7–1–97
Vol. 62 No. 126
Pages 35337–35658

federal register

Tuesday
July 1, 1997

Now Available Online

Code of Federal Regulations

via

GPO Access

(Selected Volumes)

Free, easy, online access to selected *Code of Federal Regulations (CFR)* volumes is now available via *GPO Access*, a service of the United States Government Printing Office (GPO). *CFR* titles will be added to *GPO Access* incrementally throughout calendar years 1996 and 1997 until a complete set is available. GPO is taking steps so that the online and printed versions of the *CFR* will be released concurrently.

The *CFR* and *Federal Register* on *GPO Access*, are the official online editions authorized by the Administrative Committee of the Federal Register.

New titles and/or volumes will be added to this online service as they become available.

http://www.access.gpo.gov/nara/cfr

For additional information on ***GPO Access*** products, services and access methods, see page II or contact the *GPO Access* User Support Team via:

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the Federal Register as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The Federal Register is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online edition of the **Federal Register** on *GPO Access* is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su__docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest, (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to gpoaccess@gpo.gov; by faxing to (202) 512–1262; or by calling toll free 1–888–293–6498 or (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except for Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 60 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 62, No. 126

Tuesday, July 1, 1997

Agricultural Marketing Service
PROPOSED RULES
Tobacco inspection:
Rework definition, 35452–35453

Agriculture Department
See Agricultural Marketing Service
See Foreign Agricultural Service
See Forest Service

Army Department
See Engineers Corps

Assassination Records Review Board
NOTICES
Meetings; Sunshine Act, 35472

Census Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 35472–35473
Submission for OMB review; comment request, 35473

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
Proposed collection; comment request, 35498–35499
Submission for OMB review; comment request, 35499–35501
Grants and cooperative agreements; availability, etc.:
American Indian/Alaska Native infectious disease programs, 35501–35506
Young women at risk; unplanned pregnancies, HIV, and other sexually transmitted diseases; prevention, 35506–35513
Laboratory safety guidelines:
Mycobacterium tuberculosis, goals for working safely within clinical, public health, and research laboratories; comment request, 35513

Coast Guard
RULES
Civil monetary penalties; inflation adjustments
Correction, 35385–35387
Lifesaving equipment:
Inflatable liferafts
Correction, 35392
Ports and waterways safety:
Boston Harbor, MA; safety zone, 35402–35403
Columbia River, OR; safety zone, 35398–35399
Columbia River, WA; safety zone, 35395–35396
Destin Pass, FL; safety zone, 35400–35401
East River, NY; safety zone, 35403–35405
Fourth of July Fireworks, Columbia River, OR, 35393–35394
Gloucester, MA; safety zone, 35394–35395
Pensacola Bay, FL; safey zone, 35402
Puget sound and adjacent waters, WA; regulated navigation area, 35392–35393
Savannah, GA; safety zone, 35405–35406
St. Andrew Bay, FL; safety zone, 35401
Willamette River, OR; safety zone, 35396–35398, 35399–35400
Regattas and marine parades:
First Coast Guard District fireworks displays, 35388–35390, 35391–35392
Great Connecticut River Raft Race, 35387–35388
Virginia is for Lovers Cup Unlimited Hydroplane Races, 35390–35391
Welcome America Fireworks and Liberty Lighted Boat Parade, 35390
PROPOSED RULES
Drawbridge regulations:
North Carolina, 35453–35454

Commerce Department
See Census Bureau
See Economic Analysis Bureau
See Export Administration Bureau
See National Oceanic and Atmospheric Administration

Copyright Office, Library of Congress
RULES
Copyright, Freedom of Information Act; technical amendments, 35420–35421

Defense Department
See Engineers Corps
RULES
Base closure communities revitalization and community assistance:
Community redevelopment and homeless assistance, 35343–35351
Freedom of Information Act; implementation, 35351–35385
NOTICES
Committees; establishment, renewal, termination, etc.:
Gender-Integrated Training and Related Issues Advisory Committee, 35475

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Piacentile, Joseph M., M.D., 35527–35529

Economic Analysis Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 35473–35474

Education Department
RULES
Elementary and secondary education:
Impact aid program, 35406–35420
Postsecondary education:
William D. Ford Federal direct student loan program, 35602–35606
NOTICES
Administrative Law Judges Office hearings:
Claim compromises—
Massachusetts Education Department, 35476

Grants and cooperative agreements; availability, etc.:
National Institute on Disability and Rehabilitation Research—
Rehabilitation research and training centers, and knowledge dissemination and utilization program; applications for new awards (FY 1997), 35636–35657

Energy Department
See Energy Research Office
See Federal Energy Regulatory Commission
NOTICES
Grants and cooperative agreements; availability, etc.:
Human Genome Program, 35476–35478
Meetings:
Environmental Management Site Specific Advisory Board—
Monticello Site, 35478–35479
Oak Ridge Reservation, 35478

Energy Research Office
NOTICES
Meetings:
Basic Energy Sciences Advisory Committee, 35479

Engineers Corps
NOTICES
Meetings:
Chesapeake Bay; proposed placement of dredged material at site 104; Queen Anne County, MD, 35475

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Mississippi et al., 35441–35446
Superfund program:
Nationl oil and hazardous substances contingency plan—
National priorities list update, 35446–35447
NOTICES
Meetings:
Environmental Financial Advisory Board, 35494
Reports; availability, etc.:
Clean Air Act Advisory Committee; Accident Prevention Subcommittee; electronic submission workgroup final recommendations report, 35494–35495
Superfund; response and remedial actions, proposed settlements, etc.:
Cemetery Lane Site, MD, 35495
Toxic substances:
Ethylene glycol; risk assessment peer review, 35495–35496
Applications, hearings, determinations, etc.:
DKK Corp., 35494

Export Administration Bureau
NOTICES
Meetings:
Materials Technical Advisory Committee, 35474

Federal Deposit Insurance Corporation
NOTICES
Agency information collection activities:
Proposed collection; comment request, 35496–35497

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Central Louisiana Electric Co., et al., 35483–35486
Maine Electric Power Co., et al., 35486–35490
Hydroelectric applications, 35490–35492
Meetings:
Open Access Same-time Information System (OASIS); technical conference, 35493–35494
Applications, hearings, determinations, etc.:
Alabama-Tennessee Natural Gas Co., 35479
Great Lakes Gas Transmission L.P., 35480
Koch Gateway Pipeline Co., 35480
NorAm Gas Transmission Co., 35480–35481
Northwest Pipeline Corp., 35481
South Georgia Natural Gas Co., 35481–35482
Texas Eastern Transmission Corp., 35482
Texas Gas Transmission Corp., 35482–35483
Williston Basin Interstate Pipeline Co., 35483

Federal Housing Finance Board
NOTICES
Meetings; Sunshine Act, 35497

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 35497
Formations, acquisitions, and mergers, 35497–35498
Meetings; Sunshine Act, 35498

Federal Trade Commission
RULES
Fair Credit Reporting Act:
Consumer reporting agencies; consumer rights and duties, 35586–35600

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Interest rates:
Renegotiation Board and prompt payment rates, 35541
Surety companies acceptable on Federal bonds:
Christiania General Insurance Corporation of New York, 35541–35542
Gramercy Insurance Co., 35542
Houston General Insurance Co., 35542
Surety companies acceptable on Federal bonds; annual list, 35548–35584

Fish and Wildlife Service
NOTICES
Endangered Species Convention:
Giant panda import policy, 35518–35519
Environmental statements; availability, etc.:
Bitterroot Ecosystem, MT and ID; grizzly bear recovery, 35519

Foreign Agricultural Service
NOTICES
Meetings:
Food security; U.S. action plan development, 35471

Forest Service
NOTICES
Boundary establishment, descriptions, etc.:
Homochitto purchase unit; Franklin County, MS, 35471
Meetings:
Southwest Oregon Provincial Interagency Executive Committee Advisory Committee, 35472

Health and Human Services Department
See Centers for Disease Control and Prevention
See Health Care Financing Administration
See National Institutes of Health

Health Care Financing Administration
NOTICES
Clinical laboratories improvement:
Laboratories licensed; exemptions—
Washington, 35513–35516
Medicare:
Home health agency cost per visit; schedule of limits, 35608–35634

Housing and Urban Development Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 35518

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Reclamation Bureau
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 35542–35545

International Trade Commission
NOTICES
Import investigations:
Fluid-filled ornamental lamps, 35525–35526
Persulfates from—
China, 35526

Justice Department
See Drug Enforcement Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 35526–35527

