may do so at joint-use locations, and therefore conduct screening on behalf of other air carriers. The FAA is considering whether air carriers that conduct screening should be subject to the same standards as certificated screening companies. These standards would include those issues raised in this document that identify possible screening company requirements, such as the qualification of management and screener training. They might also include oversight by other air carriers for which they screen.

In addition to substantive comments or suggestions relating to this issue, the FAA requests estimates of the costs of imposing the same requirements on air carriers as those that will be imposed upon independent screening companies.

8. New Screening Companies

There are about 70 screening companies (other than air carriers) currently performing passenger, property, and baggage screening at U.S. airports. We assume other companies will be formed in the future. These new companies may have no background or experience in aviation security screening. These screening companies will be required to have a certificate prior to beginning screening. The FAA invites coments on how to ensure the qualifications of a company that has no aviation screening experience before it begins aviation screening.

The FAA is considering whether there should be a period of provisional certification for new screening companies that have not demonstrated an ability to screen in the aviation environment. This may include additional measures and/or constraints upon such new companies to ensure competence of the screening company. During this provisional period the FAA and the air carrier could provide more monitoring of training, and more testing and surveillance than would normally be provided for established companies. The screening company might also be constrained from beginning screening activities at a new screening location unless advance approval is given by the FAA. The provisional certificate could be limited to a specific period, after which a successful screening company may apply for a standard screening company certificate and be expected to meet only those provisions required of experienced screening companies.

The FAA requests comments as to what measures or constraints, if any, should be placed upon a new screening company. If a provisional certificate were to be issued, for what period of time should it remian in effect? What additional oversight requirements, if any, should be placed upon an air carrier contracting with a new screening company?

In additon to substantive comments or suggestions relating to this issue, the FAA requests estimates of the costs of provisional certification or other possible constraints upon new screening companies.

9. Checkpoint Operational Configuration Deficiencies

The FAA has observed that difficulties with the performance of screening at checkpoints often are caused by a less than optimal physical configuration of the checkpoint. For instance, a screener may have problems reading the x-ray screen because there is a glare on the screen. The FAA is considering clarifying the responsibility of the air carriers and the screening companies to make sure that their checkpoints are configured for effective screening. In some cases an airport operator would have an interest in the correction of operational checkpoint configuration deficiencies. The FAA requests comments on how best to address operational checkpoint deficiencies.

In addition to substantive comments or suggestions relating to this issue, the FAA requests estimates of the costs of correcting operational checkpoint deficiencies.

10. Foreign Air Carriers

The FAA anticipates that this rule will also apply to foreign air carriers required to screen under a security program required by 14 CFR part 129. The FAA requests comments on the impact on foreign air carriers operating in the United States.

In addition to substantive comments or suggestions relating to this issue, the FAA requests estimates of the costs of imposing the same requirements on foreign air carriers.

Issued in Washington, DC, on March 11, 1997.

Quinten T. Johnson,

Acting Director, Office of Civil Aviation Security Policy and Planning.

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March 17, 1997

Part IV

Department of the Treasury

Office of the Comptroller of the Currency

Federal Reserve System

Federal Deposit Insurance Corporation

12 CFR Part 25, et al.

Prohibition Against Use of Interstate Branches Primarily for Deposit Production; Proposed Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 25

[Docket No. 97–04]

RIN 1557–AB50

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 211

[Regulations H and K; Docket No. R–0962]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 369

RIN 3064–AB97

Prohibition Against Use of Interstate Branches Primarily for Deposit Production

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The OCC, Board, and FDIC (collectively, agencies) propose to adopt uniform regulations to implement section 109 (section 109) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act). As required by section 109, the proposed rule would prohibit any bank from establishing or acquiring a branch or branches outside of its home state under the Interstate Act primarily for the purpose of deposit production, and would provide guidelines for determining whether such bank is reasonably helping to meet the credit needs of the communities served by the interstate branches.

DATES: Comments must be received on or before May 2, 1997.

ADDRESSES:

OCC: Comments should be directed to Docket No. 97–04, Communications Division, First Floor, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. Comments will be available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to FAX number (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

Board: Comments should refer to Docket No. R–0962, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Comments also may be delivered to the Board's mail room between 8:45 and 5:15 p.m. on weekdays, and to the security control room at all other times. The mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW., Comments may be inspected in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's Rules Regarding Availability of Information.

FDIC: Written comments should be directed to Jerry L. Langley, Executive Secretary, Attention: Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand delivered to Room F–400, 1776 F Street NW., Washington, DC 20429 on business days between 8:30 a.m. and 5 p.m. (Fax number (202) 898–3838; Internet address: comments@fdic.gov). Comments will be available for inspection and photocopying in Room 7118, 550 17th Street, NW., Washington, DC 20429, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:

OCC: Neil M. Robinson, Senior Attorney, or Kevin L. Lee, Senior Attorney, Community & Consumer Law Division (202) 874–5750; or Andrew T. Gutierrez, Attorney, Legislative and Regulatory Activities Division (202) 874–5090.

Board: Diane Koonjy, Senior Attorney, (202) 452–3274, Lawranne Stewart, Senior Attorney, (202) 452–3513, or, with respect to foreign banks, Christopher Clubb, Senior Attorney, (202) 452–3778, Legal Division; or Shawn McNulty, Assistant Director, (202) 452–3946, Division of Consumer and Community Affairs.

FDIC: Louise Kotoshirodo, Review Examiner, Division of Consumer Affairs (202) 942–3599; Doris L. Marsh, Examination Specialist, Division of Supervision (202) 898–8905; or Gladys Cruz Gallagher, Counsel, Legal Division (202) 898–3833.

SUPPLEMENTARY INFORMATION:

Background

The Interstate Act[1] provides expanded authority for a domestic or foreign bank to establish or acquire a branch in a state other than the bank's home state (host state). Section 109 requires the agencies to prescribe uniform rules that prohibit the use of the authority under the Interstate Act to engage in interstate branching primarily for the purpose of deposit production.[2] The agencies must also provide guidelines to ensure that banks that operate such branches are reasonably helping to meet the credit needs of the communities served by the branches. Congress enacted section 109 to ensure that the new interstate branching authority provided by the Interstate Act would not result in the taking of deposits from a community without concern for the credit needs of that community. See H.R. Rep. No. 651, 103d Cong., 2d Sess. 62 (1994).