Labor Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 35529–35531

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Florida Canyon Mine Proposed Expansion and Comprehensive Reclamation Plan, 35519–35520
Plateau Creek Pipeline Replacement Project; Ute Water Conservancy District; Mesa County, CO, 35520–35521
Realty actions; sales, leases, etc.:
Nevada, 35521
Resource management plans, etc.:
Black Rock Desert; NV and CA, 35521–35522

Library of Congress
See Copyright Office, Library of Congress

Merit Systems Protection Board
NOTICES
Senior Executive Service:
Performance Review Board; membership, 35531

National Aeronautics and Space Administration
NOTICES
Inventions, Government-owned; availability for licensing, 35531

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
COSVAM, Inc., 35538–35539

National Institutes of Health
NOTICES
Agency information collection activities:
Proposed collection; comment request, 35516–35517
Meetings:
National Institute of Child Health and Human Development, 35517–35518
National Institute on Drug Abuse, 35517, 35518

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
West Coast Salmon fisheries, 35450–35451
Western Pacific crustacean, 35448–35450
Ocean and coastal resource management:
Monterey Bay National Marine Sanctuary, CA—
Shark attraction by chum or other means; restriction or prohibition; correction, 35338
Tuna, Atlantic bluefin fisheries, 35447
PROPOSED RULES
Magnuson-Stevens Fishery Conservation and Management Act; implementation:
Regional fishery management council members appointment, 35468–35470
NOTICES
Meetings:
Longline Advisory Panel, 35475

National Park Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 35522–35523
Environmental statements; availability, etc.:
Stones River National Battlefield, TN, 35523–35524
National Register of Historic Places:
Pending nominations, 35524

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 35535
Applications, hearings, determinations, etc.:
Shieldalloy Metallurgical Corp., 35531–35532
Southern California Edison Co., et al., 35532–35533
Wolf Creek Nuclear Operating Corp., 35533–35535

Pension Benefit Guaranty Corporation
RULES
Regulations; reorganization, renumbering, and reinvention; Federal regulatory reform; correction, 35342

Postal Rate Commission
RULES
Practice and procedure:
Domestic mail classification schedule; rules applicable to requests for establishing or changing, 35424–35441

Public Health Service
See Centers for Disease Control and Prevention
See National Institutes of Health

Reclamation Bureau
NOTICES
Environmental statements; notice of intent:
Pajaro Valley Water Management Agency's Water Supply Project, Santa Cruz and Monterey Counties, CA, 35524–35525

Research and Special Programs Administration
NOTICES
Meetings:
Mechanical damage and cracking in pipelines; detection, 35539–35540

Securities and Exchange Commission
RULES
Securities:
Social Security numbers, natural persons; elimination from forms, 35338–35342
NOTICES
Self-regulatory organizations; proposed rule changes:
Philadelphia Stock Exchange, Inc., 35535–35536

Small Business Administration
RULES
Disaster loan programs:
Legal business entities engaged in agricultural enterprises and non-agricultural business ventures, 35337–35338
NOTICES
Disaster loan areas:
Mississippi, 35536–35537
West Virginia, 35537
Small business investment companies:
Maximum annual cost of money to small businesses; alternative computation, 35537

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Alaska
Correction, 35342

Surface Transportation Board
NOTICES
Railroad services abandonment:
Land Conservancy of Seattle and King County, 35540–35541

Transportation Department
See Coast Guard
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
See Surface Transportation Board
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 35537–35538
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 35538

Treasury Department
See Fiscal Service
See Internal Revenue Service

Veterans Affairs Department
RULES
Adjudication; pensions, compensation, dependency, etc.:
Clothing allowance based on service-connected disabilities, etc., 35421–35423
Vocational rehabilitation and education:
Veterans education—
State approving agencies, school catalog submission, 35423–35424
PROPOSED RULES
Vocational rehabilitation and education:
Veterans education—
Correspondence program or course approval, 35464–35468
Vietnam veterans' children with spina bifida provisions, 35454–35464
NOTICES
Privacy Act:
Systems of records, 35545–35546

Separate Parts In This Issue

Part II
Department of Treasury, Fiscal Service, 35548–35584

Part III
Federal Trade Commission, 35586–35600

Part IV
Department of Education, 35602–35606

Part V
Health and Human Services Department, Health Care Financing Administration, 35608–35634

Part VI
Department of Education, 35636–35657

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
Proposed Rules:
29.....35452

13 CFR
123.....35337

15 CFR
922.....35338

16 CFR
601.....35586

17 CFR
239.....35338
240.....35338
249.....35338
269.....35338

29 CFR
4001.....35342

30 CFR
902.....35342

32 CFR
176.....35343
286.....35351

33 CFR
27.....35385
100 (5 documents) 35387, 35388, 35390, 35391
144.....35392
165 (13 documents) 35392, 35393, 35394, 35395, 35396, 35398, 335398, 35399, 35400, 35401, 35402, 35403, 35405
Proposed Rules:
117.....35453

34 CFR
222.....35406
685.....35602

37 CFR
201.....35420
202.....35420
203.....35420

38 CFR
3.....35421
21.....35423
Proposed Rules:
21 (2 documents) 35454, 35464

39 CFR
3001.....35424

40 CFR
52.....35441
300.....35441

46 CFR
109.....35392
159.....35392
160.....35392
199.....35392

50 CFR
285.....35447
660 (2 documents) 35450
Proposed Rules:
600.....35468

Rules and Regulations

Federal Register
Vol. 62, No. 126
Tuesday, July 1, 1997

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

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

Disaster Loan Program

AGENCY: Small Business Administration.

ACTION: Interim final rule.

SUMMARY: The Small Business Administration (SBA) is amending its disaster loan rules to ensure that when a legal business entity is engaged in both agricultural enterprises and non-agricultural business ventures, SBA can provide physical disaster business loans to the non-agricultural portion which has been damaged by floods and other catastrophes. SBA is making these changes effective immediately in order to make such assistance available to businesses which have been adversely affected by recent major floods.

DATES: This rule is effective July 1, 1997. Comments must be submitted on or before July 31, 1997.

ADDRESSES: Please mail comments to Bernard Kulik, Associate Administrator for Disaster Assistance, 409 3rd Street, SW, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Associate Administrator for Disaster Assistance, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Section 2(e) of the Small Business Act (15 USC § 631(e)) (''Act'') states that the policy of the Congress is that the Government aid and assist ''victims'' of floods and other catastrophes. Section 2(g) of the Act provides that in its administration of the disaster loan program pursuant to section 7(b) of the Act, SBA shall provide, ''to the maximum extent possible'', assistance and counseling to disaster ''victims''. In administering the disaster loan program, SBA is precluded, by section 7(b) of the Act, from assisting agricultural enterprises. As defined in section 18(b)(1) of the Act, an ''agricultural enterprise'' is a business engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries.

SBA previously provided physical disaster business loan assistance only to business entities which were adversely affected by floods and other catastrophes when the primary activity of the business entity was non-agricultural. Thus if a person or a single business entity operated both agricultural and non-agricultural enterprises, SBA would not assist any part of the business entity that suffered damage if the primary activity of the total entity was agricultural.

SBA has reconsidered the statutory language above and has re-evaluated its position with respect to the ''primary activity rule'' which it administratively applied. The Act requires SBA to assist ''victims'' of floods and other catastrophes, without regard to the primary activity of a total business entity. If the victim of a flood or other catastrophe is a non-agricultural business venture, SBA should assist that victim regardless of whether such business is a part of a larger business entity whose primary activity is agricultural. Thus, if the total business operation is comprised of a retail store and a ranch, and the retail store is destroyed by a flood, SBA should offer physical disaster assistance to the retail store even if the ranching operation generated more revenue.

Accordingly, SBA is promulgating this interim final rule to permit SBA to provide physical disaster business loan assistance to a non-agricultural business venture within the total business entity if the non-agricultural business has been damaged by a flood or other catastrophe, regardless of the primary activity of the total business entity. The rule also makes clear that the business entity can be a sole proprietorship, corporation, limited liability company, or partnership.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act (15 U.S.C. § 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this final rule is not a significant rule within the meaning of Executive Order 12866; it is not likely to have annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy. SBA also certifies that this 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.* This rule makes eligible for physical disaster loans only those nonagricultural businesses that are part of a business entity that is primarily agricultural and, therefore, does not meet the substantial number of small businesses criterion anticipated by the Regulatory Flexibility Act.

For purposes of the Paperwork Reduction Act. 44 U.S.C. Ch 35, SBA certifies that this final rule contains no new reporting or recordkeeping requirements.

For purposes of Executive Order 12612, SBA certifies that this rule has no federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

SBA is issuing this as an interim final rule and not as a proposed rule, because the businesses covered by this rule need physical disaster loans immediately and notice and public comment procedures are impracticable and contrary to the public interest.

List of Subjects in 13 CFR Part 123

Disaster assistance, loan programs-business, small businesses.

For the reasons set forth above, SBA amends part 123 of title 13, Code of Federal Regulations, as follows:

PART 123—DISASTER LOAN PROGRAM

1. The authority citation for part 123 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(b), 636(c) and 636(f); Pub. L. 102–395, 106 Stat. 1828, 1864; and Pub. L. 103–75, 107 Stat. 739.

2. Section 123.201 is amended by revising paragraph (b) to read as follows:

§ 123.201 When am I not eligible to apply for a physical disaster business loan?

(a) * * *

(b) Sometimes a damaged business entity (whether in the form of a corporation, limited liability company,

partnership, or sole proprietorship) is engaged in both agricultural enterprise and a non-agricultural business venture. If the agricultural enterprise part of your business entity has suffered a physical disaster, that enterprise is not eligible for SBA physical disaster assistance. If the non-agricultural business venture of your entity has suffered physical disaster damage, that part of your business operation would be eligible for SBA physical disaster assistance. If both the agricultural enterprise part and the non-agricultural business venture have incurred physical disaster damage, only the non-agricultural business venture of your business entity would be eligible for SBA physical disaster assistance.

* * * * *

Dated: June 25, 1997.

Aida Alvarez,

Administrator.

[FR Doc. 97–17204 Filed 6–30–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 905222055–6228–03]

RIN 0648–AH92

Regulation Prohibiting the Attraction of White Sharks in the Monterey Bay National Marine Sanctuary

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final regulation which was published Thursday, December 19, 1996 (61 FR 66913). The regulation prohibits the attraction of white sharks in the Monterey Bay National Marine Sanctuary.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ed Ueber at (415) 561–6622 or Elizabeth Moore at (301) 713–3141.

SUPPLEMENTARY INFORMATION: The National Oceanic and Atmospheric Administration (NOAA) published a final rule prohibiting the attraction of white sharks within the seaward limit of State waters of the Monterey Bay National Marine Sanctuary (61 FR 66914). This notice corrects a typographical error in the coordinates depicting one of the two points by which the coastline for Monterey Bay, which is inland waters, is determined for purposes of the prohibition.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: June 23, 1997.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

PART 922—[CORRECTED]

Accordingly, 15 CFR Part 922, Subpart M is corrected by making the following correcting amendment:

1. The authority citation for 15 CFR Part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 et seq.

§ 922.132(a)(10) [Corrected]

2. In § 922.132(a)(10) in the last sentence, the coordinate ''121°01′45″ W'' is revised to read ''122°01′45″ W''.

[FR Doc. 97–17143 Filed 6–30–97; 8:45 am]

BILLING CODE 3510–08–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239, 240, 249 and 269

[Release No. 33–7424; 34–38771; 35–26733; 39–2354; IC–22727]

Amendments to Forms and Schedules to Remove Voluntary Provision of Social Security Numbers

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission is adopting revisions to forms and schedules filed under the Securities Act of 1933, the Securities Exchange Act of 1934, related provisions of the Investment Company Act of 1940 and the Public Utility Holding Company Act of 1935, and the Trust Indenture Act of 1939, to eliminate the portion of those forms that requests filers who are natural persons to furnish their Social Security numbers.

EFFECTIVE DATE: The rule revisions are effective July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Marija Willen, Regulatory Counsel, Division of Corporation Finance, (202) 942–1805; Richard C. Strasser, Special Counsel, Division of Market Regulation, (202) 942–0073, U.S. Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The U.S. Securities and Exchange Commission (the ''Commission'') is adopting amendments to the following forms and schedules under the Securities Act of 1933 (the ''Securities Act''),[1] the Securities Exchange Act of 1934 (the ''Exchange Act''),[2] and the Trust Indenture Act of 1939 (the ''Trust Indenture Act''): [3] Form 144; [4] Schedule 13D; [5] Schedule 13G; [6] Schedule 14D–1; [7] Form 3; [8] Form 4; [9] Form 5; [10] Form MSD; [11] Form TA–1; [12] and Form T–2.[13]

I. Discussion

Commission rules and regulations require the filing and public disclosure of information by natural persons as well as corporate and other entities. The Commission is amending forms that request individual filers to disclose their Social Security numbers. These forms will no longer include any reference to Social Security numbers, and as appropriate, the forms will be revised to delete the portion of the form where filers included this information.

The Commission is taking this action in response to increasing concern about the improper use of Social Security numbers for access to otherwise non-public information.[14] The forms on which individuals can disclose their Social Security numbers are available to the public. In the past, this has not led to significant abuse. However, with the growth of the EDGAR database and its availability to millions of viewers on the Commission's web site, the Commission is concerned that these numbers are too readily available. This is especially true where impersonal electronic

[1] 15 U.S.C. 77a *et seq.*

[2] 15 U.S.C. 78a *et seq.*

[3] 15 U.S.C. 77aaa–77bbb.

[4] 17 CFR 239.144.

[5] 17 CFR 240.13d–101.

[6] 17 CFR 240.13d–102.

[7] 17 CFR 240.14d–100.

[8] 17 CFR 249.103.

[9] 17 CFR 249.104.

[10] 17 CFR 249.105.

[11] 17 CFR 249.1100.

[12] 17 CFR 249b.100.

[13] 17 CFR 269.2.

[14] Some of the forms being amended also call for disclosure of the I.R.S. identification number of the filing party—in most cases on a voluntary basis—if the filing party is an entity rather than an individual. The forms as amended retain this information. The disclosure of I.R.S. identification number of entities does not raise the same concerns as Social Security numbers. In fact, a number of the Commission's forms require disclosure of the I.R.S. identification number of the filing party.

commercial transactions made possible by recent developments in technology encourage potential impostors. The Commission has determined that the usefulness of Social Security numbers filers voluntarily provide on these forms is outweighed by the risk of misuse created by the disclosure of those numbers.

A Social Security number can be the key to obtaining personal and private information about individuals. In recent years, the use of Social Security numbers as a universal identifier has increased significantly. With a Social Security number and certain other publicly-available information, it is possible to retrieve sensitive personal and financial information about people from a variety of sources, both legal and illegal. These sources include the Internet, which has increased both the amount and type of information available and the level of concern about the privacy of personal information.

Generally, the forms that the Commission is amending do not require that filers disclose their Social Security numbers. The forms include cautionary notes stating that the information is public and explaining how it may be used. For example, Social Security numbers may be used to help to identify filers. Because the forms make the inclusion of the number voluntary, however, some filers include the number and some do not. As a result, Social Security numbers cannot be used as a consistent mechanism for tracking the information provided about individuals in the Commission's forms. The Commission staff, and others who analyze the information disclosed in the forms, must use other means to track the individuals for analysis of the information. The Social Security number is not otherwise necessary for the evaluation of the information disclosed.

At this time, the Commission will continue to request that filers voluntarily disclose Social Security numbers on three Exchange Act forms: Form BD (uniform application for registration as a broker-dealer or to amend such an application), Form BDW (notice of withdrawal from registration as a broker-dealer) and Form X–17A–19 (report by national securities exchanges and registered national securities associations of changes in the membership status of any of their members). These forms are used not only by the Commission but also by state regulators and self-regulatory organizations. Other users of the forms have independent authority to establish their own forms and have determined that Social Security numbers are useful for their purposes. Historically, they have not supported amending the forms to remove the request for Social Security numbers. Because it is important that these forms remain uniform, the Commission has decided to continue to request that filers voluntarily disclose Social Security numbers on these forms. Currently, these forms are not filed on EDGAR or disseminated over the Internet. Should the information begin to be published on the Internet, the issue will need to be reconsidered by the Commission and by the other users of the forms.

In addition, the Commission is not now amending Forms ADV (uniform application for registration as an investment adviser or to amend such application) and ADV–W (notice of withdrawal from registration as an investment adviser), which are filed by investment advisers under the Investment Advisers Act of 1940.[15] These forms, like those mentioned in the previous paragraph, are used by state regulators as well as the Commission. Forms ADV and ADV–W are not available on EDGAR or on the Internet. The Commission currently is reviewing Forms ADV and ADV–W and anticipates proposing substantial revisions to the forms. In connection with the review process, the Commission will consider eliminating Social Security numbers from the forms. State regulators have independent authority to establish their own forms, however, and may determine that Social Security numbers are useful for their purposes. The Commission, therefore, may decide to continue to request that filers voluntarily disclose Social Security numbers on Forms ADV and ADV–W so that the forms remain uniform.