The agencies' proposed uniform rules apply to any bank that establishes or acquires, directly or indirectly, a branch under the authority of the Interstate Act or amendments made by the Interstate Act. These branches are referred to as ''covered interstate branches.'' The proposed rules provide that, beginning no earlier than one year after a bank establishes or acquires a covered interstate branch, the appropriate agency will determine whether reasonably available data exist that will enable the agency to perform a ''loan-to-deposit ratio screen.''

The loan-to-deposit ratio screen compares the bank's loan-to-deposit ratio within the state where the bank's covered interstate branch is located (covered interstate branch loan-to-deposit ratio) with the loan-to-deposit ratio of banks whose home state is that state (host state loan-to-deposit ratio). If the loan-to deposit ratio screen indicates that the bank's covered interstate branch loan-to-deposit ratio is at least 50 percent of the host state loan-to-deposit ratio, no further analysis is required. However, if the appropriate agency determines that the bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or determines that reasonably available data do not exist that will permit the agency to determine the bank's covered interstate branch

[1] Pub. L. 103–328, 108 Stat. 2338, 12 U.S.C. 1835a.

[2] Before the Interstate Act, foreign banks were permitted to establish agencies and limited branches outside their home state under the International Banking Act (IBA) (12 U.S.C. 3101 *et seq.*). Since this authority was not conferred by the Interstate Act, or any amendment by the Interstate Act to any other provision of law, banks that only establish interstate agencies and limited branches under the IBA are not covered by section 109. Domestic banks may also have branches located outside a bank's home state that are not within the scope of section 109 because they are not established or acquired pursuant to authority in the Interstate Act. For example, domestic banks may have branches grandfathered under the McFadden Act (12 U.S.C. 36) and branches retained following an interstate relocation under 12 U.S.C. 30.

loan-to-deposit ratio, the agency will perform a ''credit needs determination.''

Under the credit needs determination, the appropriate agency will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host state. Consistent with section 109, the agencies will consider the following in making a credit needs determination: (1) Whether the covered interstate branches were formerly part of a failed or failing depository institution; (2) whether the covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business; (3) whether the covered interstate branches have a higher concentration of commercial or credit card lending, trust services, or other specialized activities; (4) the ratings received by the bank under the Community Reinvestment Act of 1977 (CRA)(12 U.S.C. 2901 *et seq.*); (5) economic conditions, including the level of loan demand, within the communities served by the covered interstate branches; and (6) the safe and sound operation and condition of the bank.

If the appropriate agency concludes after taking these considerations into account that the bank is not reasonably helping to meet the credit needs of the communities served by the bank in the host state: (1) The appropriate agency may order that covered interstate branches in the host state be closed unless the bank provides reasonable assurances to the satisfaction of the appropriate agency that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host state; and (2) the bank may not open a new covered interstate branch in the host state unless the bank provides reasonable assurances to the satisfaction of the appropriate agency that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

Before exercising the authority to order closure of branches, the agencies will issue a notice of intent to close covered interstate branches to the bank and schedule a hearing under the provisions of section 8(h) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)).

Regulatory Burden and Limitations on Available Data

The language of section 109 and its legislative history indicate that Congress intended that the provision not impose any additional regulatory or paperwork burdens on any institution. See H. Rep. No. 651, 103d Cong., 2nd Sess. 62 (1994). Section 109 directs the agencies to calculate the covered interstate branch loan-to-deposit ratio from available information, including an agency's sampling of the bank's loan files during an examination, or such data as are otherwise available. The agencies are also required by section 109 to calculate the host state loan-to-deposit ratio as determinable from relevant sources.

As discussed in greater detail later, data that are currently required to be reported by banks have significant limitations for purposes of making the calculations described in section 109. In addition, the agencies' supervisory experience indicates that data collection and availability vary substantially from bank to bank. Although sampling during an examination may produce relevant data, the extent and duration of an examination to gather complete information could impose significant regulatory burdens on the bank.

To address these concerns in a manner consistent with section 109's intent not to impose additional regulatory burdens on banks, the agencies propose to determine the covered interstate branch loan-to-deposit ratio by reviewing the relevant data reasonably available for each bank covered by the proposed rule. These data would include deposit and loan data that are readily available and provided by the bank, and data already required to be reported by the bank or reasonably available to the agencies during an examination. If these data are sufficient to determine that a bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's covered interstate branch loan-to-deposit ratio, the agencies would make a credit needs determination for the bank. During the credit needs determination, the bank may provide the agencies with any relevant information, including deposit and loan data.

The agencies believe that this approach will accomplish the purpose of section 109 while minimizing regulatory burden on the bank to produce or to assist the agencies in obtaining data to calculate the bank's covered interstate branch loan-to-deposit ratio. In this regard, the ratios required to be calculated provide a screen to identify when the appropriate agency is required to make a more comprehensive credit needs determination under section 109. The proposed rule ensures that the credit needs determination will be made in all cases in which the appropriate agency is unable to readily verify compliance by means of the section 109 loan-to-deposit ratio screen.

The agencies seek comment on all aspects of the proposal, particularly data availability issues as they relate to the required calculations of the loan-to-deposit ratios for banks with covered interstate branches and the host states, and the agencies' proposed resolutions of these issues. The agencies also seek comment on all other aspects of the proposed rule.

Available Deposit and Loan Data

The most relevant data for calculating the ratios required under section 109 are data that provide the geographic location of the depositor or borrower. As discussed later, currently available data have significant limitations with respect to depositor or borrower location.

Deposit Data

Domestic banks report deposit data to the agencies primarily through three submissions: (1) The annual Summary of Deposits, (2) the quarterly Consolidated Reports of Condition and Income (Call Reports), and (3) the Report of Transaction Accounts, Other Deposits, and Vault Cash (FR 2900). The Summary of Deposits collects deposit data on a branch-by-branch basis and can be aggregated by state or other geographical region. The data in this report reflect the location where deposits are booked, however, and not the location of the depositor. Deposits may be booked at centralized locations and may include deposits from sources in other states. The Summary of Deposits therefore has limitations as a source of deposit data for calculating loan-to-deposit ratios in a particular area or state. The Call Report and the FR 2900 also provide deposit data that are of limited value in making the necessary calculations. The data in these reports are collected for each institution on a consolidated basis and are not segregated by geographic area.