II. Effective Date

These changes are effective on the date of their publication in the **Federal Register**. The Commission's Publications Unit is printing new forms. The current forms will continue to be valid, but filers using those forms are requested not to include their Social Security numbers.

III. Certain Findings

Since the amendments to the forms and schedules to delete the voluntary provision of Social Security numbers relate solely to agency organization, procedure, or practice, publication for notice and comment is not required under the Administrative Procedure Act.[16] It follows that the requirements of the Regulatory Flexibility Act do not apply.

The rules relating to the disclosure of Social Security numbers are effective upon publication in the **Federal Register**. The Commission finds that there is good cause to dispense with the 30-day delay between publication and effectiveness normally required by the Administrative Procedure Act.[18] There would be no hardship imposed on the filers of the affected forms, since the amendments simply would eliminate space on the forms for information that filers were providing voluntarily for the Commission's use, or on users of the information since the Social Security number information has been provided voluntarily. Balancing the possible harm to filers from the disclosure of their Social Security numbers against any possible hardship to filers or investors and other end-users, the Commission finds good cause for making these rules immediately effective.

The amendments to these forms do not come within the scope of the Paperwork Reduction Act of 1995[19] because the amendments are not a substantive or material change to a collection of information.[20]

Under 5 U.S.C. 804, this rule is exempt from the definition of the term ''rule'' for purposes of Chapter 8, entitled ''Congressional Review of Agency Rulemaking,'' since the rule is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

Section 23(a)(2) of the Exchange Act[21] requires the Commission to consider the anti-competitive effects of any rules it adopts thereunder, and to balance them against the benefits that further the purposes of the Act. Because the amendments here do not effect any substantive change, they do not have any anti-competitive effects.

IV. Cost-Benefit Analysis

Because these amendments are procedural rules, and will impact the Commission rather than any filer, a traditional cost-benefit analysis appears unnecessary. The amendments will benefit individual filers by eliminating the possibility of the disclosure of confidential information and there do not appear to be any significant costs to the public as a result of making these changes.

[15] 15 U.S.C. 80b–1–80b–21.

[16] 5 U.S.C. 553(b).

[17] 5 U.S.C. 601–612.

[18] 5 U.S.C. 553(d).

[19] 44 U.S.C. 3501 *et seq*.

[20] 5 CFR 1320.5(g).

[21] 15 U.S.C. 78w(a)(2).

Furthermore, section 2 of the Securities Act[22] and Section 3 of the Exchange Act,[23] as amended by the recently enacted National Securities Markets Improvement Act of 1996,[24] provide that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the act will promote efficiency, competition, and capital formation. Because the amendments will help to protect individual filers from the disclosure of otherwise confidential information, the amendments are in the public interest and will not affect efficiency, competition or capital formation.

V. Statutory Basis

The amendments to Form 144 are being adopted by the Commission pursuant to sections 2(11), 4(1) and 19(a) of the Securities Act. The amendments to Schedule 13D, Schedule 13G, Schedule 14D–1, Form 3, Form 4 and Form 5 are being adopted by the Commission pursuant to sections 3(a)(11), 3(a)(12), 3(b), 9(b), 10(a), 12(h), 13, 14, 16 and 23 of the Exchange Act. As Forms 3, 4 and 5 relate to the Investment Company Act of 1940[25] and the Public Utility Holding Company Act of 1935,[26] the changes to those forms are also adopted pursuant to Investment Company Act sections 30 and 38 and Public Utility Holding Company Act sections 17 and 20, respectively. The amendments to Form MSD are being adopted by the Commission pursuant to sections 15, 15B(a), 17(a) and 23(a) of the Exchange Act. The amendments to Form TA–1 are being adopted by the Commission pursuant to sections 17, 17(A)(c) and 23(a) of the Exchange Act. The amendments to Form T–2 are being adopted pursuant to the authority set forth in sections 304, 305, 307, 308, 310, 314 and 319 of the Trust Indenture Act.

List of Subjects in 17 CFR Parts 239, 240, 249 and 269

Reporting and recordkeeping, Securities.

Text of the Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

[22] 15 U.S.C. 77b.

[23] 15 U.S.C. 78c.

[24] Pub. L. 104–290, secs. 106, 110 Stat. 3416 (1996).

[25] 15 U.S.C. 80a–1 *et seq.*

[26] 15 U.S.C. 79a *et seq.*

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

2. By amending § 239.144, paragraph (c), by revising the second and last sentences to read as follows:

§ 239.144 Form 144, for notice of proposed sale of securities pursuant to § 230.144 of this chapter.

* * * * *

(c) * * * Disclosure of the information specified in this form is mandatory before processing notices of proposed sale of securities under § 230.144 of this chapter. * * * Failure to disclose the information requested by Form 144 would make an exception under § 230.144 of this chapter unavailable and may result in civil or criminal action for violations of the Federal securities laws.

§ 239.14 [Form 144 Amended]

3. By amending Form 144 (referenced in § 239.144) by revising the caption to Item 2(b) and revising Instruction 2(b) to the cover page to read as follows:

Note: The text of Form 144 does not, and the amendments will not, appear in the Code of Federal Regulations.

Form 144

Notice of Proposed Sale of Securities

Pursuant to Rule 144 Under the Securities Act of 1933

* * * * *

Item 2(b). I.R.S. Ident. No.

* * * * *

Instructions:

* * *

2. (a) * * *

(b) Such person's I.R.S. identification number, if such person is an entity

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

4. The general authority citation for part 240 is revised to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

5. By amending § 240.13d–101 by revising Item (1) on the cover page and the heading and the last sentence of Instruction (1) for the cover page, by removing the phrase ''Social Security or'' in the second, third and fourth undesignated paragraphs under SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13D, by revising the words ''regulatory statements'' to read ''regulatory statutes'' in the third undesignated paragraph under SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13D, and in the fourth undesignated paragraph under SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13D by correcting the word ''resuly'' to read ''result'', to read as follows:

§ 240.13d–101 Schedule 13D—Information to be included in statements filed pursuant to § 240.13d–1(a) and amendments thereto filed pursuant to § 240.13d–2(a).

* * * * *

(1) Names of reporting persons.

I.R.S. Identification Nos. of above persons (entities only).

* * * * *

Instructions for Cover Page

(1) *Names and I.R.S. Identification Numbers of Reporting Persons*— * * * Reporting persons that are entities are also requested to furnish their I.R.S. identification numbers, although disclosure of such numbers is voluntary, not mandatory (see ''SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13D'' below).

* * * * *

6. By amending § 240.13d–102 by revising Item (1) on the cover page and the heading and last sentence to Instruction No. 1 for the cover page, and adding SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13G following the third undesignated paragraph under ''NOTES:'' and before ''Instructions'' to read as follows:

§ 240.13d–102 Schedule 13G—Information to be included in statements filed pursuant to § 240.13d–1 (b) and (c) and amendments thereto filed pursuant to § 240.13d–2(b).

* * * * *

(1) Names of reporting persons.

I.R.S. Identification Nos. of above persons (entities only).

* * * * *

Instructions for Cover Page

(1) *Names and I.R.S. Identification Numbers of Reporting Persons*—* * * Reporting persons that are entities are also requested to furnish their I.R.S. identification numbers, although disclosure of such numbers is voluntary, not mandatory (see ''SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13G'' below).

* * * * *

SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 13G

Under Sections 13(d), 13(g) and 23 of the Securities Exchange Act of 1934 and the rules and regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this schedule by certain security holders of certain issuers.

Disclosure of the information specified in this schedule is mandatory, except for I.R.S. identification numbers, disclosure of which is voluntary. The information will be used for the primary purpose of determining and disclosing the holdings of certain beneficial owners of certain equity securities. This statement will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Because of the public nature of the information, the Commission can use it for a variety of purposes, including referral to other governmental authorities or securities self-regulatory organizations for investigatory purposes or in connection with litigation involving the Federal securities laws or other civil, criminal or regulatory statutes or provisions. I.R.S. identification numbers, if furnished, will assist the Commission in identifying security holders and, therefore, in promptly processing statements of beneficial ownership of securities.

Failure to disclose the information requested by this schedule, except for I.R.S. identification numbers, may result in civil or criminal action against the persons involved for violation of the Federal securities laws and rules promulgated thereunder.

* * * * *

7. By amending § 240.14d–100 by revising Item (1) on the cover page and the heading and last sentence to Instruction No. 1 for the cover page, and in the second, third and fourth undesignated paragraphs under SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 14D–1 removing the phrase ''Social Security or'' to read as follows:

§ 240.14d–100 Schedule 14D–1. Tender offer statement pursuant to section 14(d)(1) of the Securities Exchange Act of 1934.

* * * * *

(1) Names of reporting persons.

I.R.S. Identification Nos. of above persons (entities only).

* * * * *

Instructions for Cover Page

(1) *Names and I.R.S. Identification Numbers of Reporting Persons*— * * * Reporting persons that are entities are also requested to furnish their I.R.S. identification numbers, although disclosure of such numbers is voluntary, not mandatory (see ''SPECIAL INSTRUCTIONS FOR COMPLYING WITH SCHEDULE 14D–1'' below).

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

PART 249b—FURTHER FORMS, SECURITIES EXCHANGE ACT OF 1934

8. The authority citation for parts 249 and 249b continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

9. By amending § 249.103 by revising the third sentence to read as follows:

§ 249.103 Form 3, initial statement of beneficial ownership of securities.

* * * Disclosure of information specified on this Form is mandatory, except for disclosure of the I.R.S. identification number by entities, which is voluntary. * * *

§ 249.103 [Form 3 amended]

10. By amending Form 3 (referenced in § 249.103) by revising the first sentence of the second undesignated paragraph of the introductory statement to the General Instructions and by revising Item 3 to the information preceding Table 1 to read as follows:

Note: The text of Form 3 does not, and the amendments will not, appear in the Code of Federal Regulations.

Form 3 Initial Statement of Beneficial Ownership of Securities

* * *

Disclosure of information specified on this form is mandatory, except for disclosure of the I.R.S. identification number of the reporting person if such person is an entity, which is voluntary. * * *

* * * * *

* * *

3. I.R.S. Identification Number of Reporting Person, if an entity (Voluntary)

* * * * *

11. By amending § 249.104 by revising the third sentence to read as follows:

§ 249.104 Form 4, statement of changes in beneficial ownership of securities.

* * * Disclosure of information specified on this Form is mandatory, except for disclosure of the I.R.S. identification number by entities, which is voluntary. * * *

§ 249.104 [Form 4 amended]

12. By amending Form 4 (referenced in § 249.104) by revising the first sentence of the second undesignated paragraph of the introductory statement to the General Instructions and by revising Item 3 to the information preceding Table 1 to read as follows:

Note: The text of Form 4 does not, and the amendments will not, appear in the Code of Federal Regulations.

Form 4 Statement of Changes of Beneficial Ownership of Securities

* * *

Disclosure of information specified on this form is mandatory, except for disclosure of the I.R.S. identification number of the reporting person if such person is an entity, which is voluntary. * * *

* * * * *

* * *

3. I.R.S. Identification Number of Reporting Person, if an entity (Voluntary)

* * * * *

13. By amending § 249.105 by revising the third sentence to read as follows:

§ 249.105 Form 5, annual statement of beneficial ownership of securities.

* * * Disclosure of information specified on this Form is mandatory, except for disclosure of the I.R.S. identification number by entities, which is voluntary. * * *

§ 249.105 [Form 5 amended]

14. By amending Form 5 (referenced in § 249.105) by revising the first sentence of the second undesignated paragraph of the introductory statement to the General Instructions and by revising Item 3 to the information preceding Table 1 to read as follows:

Note: The text of Form 5 does not, and the amendments will not, appear in the Code of Federal Regulations.

Form 5 Annual Statement of Beneficial Ownership of Securities

* * *

Disclosure of information specified on this form is mandatory, except for disclosure of the I.R.S. identification number of the reporting person if such person is an entity, which is voluntary. * * *

* * * * *

3. I.R.S. Identification Number of Reporting Person, if an entity (Voluntary)

* * * * *

§ 249.1100 [Form MSD amended]

15. By amending General Instruction M to Form MSD (referenced in § 249.1100), by removing the words '', except social security numbers, disclosure of which is voluntary'' in the second sentence.

Note: The text of Form MSD does not, and the amendments will not, appear in the Code of Federal Regulations.

§ 249b.100 Form TA–1 amended]

16. By amending Form TA–1 (referenced in § 249b.100) to remove the second column entitled ''Social Security Number'' in Schedules A, B and C.

Note: The text of Form TA–1 does not, and the amendments will not, appear in the Code of Federal Regulations.

PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

17. The authority citation for part 269 continues to read as follows:

Authority: 15 U.S.C. 77ddd(c), 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77sss, 78ll(d), unless otherwise noted.

18. By amending § 269.2 by revising the third sentence, removing the eighth sentence and revising the ninth sentence to read as follows:

§ 269.2 Form T–2, for statement of eligibility and qualification for individual trustees.

* * * Disclosure of the information specified in this form is mandatory before processing statements of eligibility and qualification. * * * Failure to disclose the information requested by this form may result in enforcement action by the Commission to compel compliance with the Federal securities laws.

§ 269.2 [Form T–2 amended]

19. By amending Form T–2 (referenced in § 269.2), in SPECIAL INSTRUCTIONS FOR COMPLETING FORM T–2, removing the phrase ‘‘, except for social security account numbers, disclosure of which is voluntary’’ in the first sentence of the second paragraph, removing the second sentence of the third paragraph, and removing the phrase ‘‘, except for social security account numbers’’ in the fourth paragraph, and in the Form by removing the second line, ‘‘(Social Security Number)’’.

Note: The text of Form T–2 does not and the amendments will not appear in the Code of Federal Regulations.

Dated: June 25, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–17104 Filed 6–30–97; 8:45 am]

BILLING CODE 8010–01–U

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4001

RIN 1212–AA75

Reorganization, Renumbering, and Reinvention of Regulations; Terminology; Correction

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Correction.

SUMMARY: On July 1, 1996, the Pension Benefit Guaranty Corporation published in the **Federal Register** (at 61 FR 34001, FR Doc. 96–16398) a final rule reorganizing, renumbering, and reinventing its regulations. This document contains a correction to 29 CFR Part 4001 as so published.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Marc L. Jordan, Attorney, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: FR Doc. 96–16398, appearing at 61 FR 34001 (July 1, 1996), contained an error that is corrected as follows:

List of Subjects in 29 CFR Part 4001

Administrative practice and procedure, Business and industry, Pension insurance, Pensions.

Accordingly, 29 CFR Part 4001 is corrected as follows:

PART 4001—TERMINOLOGY

1. The authority citation for Part 4001 continues to read as follows:

Authority: 29 U.S.C. 1301, 1302(b)(3).

2. In § 4001.2, the definition of ‘‘mass withdrawal’’ is corrected to read as follows:

§ 4001.2 [Corrected]

* * * * *

Mass withdrawal means

(1) The withdrawal of every employer from the plan,

(2) The cessation of the obligation of all employers to contribute under the plan, or

(3) The withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw.

* * * * *

Issued in Washington, D.C., this 26th day of June, 1997.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97–17138 Filed 6–30–97; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 902

[AK–005–FOR]

Alaska Regulatory Program; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; correction.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is correcting the effective date of a final rule that appeared in the **Federal Register** on March 31, 1997. The document approved an amendment to the Alaska regulatory program (62 FR 15115), effective on the date of publication, March 31, 1997. OSM had prepared a separate rulemaking on March 5, 1997, (62 FR 9932), which became effective April 4, 1997. Due to the difference in the effective date, the March 5, 1997 rule would result in a nullification of the Alaska state program amendment previously listed. Therefore, this document corrects the effective date of the Alaska state program amendment to April 7, 1997.

EFFECTIVE DATE: The amendment to 30 CFR Part 902 (62 FR 15115), is effective April 7, 1997.

FOR FURTHER INFORMATION CONTACT:

John A. Trelease, Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Room 210 SIB, Washington, DC 20240; Telephone (202) 208–2783.

In FR Doc. 97–8104, appearing on page 15115 in the **Federal Register** of Monday, March 31, 1997, the following correction is made:

On page 15115, the Alaska (AK–005–FOR) state program amendment’s EFFECTIVE DATE is corrected to read April 7, 1997.

Dated: June 25, 1997.

Kathrine L. Henry,

Acting Director.

[FR Doc. 97–17131 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 176

RIN 0790–AG18]

Revitalizing Base Closure Communities and Community Assistance—Community Redevelopment and Homeless Assistance

AGENCY: Office of the Deputy Under Secretary of Defense (Industrial Affairs and Installations).

ACTION: Final rule.