The data reported by foreign banks have similar limitations. The principal source of deposit data for U.S. branches of foreign banks is the Report of Assets and Liabilities of United States Branches and Agencies of a Foreign Bank (FFIEC 002). While this form separately identifies U.S. and non-U.S. depositors, it does not otherwise segregate depositors by location. Moreover, since foreign banks generally compete in wholesale deposit markets, the location where deposits are booked is likely to bear little relation to the

location of the depositors. Other sources of deposit data for foreign banks are the FDIC's Summary of Deposits (for insured U.S. branches of foreign banks, which are relatively few in number) and the FR 2900—Report of Transaction Accounts, Other Deposits, and Vault Cash (for U.S. branches of foreign banks with consolidated worldwide assets in excess of $1 billion) which, for the reasons previously discussed, are of limited use in the loan-to-deposit calculations required under section 109.

Loan data

The quarterly Call Reports provide information about the lending activity of domestic banks on a consolidated basis and do not require this information to be segregated by state or branch. Moreover, the Call Reports reflect only those loans actually held on the books of the bank as of the end of the reporting period, and do not reflect loans that have been originated and sold or that have been booked through affiliates.

Certain types of loans by domestic banks are required to be reported under the Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq.*) (HMDA) and the new CRA regulations promulgated by the Federal financial supervisory agencies (60 FR 22156). An institution that is subject to HMDA reporting requirements must report annually the number of home-purchase and home-improvement loans originated or purchased, and refinancings of both, by geographic location of the property subject to the mortgage.[3] Additionally, large institutions are required under the new CRA regulations to report the following information annually on loans to small businesses and small farms, aggregated for each census tract or block numbering area: (1) Number and amount of loans with an original amount of $100,000 or less, more than $100,000 and less than or equal to $250,000, and more than $250,000; and (2) number and amount of loans to small businesses and small farms with gross annual revenues of $1 million or less (using the revenues the institution considered in making the credit decision).[4] While these sources contain lending data broken down by geographical location, the limited nature of the types of loans reported and of the lenders required to report significantly limit the usefulness of these data for purposes of calculating the ratios required under section 109.

Loan data for U.S. branches of foreign banks are also reported on an aggregate basis in the FFIEC 002, which distinguishes only between U.S. and non-U.S. borrowers for some types of loans. These branches typically make very few loans that are subject to HMDA reporting requirements.

The Section 109 Loan-to-Deposit Ratio Screen

Covered Interstate Branch Loan-to-Deposit Ratio

Section 109 indicates that in calculating the covered interstate branch loan-to-deposit ratio, the agencies should consider available information, including information from the agency's sampling of the bank's loan files during an examination. As discussed later, sampling loan files to calculate this loan-to-deposit ratio could result in significantly increased regulatory burden.

Sampling at a particular branch could produce unreliable data if a bank books loans or deposits at locations outside the state where the borrowers or depositors are located. In this regard, many domestic and foreign institutions consolidate certain types of business at the main office or other location. For example, commercial loans and deposits may be consolidated at a bank's main office, while mortgage lending may be booked at a mortgage lending subsidiary. Although the loans may have been made through a bank's covered interstate branch, they would not be booked at that branch. Sampling of loan files also would not provide information on loans that have been sold. Since practices regarding loan sales differ from bank to bank, there may be large variations in the loan-to-deposit ratios for individual banks over time that do not reflect underlying lending activity. If loans were booked at the covered interstate branch closest to the borrower, the agencies would have to expand significantly the extent and duration of their current examinations in order to obtain this information through sampling of loan files at the bank's covered interstate branches.

Under the proposed rule, the agencies would take into account all reasonably available data relevant to calculating the covered interstate branch loan-to-deposit ratio on a case-by-case basis. The agencies would consider any deposit and loan data that are readily available and provided by the bank, and data reasonably available to the agencies through currently required reports and the examination process. In determining whether to sample a bank's loan and deposit records, the agencies would consider whether the information would accurately reflect the bank's activities in a host state, and whether the information could be obtained without imposing an undue regulatory burden on the bank. As previously noted, the agencies would conduct a credit needs determination in all cases where the agencies concluded that sufficient data were not available without imposing an additional regulatory burden on the bank to calculate the covered interstate branch loan-to-deposit ratio.

The agencies seek comment on this approach and alternative approaches for accomplishing the purpose of section 109 without imposing regulatory burden. In particular, the agencies seek comment on the availability of deposit and lending data broken down by geographical area, and banking practices for allocating deposits and loans to branches or particular states. The agencies also seek comment on the regulatory burden associated with providing data, or permitting the agencies to obtain data through sampling in the examination process, that would be necessary to calculate a bank's covered interstate branch loan-to-deposit ratio.

Host State Loan-to-Deposit Ratio

The agencies anticipate that the host state loan-to-deposit ratio would be calculated jointly by the agencies from the data reported by banks in the Call Reports by dividing the total dollar amount of outstanding loans held by home state banks by the total dollar amount of deposits held by such banks. The ratio, which would be periodically updated, and the methodology used to calculate the ratio would be made available to the public. Determining the appropriate method of calculating a ratio that accurately reflects the deposit taking and lending activities of home state banks raises several issues discussed later.

Data for specialized banks that do not engage in traditional deposit taking or lending may distort the host state loan-to-deposit ratio. Limited purpose banks,

[3] HMDA imposes reporting requirements on federally insured depository institutions that in any year make at least one first-lien home-purchase loan secured by a one- to four-family dwelling, other than institutions that did not have a home or branch office in an MSA or that had assets of $28 million or less at the end of the previous calendar year. The reporting requirements also are imposed on certain mortgage lending subsidiaries and affiliates of depository institutions and independent mortgage companies, unless the subsidiary, affiliate, or independent company did not have a home or branch office in an MSA at the end of the previous calendar year, or had, together with its parent, assets of $28 million or less and originated less than 100 mortgages in the previous calendar year.

[4] These reporting requirements do not apply to a bank that, as of December 31 of either of the prior two calendar years, had total assets of less than $250 million and was independent or an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total banking and thrift assets of less than $1 billion.

such as credit card banks and wholesale banks, could have very large loan portfolios, but few, if any deposits. In addition, certain loan and deposit data reported on the Call Report relate to international banking activities that are not attributable to any state. These data include loans to banks in foreign countries, commercial and industrial loans to non-U.S. addresses, loans to foreign governments and official institutions, deposits from banks in foreign countries, and deposits from foreign governments and official institutions. The agencies anticipate that the host state loan-to-deposit ratio would exclude data from the types of limited purpose banks and the categories of Call Report data discussed earlier.

The deposit taking and lending activities of multistate banks also could distort the host state loan-to-deposit ratio of their home states. Accounting for these activities, however, is difficult because consolidated reporting does not allow assignment of a multistate bank's loans and deposits to particular states. Attributing all loans and deposits from banks with operations in more than one state to its home state could materially distort the host state loan-to-deposit ratio, particularly since multistate banks, which are likely to be large institutions, generally maintain higher loan-to-deposit ratios than smaller institutions.[5] On the other hand, excluding multistate banks completely also could distort the host state loan-to-deposit ratio.

Multistate banks that have more than 50 percent of their branches outside their home state could be excluded from the host state loan-to-deposit ratio calculation since these institutions would be more likely to have more than 50 percent of their deposits and loans originated outside the host state under consideration. However, any methodology that excludes multistate banks could eventually result in a host state with few, if any, banks eligible for calculating the host state loan-to-deposit ratio as interstate branching becomes more prevalent. Under these circumstances, the agencies may need to include multistate banks.

The agencies seek comment on the approaches to resolving the issues discussed earlier, and on any methodology that, using available data, would most accurately reflect the deposit taking and lending activities of retail banks in a host state. Commenters should also consider the extent to which a methodology could calculate a host state loan-to-deposit ratio that would be roughly comparable to the calculation of the bank's covered interstate branch loan-to-deposit ratio. In addition, the agencies anticipate that any methodology used to calculate the host state loan-to-deposit ratio could be adjusted in the future to take into account changes in reporting requirements or additional sources of relevant data. In this light, the agencies have not included the methodology for calculating the host state loan-to-deposit ratio in the regulation and seek comment on this approach.

Credit Needs Determination

As discussed earlier, the proposed rule would require the appropriate agency to review the loan portfolio of a bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host state if the bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's covered interstate branch loan-to-deposit ratio.

In making a credit needs determination, the appropriate agency will consider all of the factors specified in section 109, including the circumstances under which the branches were acquired, the nature of the branches' business, economic conditions, safety and soundness considerations, and the CRA rating of the bank. The agencies also would consider any information provided by the bank, including loan and deposit data.

The agencies believe that it is consistent with the language and intent of section 109 to carefully weigh the CRA rating of the bank in making a credit needs determination under the factors enumerated in section 109. Section 109 specifies the bank's CRA rating as a factor to be considered, and most of the other considerations listed in section 109 are taken into account under the new CRA regulations as part of the performance context used to rate a bank's CRA performance.[6]

For a bank with interstate branches, section 110 of the Interstate Act requires separate written evaluations of the institution's CRA performance: as a whole; in each state in which it maintains a branch; and in any multistate metropolitan area in which it maintains a branch in two or more states. Section 110 also requires that the statewide written evaluation of a multistate bank must contain separate discussions of the institution's performance in any metropolitan area in the state in which it maintains a branch, as well as in the nonmetropolitan area of the state if a branch is maintained there. Data considered in evaluating the bank's CRA performance in a particular state would include information that contains the geographical location of housing-related, small business and small farm loans that are required to be reported under HMDA and the new CRA regulations. Accordingly, the agencies believe that information from a CRA performance examination is particularly relevant in determining compliance with section 109 because it directly evaluates a bank's efforts to assist in meeting the credit needs of its communities.

The agencies would expect that a credit needs determination for a bank with satisfactory or better ratings for CRA performance in the host state would be favorable. The agencies would also expect that a credit needs determination for a bank with less than satisfactory ratings for CRA performance in the host state would be adverse unless mitigated by the other factors enumerated in section 109. If the section 109 review is not performed in connection with the bank's CRA performance examination, the agencies would also consider any available information that would indicate an improvement or weakening in a bank's CRA performance since its most recent performance rating.

Some entities that could be subject to section 109, including special purpose banks and uninsured branches of foreign banks,[7] are not evaluated for CRA performance by the agencies. For these institutions, the agencies propose to use the new CRA regulations as guidelines in making a credit needs

[5] See Profit and Balance Sheet Developments at U.S. Commercial Banks in 1995, Federal Reserve Bulletin, June 1996, table A.2, pgs. 496–505.

[6] The new CRA regulations permit the agencies to evaluate a bank's performance in the context of a number of considerations, including the nature of the bank's product offerings and business strategy, the lending opportunities within a bank's assessment area, and any constraints on the bank such as the financial condition of the bank, the economic climate (national, regional and local), and safety and soundness limitations. See 12 CFR 25.21(b) (OCC), 12 CFR 228.21(b) (Board) and 12 CFR 345.21(b) (FDIC).

[7] A special purpose bank does not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, and is not evaluated for CRA performance by the agencies. See 12 CFR 25.11(c)(3) (OCC); 12 CFR 228.11(c)(3) (Board); and 12 CFR 345.11(c)(3) (FDIC). An uninsured branch of a foreign bank also is not evaluated for CRA performance unless it results from an acquisition described in section 5(a)(8) of the IBA (12 U.S.C. 3103(a)(8)). See 12 CFR 25.11(c)(2) (OCC); 12 CFR 228.11(c)(2) (Board); and 12 CFR 345.11(c)(1) (FDIC).

determination. However, the new CRA regulations would provide guidance only for determining the relevance of a particular activity to the credit needs determination, and would not obligate the institution to have a record of performance under the CRA or require that the bank pass any performance tests in the new CRA regulations.

The agencies also intend to give substantial weight to the factor in section 109 relating to specialized activities in making a credit needs determination for institutions not evaluated under the CRA. For example, most branches of foreign banks derive substantially all of their deposits from the wholesale deposit markets that are generally national or international in scope.[8] The agencies believe that this approach is consistent with section 109's overall purpose of preventing banks from using the Interstate Act to establish branches primarily to gather deposits in their host state without engaging in activities designed to reasonably help meet the credit needs of the communities served by the bank in the host state.

Before a bank could be sanctioned under section 109, the appropriate agency would be required to demonstrate that the bank failed to comply with the section 109 loan-to-deposit ratio screen as well as failed to reasonably help in meeting the credit needs of the communities served by the bank in the host state. Accordingly, the proposed rule would require the agencies to determine a bank's compliance with the section 109 loan-to-deposit ratio screen, even if the agencies previously determined that the data are not reasonably available.