SUMMARY: This rule revises the Department of Defense's (DoD) Revitalizing Base Closure Communities and Community Assistance—Community Redevelopment and Homeless Assistance regulation published on August 8, 1995. It establishes policies and procedures, developed by both DoD and HUD, to take into account Section 2838 of the National Defense Authorization Act for FY96.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Patrick O'Brien, Base Closure and Community Reinvestment Office, Department of Defense, 400 Army Navy Drive, Suite 200, Arlington, VA 22202, (703) 604–5844 or Bill Poythress, Base Redevelopment Team, Department of Housing and Urban Development, 75 Spring Street, SW, Atlanta, GA 30303–3388, (404) 331–5001 x2546 (these telephone numbers are not toll-free).

SUPPLEMENTARY INFORMATION:

Regulatory History and Background Information

DoD and HUD published interim final rules on August 8, 1995, (60 FR 40277) and August 17, 1995, (60 FR 42972), respectively, implementing the Base Closure Community Redevelopment and Homeless Assistance Act, Public Law 103–421, (the ''Redevelopment Act''). Public comments were accepted until October 16, 1995.

On February 10, 1996, the President signed the National Defense Authorization Act for FY96 (Pub.L. 104–106). Section 2838 of that Act amended the Redevelopment Act in the following ways:

- It clarified that the Redevelopment Act applies to both base closure and realignment sites.
- It required HUD, after rejecting an application, to provide information to DoD on the suitability of buildings and property at the base for homeless use and the extent to which the redevelopment plan meets HUD's review criteria.
- It clarified DoD's obligations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) in two important respects. First, it clarified that the Military Department's proposed action must encompass the LRA's redevelopment plan (see subsections 2905(b)(7)(K)(ii) and 2905(b)(7)(L)(iv)(ll)). Second, it mandated that the Military Department give deference to the LRA's redevelopment plan in its property disposal decisions. The degree of deference depends, in part, on whether HUD determines that the LRA's redevelopment plan balances in an appropriate manner the needs of the communities in the vicinity of the installation for economic development and other development with the needs of the homeless in such communities (compare subsection 2905(b)(7)(K)(iii) with subsection 2905(b)(7)(L)(iv)(lll)).

This final rule addresses both the comments received on the interim final rules during the public comment period, and the amendment to the Redevelopment Act contained in Public Law 104–106. In addition, this rule contains the regulatory requirements under the Redevelopment act for both DoD and HUD. In another issue of the **Federal Register**, HUD will be publishing its final rule at 24 CFR part 586.

Discussion of Public Comments

In response to the August 8, 1995, and August 17, 1995, publications by DoD and HUD, comments were received from six different sources including State and local entities and non-profit organizations. The comments covered nine major areas:

1. Definitions/Terms

Several commented that the definitions in the interim final rules needed to be consistent with the definitions of the same terms in DoD's final rule titled ''Revitalizing Base Closure Communities and Community Assistance'' (32 CFR parts 174 and 175). Others recommended that the definition of ''communities in the vicinity of the installation'' be modified to take into consideration the impact the closure will have on a particular locality, based on distance and economics. One entity recommended that the definition of ''redevelopment plan'' be revised to allow for the creation of specific land use plans.

Response: The definitions in this rule were compared to the definitions in 32 CFR parts 174 and 175 to ensure that, where appropriate, the same definition was used. As a result, the definition of ''surplus property'' has been revised (§ 176.5). With respect to the meaning of ''communities in the vicinity of the installation,'' this term is defined, consistent with the authorizing statute, as being those political jurisdictions that comprise the LRA, which is the entity responsible for developing or implementing the redevelopment plan for the installation. It is reasonable to expect that the communities that participate in the LRA will be those most directly affected by the installation's redevelopment. In addition, the definition of ''redevelopment plan'' has been revised to be more responsive to community needs while ensuring that the plan contains the information needed by HUD for its review (§ 176.5).

2. Soliciting/Receiving Notices of Interest

One entity commented that the time period for accepting notices of interest at BRAC '95 sites needed to be modified to require a minimum of 30 days instead of 90 days. Another suggested that homeless providers should be required to demonstrate that they considered properties off base before submitting a notice of interest to the LRA. In addition, one commentor suggested that the rule be changed to make it clear that only organizations in the vicinity of the installation are eligible to submit notice of interest and that LRAs should not be required to solicit notices of interest from commercial, industrial, and residential development groups.

Response: As specified in section 2905(b)(7)(D) of the Defense Base Closure and Realignment Act of 1990 (Pub. L. 101–510, as amended), interested parties must submit notices of interest by the date specified by the LRA in its local newspaper publication. Further, the date specified by the LRA cannot be earlier than 90, or later than 180 days from the date the Military Department makes its surplus determination. Based on the experience of HUD and DoD under the interim rule, there is apparently confusion among local communities on this matter. Pursuant to the authority granted to the Secretary of Defense to extend or postpone certain deadlines, the final rule clearly specifies that the date by which interested parties must submit notices of interest can be no earlier than 90 and not later than 180 days from the date that the LRA makes its local newspaper publication that it is accepting notices of interest. In accordance with § 176.15(b) of this rule, HUD may waive the regulatory

requirement that the minimum 90 days be calculated from the date of the LRA's publication. However, in no event may the date by which parties must submit notices of interest be earlier than 90 days from the date the Military Department makes its surplus determination.

DoD and HUD will not require homeless providers to consider off base property before submitting a notice of interest because such a requirement would be unduly burdensome and would not result in any clearly evident benefit. In response to the other comments, LRAs should be aware that any eligible entity that proposes to assist homeless individuals and families in the communities in the vicinity of the installation may submit a notice of interest. Further, while LRAs are not required to actively solicit notices from commercial, industrial, and residential development groups, they are encouraged to consider such interests in an effort to identify any and all interest in the site.

3. Release of Information Contained in Notices of Interest

Several commented that the prohibition on releasing to the public any information contained in the notices of interest should be limited to information that is proprietary or confidential.

Response: The rule has been revised to mirror the statute by prohibiting the release of information about the capacity of the representative of the homeless to carry out its program, a description of the organization, or its financial plan without the consent of the representative of the homeless, unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located (§ 176.20(c)(2)(i)). The identity of the representative of the homeless, however, may be disclosed.

4. State and Local Screening

Several requested that the requirement for the Military Departments to conduct an ''official'' State and local public benefit screening be deleted. Some commented that if the requirement is not removed, then the current process should be revised to require Federal sponsoring agencies to notify eligible applicants that any request for property must be *identical* to the uses in the redevelopment plan, or specifically approved by the LRA.

Response: The provisions of the Federal Property and Administrative Services Act (FPASA) require the General Services Administration (GSA) to conduct a State and local public benefit transfer screening for all property that has been declared surplus to the needs of the Federal government. For base closure property, GSA has delegated this responsibility to the Military Departments. The provisions of the Redevelopment Act, as recently amended, do not change this requirement. To ensure consistency with the redevelopment plan to the greatest extent allowable, the rule requires that all requests for property during the Military Department's public benefit screening be consistent with the uses identified in the redevelopment plan. LRAs should note that, at the request of the LRA, the Military Department may conduct the State and local public benefit screening before the submission of the redevelopment plan to DoD and HUD.

5. Application Requirements

One comment asked that the rule clarify that the legally binding agreements are not executed documents. Another asked that the requirement to provide information on the impact that the implemented redevelopment plan would have on the community be removed. Another asked that the provision that allows HUD to require homeless representatives to submit a certification that public services and utilities are adequate for the program, after HUD has twice rejected the LRA's plan, be deleted.

Response: The language on legally binding agreements states that the agreements are ''proposed to be entered into'' implying that they are not executed documents. These agreements will not be implemented until after the disposal of the property by the Military Department under § 176.45(c). HUD and DoD decided not to remove the requirement to provide information on the impact the implemented redevelopment plan would have on the community because such information is necessary for HUD to complete the required review of the adequacy of the redevelopment plan in balancing homeless and economic development needs. The provision that states HUD may require homeless representatives to submit certification that public services and utilities are adequate has been removed from this rule although it remains in the statute (§ 176.40(a)).

6. Development of the Reuse Plan

One commentor asked that the rule provide some guidelines on how much monetary or material property should be allocated to homeless providers. Others asked for more guidance on how to deal with notices of interest from homeless providers that ask for property as well as funding. Another commentor wanted more guidance on who should take part in the negotiations between the LRA and homeless providers.