The agencies seek comment on the proposed approach for making credit needs determinations, particularly the proposal to make credit needs determinations when data are insufficient to calculate the covered interstate branch loan-to-deposit ratio, and alternative approaches for accomplishing the purpose of section 109 without imposing regulatory burden. The agencies also solicit comments on whether the agencies should carefully weigh the extent to which banks receive deposits from the host state if they are evaluated by the agencies under the CRA but engage in specialized activities.

Timing of Review and Agency Consultation

The agencies anticipate that they will conduct a review under section 109 for all banks evaluated for CRA performance when the agencies initially rate the CRA performance of an interstate bank in a particular state as required by section 110 of the Interstate Act. Subsequent reviews, and reviews of banks not subject to CRA evaluations, would be conducted as deemed appropriate by the agencies. The agencies also intend to coordinate and consult in applying section 109 to banks that are subject to regulation by more than one agency. The agencies seek comment on these proposals for conducting section 109 reviews.

Regulatory Flexibility Act Analysis

Consistent with the requirement in section 109 that the agencies use only available information to conduct the relevant analyses, the proposed rule does not impose any burden on banks beyond what is required by statute. Thus, the agencies reasonably believe that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. However, in light of the issues discussed previously in the preamble to the proposed rule relating to data availability, the agencies seek the views of interested parties on whether they believe that the proposed rule would have a significant impact on a substantial number of small business entities in accord with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The agencies note that the proposal affects only banks that have branches in more than one state, which are likely to be primarily larger banks. Consistent with Congressional intent, the proposal would not require any additional paperwork or regulatory reporting. As discussed earlier, however, the agencies are concerned that the proposal would create additional regulatory burden for some institutions with covered interstate branches, as some institutions may be subject to more extensive examinations or requests for information necessary to obtain the data required under the proposed rule. In practice, institutions subject to the rule may need to provide additional data to examiners to avoid prolonged examinations. The agencies have requested comment on alternatives for reducing regulatory burden under the proposed rule.

Paperwork Reduction Act

The agencies have determined that this proposal would not increase the regulatory paperwork burden of banking organizations pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

OCC Executive Order 12866 Determination

The Office of Management and Budget has concurred with the OCC's determination that this proposal is not a significant regulatory action under Executive Order 12866.

OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC has determined that this proposal would not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

List of Subjects

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

12 CFR Part 369

Banks, banking, Community development.

Office of the Comptroller of the Currency

12 CFR CHAPTER I

Authority and Issuance

For the reasons set forth in the joint preamble, the Office of the Comptroller of the Currency proposes to amend part 25 of chapter I of title 12 of the Code of Federal Regulations as follows:

[8] U.S. branches of foreign banks generally accept only uninsured wholesale deposits. In 1991, the Federal Deposit Insurance Corporation Improvement Act amended the IBA to prohibit U.S. branches of foreign banks from taking deposits in amounts of less than $100,000, other than through the relatively few branches that were already insured by the FDIC in 1991. 12 U.S.C. 3104(d). Congress reaffirmed this prohibition in the Interstate Act, directing the OCC and the FDIC to revise their regulations to reduce further the opportunities for retail deposit-taking available to these branches. See section 107(b) of the Interstate Act. As a result, interstate branches of foreign banks established under the Interstate Act cannot take retail deposits or draw a significant level of deposits from the community, retail-oriented deposit markets where the branches are located.

PART 25—COMMUNITY REINVESTMENT ACT REGULATIONS

1. The authority citation for part 25 is revised to read as follows:

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), 1835a, 2901 through 2907, and 3101 through 3111.

2. Part 25 is amended by adding a new subpart E to read as follows:

Subpart E—Prohibition Against Use of Interstate Branches Primarily for Deposit Production

Sec.
25.61 Authority, purpose, and scope.
25.62 Definitions.
25.63 Loan-to-deposit ratio screen.
25.64 Credit needs determination.
25.65 Sanctions.

Subpart E—Prohibition Against Use of Interstate Branches Primarily for Deposit Production

§ 25.61 Authority, purpose, and scope.

(a) *Authority.* The authority for this part is 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), 1835a, 2901 through 2907, and 3101 through 3111.

(b) *Purpose.* The purpose of this section is to implement section 109 (12 U.S.C. 1835a) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103–328, 108 Stat. 2338) (Interstate Act).

(c) *Scope.* (1) This subpart applies to any national bank that has operated a covered interstate branch for a period of at least one year, and any foreign bank that has operated a covered interstate branch that is a Federal branch for a period of at least one year.

(2) This subpart describes the requirements imposed under 12 U.S.C. 1835a, which prohibits a bank from using any authority to engage in interstate branching pursuant to the Interstate Act, or any amendment made by the Interstate Act to any other provision of law, primarily for the purpose of deposit production.

§ 25.62 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Bank* means, unless the context indicates otherwise:

(1) A national bank; and

(2) A foreign bank as that term is defined in 12 U.S.C. 3101(7) and 12 CFR 28.11(j).

(b) *Covered interstate branch* means any branch of a national bank and any Federal branch of a foreign bank, that:

(1) Is established or acquired outside the bank's home state under the interstate branching authority granted by the Interstate Act, or any amendment made by the Interstate Act to any other provision of law; or

(2) Could not have been established or acquired outside of the bank's home state but for the establishment or acquisition of a branch described in paragraph (b)(1) of this section.

(c) *Covered interstate branch loan-to-deposit ratio* means the ratio of a bank's loans to its deposits in a state in which the bank has a covered interstate branch, as determined by the OCC.

(d) *Federal branch* means federal branch as that term is defined in 12 U.S.C. 3101(7) and 12 CFR 28.11(i).

(e) *Home state* means:

(1) With respect to a state bank, the state that chartered the bank;

(2) With respect to a national bank, the state in which the main office of the bank is located; and

(3) With respect to a foreign bank, the home state of the foreign bank as determined in accordance with 12 U.S.C. 3103(c) and 12 CFR 28.11(o).

(f) *Host state* means a state in which a bank establishes or acquires a covered interstate branch.

(g) *Host state loan-to-deposit ratio* means, with respect to a particular host state, the ratio of total loans in the host state relative to total deposits from the host state for all banks (including all institutions covered under the definition of ''bank'' in 12 U.S.C. 1813(a)(1)) that have that state as their home state, as updated periodically and made available to the public.

(h) *State* means state as that term is defined in 12 U.S.C. 1813(a)(3).

§ 25.63 Loan-to-deposit ratio screen.

(a) *Application of screen.* Beginning no earlier than one year after a bank establishes or acquires a covered interstate branch, the OCC will consider whether the bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the relevant host state loan-to-deposit ratio.

(b) *Results of screen.* (1) If the OCC determines that the bank's covered interstate branch loan-to-deposit ratio is 50 percent or more of the host state loan-to-deposit ratio, no further consideration under this subpart is required.

(2) If the OCC determines that the bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's covered interstate branch loan-to-deposit ratio, the OCC will make a credit needs determination for the bank as provided in § 25.64.

§ 25.64 Credit needs determination.

(a) *In general.* The OCC will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host state.

(b) *Guidelines.* The OCC will use the following considerations as guidelines when making the determination pursuant to paragraph (a) of this section:

(1) Whether covered interstate branches were formerly part of a failed or failing depository institution;

(2) Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(3) Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;

(4) The CRA ratings received by the bank, if any, and if the credit needs determination is not made concurrently with a CRA evaluation, available information that would indicate an improvement or weakening in the bank's CRA performance since its most recent CRA evaluation;

(5) Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;

(6) The safe and sound operation and condition of the bank; and

(7) The OCC's Community Reinvestment Act Regulations (subparts A through D of this part) and interpretations of those regulations.

§ 25.65 Sanctions.

(a) *In general.* If the OCC determines that a bank is not reasonably helping to meet the credit needs of the communities served by the bank in the host state, and that the bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the OCC:

(1) May order that a bank's covered interstate branch or branches be closed unless the bank provides reasonable assurances to the satisfaction of the OCC that the bank has an acceptable plan under which the bank will reasonably help to meet the credit needs of the communities served by the bank in the host state; and

(2) Will not permit the bank to open a new interstate branch in the host state that would be considered to be a covered interstate branch under § 25.62(b) unless the bank provides

reasonable assurances to the satisfaction of the OCC that the bank will reasonably help to meet the credit needs of the community that the new interstate branch will serve.

(b) *Notice prior to closure of covered interstate branches.* Before exercising the OCC's authority to order the bank to close a covered interstate branch or branches, the OCC will issue to the bank notice of the OCC's intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

(c) *Hearing.* A hearing scheduled under paragraph (b) of this section will be conducted under the provisions of 12 U.S.C. 1818(h) and 12 CFR part 19.

Dated: March 11, 1997.

Eugene A. Ludwig,

Comptroller of the Currency.

Federal Reserve System

12 CFR CHAPTER II

Authority and Issuance

For the reasons set forth in the joint preamble, the Board of Governors of the Federal Reserve System proposes to amend parts 208 and 211 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 is revised to read as follows:

Authority: 12 U.S.C. 24, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1820(d)(9), 1823(j), 1828(o), 1831o, 1831p-1, 1835a, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 781(b), 781(g), 781(i), 78o-4(c)(5), 78q, 78q-1, and 78w; 31 U.S.C. 5318.

2. A new § 208.28 is added to subpart A to read as follows:

§ 208.28 Prohibition against use of interstate branches primarily for deposit production.

(a) *Purpose and scope*—(1) *Purpose.* The purpose of this section is to implement section 109 (12 U.S.C. 1835a) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103–328, 108 Stat. 2338) (Interstate Act).

(2) *Scope.* (i) This section applies to any State member bank that has operated a covered interstate branch for a period of at least one year, and any foreign bank that has operated a covered interstate branch licensed by a State for a period of at least one year.

(ii) This section describes the requirements imposed under 12 U.S.C. 1835a, which prohibits a bank from using any authority to engage in interstate branching pursuant to the Interstate Act, or any amendment made by the Interstate Act to any other provision of law, primarily for the purpose of deposit production.

(b) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Bank* means, unless the context indicates otherwise:

(i) A State member bank as that term is defined in 12 U.S.C. 1813(d)(2); and

(ii) A foreign bank as that term is defined in 12 U.S.C. 3101 (7) and 12 CFR 211.21.

(2) *Covered interstate branch* means any branch of a State member bank and any branch of a foreign bank licensed by a State, that:

(i) Is established or acquired outside the bank's home state under the interstate branching authority granted by the Interstate Act, or any amendment made by the Interstate Act to any other provision of law; or

(ii) Could not have been established or acquired outside of the bank's home state but for the establishment or acquisition of a branch described in paragraph (b)(2)(i) of this section.

(3) *Home state* means:

(i) With respect to a state bank, the state that chartered the bank;

(ii) With respect to a national bank, the state in which the main office of the bank is located; and

(iii) With respect to a foreign bank, the home state of the foreign bank as determined in accordance with 12 U.S.C. 3103(c) and 12 CFR 211.22.

(4) *Host state* means a state in which a bank establishes or acquires a covered interstate branch.

(5) *Host state loan-to-deposit ratio* means, with respect to a particular host state, the ratio of total loans in the host state relative to total deposits from the host state for all banks (including all institutions covered under the definition of ''bank'' in 12 U.S.C. 1813(a)(1)) that have that state as their home state, as updated periodically and made available to the public.

(6) *Covered interstate branch loan-to-deposit ratio* means the ratio of a bank's loans to its deposits in a state in which the bank has a covered interstate branch, as determined by the Board.

(7) *State* means state as that term is defined in 12 U.S.C. 1813(a)(3).

(c) *Loan-to-deposit ratio screen*—(1) *Application of screen.* Beginning no earlier than one year after a bank establishes or acquires a covered interstate branch, the Board will consider whether the bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the relevant host state loan-to-deposit ratio.

(2) *Results of screen.* (i) If the Board determines that the bank's covered interstate branch loan-to-deposit ratio is 50 percent or more of the host state loan-to-deposit ratio, no further consideration under this section is required.

(ii) If the Board determines that the bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's covered interstate branch loan-to-deposit ratio, the Board will make a credit needs determination for the bank as provided in paragraph (d) of this section.

(d) *Credit needs determination*—(1) *In general.* The Board will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host state.