Response: The Redevelopment Act empowers local communities by placing responsibility for base reuse planning and decisions on homeless assistance in the hands of the LRA, an entity which represents the political jurisdictions affected by the closure or realignment. As a result, decisions on how much money or property should be allocated to homeless providers, how an LRA should deal with notices of interest that ask for property as well as funding, and who should take part in negotiations have been left to the discretion of the LRA. DoD and HUD urge LRAs to consult with the applicable Military Department during the planning process on the feasibility of implementing the LRA's recommended solutions to address gaps in the Continuum of Care given existing property disposal mechanisms.

7. Public Participation/Review of the Reuse Plan

Several requested that the requirement that the draft application be made available for public review and comment throughout the process be removed, while others asked that the rule require more general public involvement in the process.

Response: DoD and HUD recognize that requiring LRAs to make the draft application available for public review at all times could hinder, rather than help, the process. In addition, an LRA is, by its very nature, a public body that is accountable to the constituency it represents—the communities impacted by the closure or realignment. Taking public views and comments into consideration should be a normal part of the LRA's reuse planning process. Accordingly, the requirement that the draft application be made available for public review and comment throughout the process has been modified to require the application to be made available periodically during the process (§ 176.20(c)(6)). LRAs will still be required to conduct at least one public hearing on the application prior to its submission to HUD and DoD. DoD and HUD continue to strongly support public involvement in the reuse planning process and stress that this modification should not be interpreted as lessening the need for an open, public, participatory process.

8. HUD Review of the Application

Several asked that additional guidance be provided on what criteria

HUD will use to determine ''balance'' and that HUD's review include sources in addition to the Consolidated Plan. Others asked that HUD's review be revised to reflect the local community's determination of homeless need, existing services, gaps in services, and strategies for accommodation of these needs within the redevelopment plan. Still others felt that HUD's review should be limited to a determination of whether the LRA followed the correct procedures in developing a redevelopment plan. Finally, some asked that the rule stipulate that the redevelopment plan should not be viewed as the comprehensive solution to homelessness in the communities in the vicinity of the installation, but as a way to address a portion of those needs.

Response: The consolidated Plan, or any other existing housing, social service, community, economic, or other development plan adopted by the political jurisdictions in the vicinity of the installation, will continue to be used by HUD to determine if the LRA's redevelopment plan balances in an appropriate manner the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless. HUD and DoD agree that using a community-developed assessment, like the Consolidated Plan, as the basis for this review is in keeping with the spirit and intent of the Redevelopment Act—to move decisions on homeless assistance from Washington and the Federal government to the local community. In addition, HUD believes that using an existing plan is preferable to mandating the creation of new documents. Further, to carry out its duty under the Redevelopment Act, HUD must consider factors beyond whether the LRA followed the correct procedures in developing a redevelopment plan. Additional information about HUD's review process is outlined below. It may not be possible, or appropriate, to view the redevelopment plan as a comprehensive solution to homelessness. In response to public comments, the rule has been revised to clarify that the redevelopment plan may meet all or a portion of the needs of the homeless (§ 176.30(b)(2)(i) and § 176.35(b)(4)).

9. Plan Implementation/Property Disposal

One commentor requested that the rule clarify the role the Military Department plays in making a final decision on reuse through a Record of Decision (ROD) and that the LRA should be provided an opportunity to appeal the decision of HUD.

Response: As a result of recent amendments to the Redevelopment Act, a new section clarifying the role of the Military Department has been added at § 176.45(b) of this rule. Because of the role of the Military Department following HUD review and notification, as expressed in § 176.45(b), DoD and HUD believe the need for an appeal process has been overtaken by the amendments.

Extent of Changes to the Rule

DoD and HUD believe that the process created in the interim final rule requires few changes as evidenced by the limited number of comments received on the rule, the ease with which LRAs have been complying with the requirements set out in the rule, and most importantly, by the content of the applications that have been submitted to HUD for approval. The redevelopment plans contained in the applications that have been submitted have, for the most part, balanced the economic redevelopment and other development needs of the communities in the vicinity of the installation with the needs of the homeless in those communities in an appropriate manner. As a result, extensive changes based on public comments have not been made. However, changes stemming from the recent amendments to the Redevelopment Act have been incorporated.

HUD's Review Process

Since the publication of the interim final rule, the area that has raised the most questions has been the process HUD uses to review applications. In accordance with the procedures outlined in the Redevelopment Act, the LRA must submit to HUD and DoD an application which includes a copy of the redevelopment plan and a homeless assistance submission. HUD reviews these applications and notifies DoD and the LRA of its findings. The review criteria used by HUD are outlined in § 176.35(b) of this rule.

To help facilitate the completion of approvable applications, HUD works with LRAs, the affected communities, and representatives of the homeless throughout the development of the redevelopment plan and application. HUD is available to provide assistance to LRAs throughout the planning process. Such assistance includes attending LRA workshops held under § 176.20(c)(3) and meeting with LRAs at their request to discuss specific issues.

HUD must receive the LRA's application no later than 270 days from the deadline for receipt of notices of interest. HUD's headquarters Base Redevelopment Team, and the local HUD Field Office will jointly review the applications and approve or disapprove the LRA's submission. This evaluation includes a completeness review to determine if all the required elements have been submitted by the LRA. The HUD Field Office will contact the LRA regarding any elements that were omitted. Next, HUD evaluates if the redevelopment plan balances the economic redevelopment and other development needs of the communities in the vicinity of the installation with the needs of the homeless in those communities in an appropriate manner. Finally, HUD evaluates the legally binding agreements to ensure that the terms and conditions are clearly articulated.

To assist LRAs with completing their applications and to provide more information to interested parties about the Redevelopment Act process including HUD's review process, HUD has developed a publication called the ''Guidebook on Military Base Reuse and Homeless Assistance.'' To obtain a copy write the Department of Housing and Urban Development, Base Redevelopment Team, 75 Spring Street, SW, Atlanta, GA 30303–3388 or call (401) 331–5001 x2546. The Guidebook is also available on the World Wide Web at: http://www.hud.gov/cpd/milbase.

Statement of Determination and Certifications

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that this rule is not a significant regulatory action as defined under section 3(f)(1) through 3(f)(4) of Executive Order 12866.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been determined that this rule will not have a significant economic impact on a substantial number of small entities.

Public Law 104–13, ''Paperwork Reduction Act of 1995'' (44 U.S.C. Chapter 35)

The information collection requirements contained in §§ 176.20 and 176.30 of this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), and assigned OMB control number 2506–0154. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the

collection displays a valid control number.

List of Subjects in 32 CFR Part 176

Community development; Government employees; Military personnel; Surplus government property.

Accordingly, 32 CFR part 176 is revised to read as follows:

PART 176—REVITALIZING BASE CLOSURE COMMUNITIES AND COMMUNITY ASSISTANCE—COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE

Sec.
176.1 Purpose.
176.5 Definitions.
176.10 Applicabiity.
176.15 Waivers and extensions of deadlines.
176.20 Overview of the process.
176.25 HUD's negotiations and consultations with the LRA.
176.30 LRA application.
176.35 HUD's review of the application.
176.40 Adverse determinations.
176.45 Disposal of buildings and property.

Authority: 10 U.S.C. 2687 note.

§ 176.1 Purpose.

This part implements the Base Closure Community Redevelopment and Homeless Assistance Act, as amended (10 U.S.C. 2687 note), which instituted a new community-based process for addressing the needs of the homeless at base closure and realignment sites. In this process, Local Redevelopment Authorities (LRAs) identify interest from homeless providers in installation property and develop a redevelopment plan for the installation that balances the economic redevelopment and other development needs of the communities in the vicinity of the installation with the needs of the homeless in those communities. The Department of Housing and Urban Development (HUD) reviews the LRA's plan to see that an appropriate balance is achieved. This part also implements the process for identifying interest from State and local entities for property under a public benefit transfer. The LRA is responsible for concurrently identifying interest from homeless providers and State and local entities interested in property under a public benefit transfer.

§ 176.5 Definitions.

As used in this part:

CERCLA. Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*).

Communities in the vicinity of the installation. The communities that constitute the political jurisdictions (other than the State in which the installation is located) that comprise the LRA for the installation. If no LRA is formed at the local level, and the State is serving in that capacity, the communities in the vicinity of the installation are deemed to be those political jurisdiction(s) (other than the State) in which the installation is located.

Continuum of care system.

(1) A comprehensive homeless assistance system that includes:

(i) A system of outreach and assessment for determining the needs and condition of an individual or family who is homeless, or whether assistance is necessary to prevent an individual or family from becoming homeless;

(ii) Emergency shelters with appropriate supportive services to help ensure that homeless individuals and families receive adequate emergency shelter and referral to necessary service providers or housing finders;

(iii) Transitional housing with appropriate supportive services to help those homeless individuals and families who are not prepared to make the transition to independent living;

(iv) Housing with or without supportive services that has no established limitation on the amount of time of residence to help meet long-term needs of homeless individuals and families; and,

(v) Any other activity that clearly meets an identified need of the homeless and fills a gap in the continuum of care.