(2) *Guidelines.* The Board will use the following considerations as guidelines when making the determination pursuant to paragraph (a) of this section:

(i) Whether covered interstate branches were formerly part of a failed or failing depository institution;

(ii) Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(iii) Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;

(iv) The Community Reinvestment Act (CRA) ratings received by the bank, if any, under 12 U.S.C. 2901 *et seq.* and, if the credit needs determination is not made concurrently with a CRA evaluation, available information that would indicate an improvement or weakening in the bank's CRA performance since its most recent CRA evaluation;

(v) Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;

(vi) The safe and sound operation and condition of the bank; and

(vii) The Board's Regulation BB—Community Reinvestment (12 CFR part 228) and interpretations of that regulation.

(e) *Sanctions*—(1) *In general.* If the Board determines that a bank is not reasonably helping to meet the credit needs of the communities served by the

bank in the host state, and that the bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the Board:

(i) May order that a bank's covered interstate branch or branches be closed unless the bank provides reasonable assurances to the satisfaction of the Board that the bank has an acceptable plan under which the bank will reasonably help to meet the credit needs of the communities served by the bank in the host state; and

(ii) Will not permit the bank to open a new interstate branch in the host state that would be considered to be a covered interstate branch under paragraph (b)(2) of this section unless the bank provides reasonable assurances to the satisfaction of the Board that the bank will reasonably help to meet the credit needs of the community that the new interstate branch will serve.

(2) *Notice prior to closure of covered interstate branches.* Before exercising the Board's authority to order the bank to close a covered interstate branch or branches, the Board will issue to the bank notice of the Board's intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

(3) *Hearing.* A hearing scheduled under paragraph (e)(2) of this section will be conducted under the provisions of 12 U.S.C. 1818(h) and 12 CFR part 263.

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. The authority citation for part 211 is revised to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1818, 1835a, 1841 *et seq.*, 3101 *et seq.*, and 3901 *et seq.*

2. In § 211.22, a new paragraph (d) is added to read as follows:

§ 211.22 Interstate banking operations of foreign banking organizations.

* * * * *

(d) *Prohibition against interstate deposit production offices.* A covered interstate branch of a foreign bank may not be used as a deposit production office in accordance with the provisions in § 208.28 of the Board's Regulation H (12 CFR 208.28).

By order of the Board of Governors of the Federal Reserve System, March 11, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

Authority and Issuance

For the reasons set forth in the joint preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to add part 369 to chapter III of title 12 of the Code of Federal Regulations to read as follows:

PART 369—PROHIBITION AGAINST USE OF INTERSTATE BRANCHES PRIMARILY FOR DEPOSIT PRODUCTION

Sec.
369.1 Purpose and scope.
369.2 Definitions.
369.3 Loan-to-deposit ratio screen.
369.4 Credit needs determination.
369.5 Sanctions.

Authority: 12 U.S.C. 1819 (Tenth) and 1835a.

§ 369.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to implement section 109 (12 U.S.C. 1835a) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103–328, 108 Stat. 2338) (Interstate Act).

(b) *Scope.* (1) This part applies to any State nonmember bank that has operated a covered interstate branch for a period of at least one year.

(2) This part describes the requirements imposed under 12 U.S.C. 1835a, which prohibits a bank from using any authority to engage in interstate branching pursuant to the Interstate Act, or any amendment made by the Interstate Act to any other provision of law, primarily for the purpose of deposit production.

§ 369.2 Definitions.

For purposes of this part, the following definitions apply:

(a) *Bank* means, unless the context indicates otherwise, a State nonmember bank.

(b) *Covered interstate branch* means any branch of a State nonmember bank, that:

(1) Is established or acquired outside the bank's home state under the interstate branching authority granted by the Interstate Act, or any amendment made by the Interstate Act to any other provision of law; or

(2) Could not have been established or acquired outside of the bank's home state but for the establishment or acquisition of a branch described in paragraph (b)(1) of this section.

(c) *Covered interstate branch loan-to-deposit ratio* means the ratio of a bank's loans to its deposits in a state in which the bank has a covered interstate branch, as determined by the FDIC.

(d) *Home state* means:

(1) With respect to a state bank, the state that chartered the bank;

(2) With respect to a national bank, the state in which the main office of the bank is located; and

(3) With respect to a foreign bank, the home state of the foreign bank as determined in accordance with 12 U.S.C. 3103(c).

(e) *Host state* means a state in which a bank establishes or acquires a covered interstate branch.

(f) *Host state loan-to-deposit ratio* means, with respect to a particular host state, the ratio of total loans in the host state relative to total deposits from the host state for all banks (including all institutions covered under the definition of ''bank'' in 12 U.S.C. 1813(a)(1)) that have that state as their home state, as updated periodically and made available to the public.

(g) *State* means state as that term is defined in 12 U.S.C. 1813(a)(3).

§ 369.3 Loan-to-deposit ratio screen.

(a) *Application of screen.* Beginning no earlier than one year after a bank establishes or acquires a covered interstate branch, the FDIC will consider whether the bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the relevant host state loan-to-deposit ratio.

(b) *Results of screen.* (1) If the FDIC determines that the bank's covered interstate branch loan-to-deposit ratio is 50 percent or more of the host state loan-to-deposit ratio, no further consideration under this part is required.

(2) If the FDIC determines that the bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's covered interstate branch loan-to-deposit ratio, the FDIC will make a credit needs determination for the bank as provided in § 369.4.

§ 369.4 Credit needs determination.

(a) *In general.* The FDIC will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host state.

(b) *Guidelines.* The FDIC will use the following considerations as guidelines when making the determination pursuant to paragraph (a) of this section:

(1) Whether covered interstate branches were formerly part of a failed or failing depository institution;

(2) Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(3) Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;

(4) The Community Reinvestment Act (CRA) ratings received by the bank, if any, under 12 U.S.C. 2901 *et seq.* and, if the credit needs determination is not made concurrently with a CRA evaluation, available information that would indicate an improvement or weakening in the bank's CRA performance since its most recent CRA evaluation;

(5) Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;

(6) The safe and sound operation and condition of the bank; and

(7) The FDIC's Community Reinvestment Act Regulations (12 CFR Part 345) and interpretations of those regulations.

§ 369.5 Sanctions.

(a) *In general.* If the FDIC determines that a bank is not reasonably helping to meet the credit needs of the communities served by the bank in the host state, and that the bank's covered interstate branch loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the FDIC:

(1) May order that a bank's covered interstate branch or branches be closed unless the bank provides reasonable assurances to the satisfaction of the FDIC that the bank has an acceptable plan under which the bank will reasonably help to meet the credit needs of the communities served by the bank in the host state; and

(2) Will not permit the bank to open a new interstate branch in the host state that would be considered to be a covered interstate branch under § 369.2(b) unless the bank provides reasonable assurances to the satisfaction of the FDIC that the bank will reasonably help to meet the credit needs of the community that the new interstate branch will serve.

(b) *Notice prior to closure of covered interstate branches.* Before exercising the FDIC's authority to order the bank to close a covered interstate branch or branches, the FDIC will issue to the bank notice of the FDIC's intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

(c) *Hearing.* A hearing scheduled under paragraph (b) of this section will be conducted under the provisions of 12 U.S.C. 1818(h) and 12 CFR part 308.

By order of the Board of Directors.

Dated at Washington, D.C., this 11th day of March, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

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125–199	(869–028–00129–7)	35.00	July 1, 1996
200–End	(869–028–00130–1)	32.00	July 1, 1996
34 Parts:			
1–299	(869–028–00131–9)	27.00	July 1, 1996
300–399	(869–028–00132–7)	27.00	July 1, 1996
400–End	(869–028–00133–5)	46.00	July 1, 1996
35	(869–028–00134–3)	15.00	July 1, 1996
36 Parts			
1–199	(869–028–00135–1)	20.00	July 1, 1996
200–End	(869–028–00136–0)	48.00	July 1, 1996
37	(869–028–00137–8)	24.00	July 1, 1996
38 Parts:			
0–17	(869–028–00138–6)	34.00	July 1, 1996
18–End	(869–028–00139–4)	38.00	July 1, 1996
39	(869–028–00140–8)	23.00	July 1, 1996
40 Parts:			
●1–51	(869–028–00141–6)	50.00	July 1, 1996
●52	(869–028–00142–4)	51.00	July 1, 1996
●53–59	(869–028–00143–2)	14.00	July 1, 1996
60	(869-028-00144-1)	47.00	July 1, 1996
●61–71	(869–028–00145–9)	47.00	July 1, 1996
●72–80	(869–028–00146–7)	34.00	July 1, 1996
●81–85	(869–028–00147–5)	31.00	July 1, 1996
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●87-135	(869–028–00149–1)	35.00	July 1, 1996
●136–149	(869–028–00150–5)	35.00	July 1, 1996
●150–189	(869–028–00151–3)	33.00	July 1, 1996
●190–259	(869–028–00152–1)	22.00	July 1, 1996
●260–299	(869–028–00153–0)	53.00	July 1, 1996
●300–399	(869–028–00154–8)	28.00	July 1, 1996
●400–424	(869–028–00155–6)	33.00	July 1, 1996
●425–699	(869–028–00156–4)	38.00	July 1, 1996
●700–789	(869–028–00157–2)	33.00	July 1, 1996
●790–End	(869–028–00158–7)	19.00	July 1, 1996
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
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101	(869–028–00160–2)	36.00	July 1, 1996
102–200	(869–028–00161–1)	17.00	July 1, 1996
201–End	(869–028–00162–9)	17.00	July 1, 1996
42 Parts:			
●1–399	(869–028–00163–7)	32.00	Oct. 1, 1996
●400–429	(869–028–00164–5)	34.00	Oct. 1, 1996
●430–End	(869–028–00165–3)	44.00	Oct. 1, 1996
43 Parts:			
●1–999	(869–028–00166–1)	30.00	Oct. 1, 1996
●1000–end	(869–028–00167–0)	45.00	Oct. 1, 1996
●44	(869–028–00168–8)	31.00	Oct. 1, 1996
45 Parts:			
●1–199	(869–028–00169–6)	28.00	Oct. 1, 1996
200–499	(869–028–00170–0)	14.00	[6] Oct. 1, 1995
●500–1199	(869–028–00171–8)	30.00	Oct. 1, 1996
●1200–End	(869–028–00172–6)	36.00	Oct. 1, 1996
46 Parts:			
●1–40	(869–028–00173–4)	26.00	Oct. 1, 1996
●41–69	(869–028–00174–2)	21.00	Oct. 1, 1996
●70–89	(869–028–00175–1)	11.00	Oct. 1, 1996
●90–139	(869–028–00176–9)	26.00	Oct. 1, 1996
●140–155	(869–028–00177–7)	15.00	Oct. 1, 1996
●156–165	(869–028–00178–5)	20.00	Oct. 1, 1996
●166–199	(869–028–00179–3)	22.00	Oct. 1, 1996
●200–499	(869–028–00180–7)	21.00	Oct. 1, 1996
●500–End	(869–028–00181–5)	17.00	Oct. 1, 1996
47 Parts:			
●0–19	(869–028–00182–3)	35.00	Oct. 1, 1996
●20–39	(869–028–00183–1)	26.00	Oct. 1, 1996
●40–69	(869–028–00184–0)	18.00	Oct. 1, 1996
●70–79	(869–028–00185–8)	33.00	Oct. 1, 1996
●80–End	(869–028–00186–6)	39.00	Oct. 1, 1996
48 Chapters:			
●1 (Parts 1–51)	(869–028–00187–4)	45.00	Oct. 1, 1996
●1 (Parts 52–99)	(869–028–00188–2)	29.00	Oct. 1, 1996
●2 (Parts 201–251)	(869–028–00189–1)	22.00	Oct. 1, 1996
●2 (Parts 252–299)	(869–028–00190–4)	16.00	Oct. 1, 1996
●3–6	(869–028–00191–2)	30.00	Oct. 1, 1996
●7–14	(869–028–00192–1)	29.00	Oct. 1, 1996
●15–28	(869–028–00193–9)	38.00	Oct. 1, 1996
●29–End	(869–028–00194–7)	25.00	Oct. 1, 1996
49 Parts:			
●1–99	(869–028–00195–5)	32.00	Oct. 1, 1996
*●100–185	(869–028–00196–3)	50.00	Oct. 1, 1996
●186–199	(869–028–00197–1)	14.00	Oct. 1, 1996
●200–399	(869–028–00198–0)	39.00	Oct. 1, 1996
●400–999	(869–026–00200–2)	40.00	Oct. 1, 1995
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●1200–End	(869–028–00201–3)	15.00	Oct. 1, 1996

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1996. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.