(2) Supportive services are services that enable homeless persons and families to move through the continuum of care toward independent living. These services include, but are not limited to, case management, housing counseling, job training and placement, primary health care, mental health services, substance abuse treatment, child care, transportation, emergency food and clothing family violence services, education services, moving services, assistance in obtaining entitlements, and referral to veterans services and legal services.

Consolidated Plan. The plan prepared in accordance with the requirements of 24 CFR part 91.

Day. One calendar day including weekends and holidays.

DoD. Department of Defense.

HHS. Department of Health and Human Services.

Homeless person.

(1) An individual or family who lacks a fixed, regular, and adequate nighttime residence; and

(2) An individual or family who has a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or,

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(3) This term does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law.

HUD. Department of Housing and Urban Development.

Installation. A base, camp, post, station, yard, center, homeport facility for any ship or other activity under the jurisdiction of DoD, including any leased facility, that is approved for closure or realignment under the Base Closure and Realignment Act of 1988 (Pub. L. 100–526). as amended, or the Defense Base Closure and Realignment Act of 1990 (Pub. L. 101–510), as amended (both at 10 U.S.C. 2687, note).

Local redevelopment authority (LRA). Any authority or instrumentality established by State or local government and recognized by the Secretary of Defense, through the Office of Economic Adjustment, as the entity responsible for developing the redevelopment plan with respect to the installation or for directing implementation of the plan.

NEPA. National Environmental Policy Act of 1969 (42 U.S.C. 4320).

OEA. Office of Economic Adjustment, Department of Defense.

Private nonprofit organization. An organization, no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual; that has a voluntary board; that has an accounting system or has designated an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting procedures; and that practices nondiscrimination in the provision of assistance.

Public benefit transfer. The transfer of surplus military property for a specified public purpose at up to a 100-percent discount in accordance with 40 U.S.C. 471 *et seq.* or 49 U.S.C. 47151–47153.

Redevelopment plan. A plan that is agreed by the LRA with respect to the installation and provides for the reuse or redevelopment of the real property and personal property of the installation that is available for such reuse and redevelopment as a result of the closure of the installation.

Representative(s) of the homeless. A State or local government agency or private nonprofit organization, including a homeless assistance planning board, that provides or proposes to provide services to the homeless.

Substantially equivalent. Property that is functionally suitable to substitute for property referred to in an approved Title V application. For example, if the representative of the homeless had an approved Title V application for a building that would accommodate 100 homeless persons in an emergency shelter, the replacement facility would also have to accommodate 100 at a comparable cost for renovation.

Substantially equivalent funding. Sufficient funding to acquire a substantially equivalent facility.

Surplus property. Any excess property not required for the needs and the discharge of the responsibilities of all Federal Agencies. Authority to make this determination, after screening with all Federal Agencies, rests with the Military Departments.

Title V. Title V of the Steward B. McKinney Homeless Assistance Act of 1987 (42 U.S.C. 11411) as amended by the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103–160).

Urban county. A county within a metropolitan area as defined at 24 CFR 570.3.

§ 176.10 Applicability.

(a) *General.* This part applies to all installations that are approved for closure/realignment by the President and Congress under Pub. L. 101–510 after October 25, 1994.

(b) *Request for inclusion under this process.* This part also applies to installations that were approved for closure/realignment under either Public Law 100–526 or Public Law 101–510 prior to October 25, 1994 and for which an LRA submitted a request for inclusion under this part to DoD by December 24, 1994. A list of such requests was published in the **Federal Register** on May 30, 1995 (60 FR 28089).

(1) For installations with Title V applications pending but not approved before October 25, 1994, the LRA shall consider and specifically address any application for use of buildings and property to assist the homeless that were received by HHS prior to October 25, 1994, and were spending with the Secretary of HHS on that date. These pending requests shall be addressed in the LRA's homeless assistance submission.

(2) For installations with Title V applications approved before October 25, 1994 where there is an approved Title V application, but property has not been assigned or otherwise disposed of by the Military Department, the LRA must ensure that its homeless assistance submission provides the Title V applicant with:

(i) The property requested;

(ii) Properties, on or off the installation, that are substantially equivalent to those requested;

(iii) Sufficient funding to acquire such substantially equivalent properties;

(iv) Services and activities that meet the needs identified in the application; or,

(v) A combination of the properties, funding, and services and activities described in § 176.10(b)(2)(i)–(iv) of this part.

(c) *Revised Title V process.* All other installations approved for closure or realignment under either Public Law 100–526 or Public Law 101–510 prior to October 25, 1994, for which there was no request for consideration under this part, are covered by the process stipulated under Title V. Buildings or property that were transferred or leased for homeless use under Title V prior to October 25, 1994, may not be reconsidered under this part.

§ 176.15 Waivers and extensions of deadlines.

(a) After consultation with the LRA and HUD, and upon a finding that it is in the interest of the communities affected by the closure/realignment of the installation, DoD, through the Director of the Office of Economic Adjustment, may extend or postpone any deadline contained in this part.

(b) Upon completion of a determination and finding of good cause, and except for deadlines and actions required on the part of DoD, HUD may waive any provision of §§ 176.20 through 176.45 of this part in any particular case, subject only to statutory limitations.

§ 176.20 Overview of the process.

(a) *Recognition of the LRA.* As soon as practicable after the list of installations recommended for closure or realignment is approved, DoD, through OEA, will recognize an LRA for the installation. Upon recognition, OEA shall publish the name, address, and point of contact for the LRA in the **Federal Register** and in a newspaper of general circulation in the communities in the vicinity of the installation.

(b) *Responsibilities of the Military Department.* The Military Department shall make installation properties available to other DoD components and Federal agencies in accordance with the procedures set out at 32 CFR part 175. The Military Department will keep the LRA informed of other Federal interest in the property during this process. Upon completion of this process the Military Department will notify HUD and either the LRA or the Chief Executive Officer of the State, as appropriate, and publish a list of surplus property on the installation that will be available for reuse in the **Federal Register** and a newspaper of general circulation in the communities in the vicinity of the installation.

(c) *Responsibilities of the LRA.* The LRA should begin to conduct outreach efforts with respect to the installation as soon as is practicable after the date of approval of closure/realignment of the installation. The local reuse planning process must begin no later than the date of the Military Department's **Federal Register** publication of available property described at § 176.20(b). For those installations that began the process described in this part prior to August 17, 1995, HUD will, on a case-by-case basis, determine whether the statutory requirements have been fulfilled and whether any additional requirements listed in this part should be required. Upon the **Federal Register** publication described in § 176.20(b), the LRA shall:

(1) Publish, within 30 days, in a newspaper of general circulation in the communities in the vicinity of the installation, the time period during which the LRA will receive notices of interest from State and local governments, representatives of the homeless, and other interested parties. This publication shall include the name, address, telephone number and the point of contact for the LRA who can provide information on the prescribed form and contents of the notices of interest. The LRA shall notify DoD of the deadline specified for receipt of notices of interest. LRAs are strongly encouraged to make this publication as soon as possible within the permissible 30 day period in order to expedite the closure process.

(i) In addition, the LRA has the option to conduct an informal solicitation of notices of interest from public and non-profit entities interested in obtaining property via a public benefit transfer other than a homeless assistance conveyance under either 40 U.S.C. 471 *et. seq.* or 49 U.S.C. 47151–47153. As part of such a solicitation, the LRA may wish to request that interested entities submit a description of the proposed use to the LRA and the sponsoring Federal agency.

(ii) For all installations selected for closure or realignment prior to 1995 that elected to proceed under Public Law

103–421, the LRA shall accept notices of interest for not less than 30 days.

(iii) For installations selected for closure or realignment in 1995 or thereafter, notices of interest shall be accepted for a minimum of 90 days and not more than 180 days after the LRA's publication under § 176.20(c)(1).

(2) Prescribe the form and contents of notices of interest.

(i) The LRA may not release to the public any information regarding the capacity of the representative of the homeless to carry out its program, a description of the organization, or its financial plan for implementing the program, without the consent of the representative of the homeless concerned, unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located. The identity of the representative of the homeless may be disclosed.

(ii) The notices of interest from representatives of the homeless must include:

(A) A description of the homeless assistance program proposed, including the purposes to which the property or facility will be put, which may include uses such as supportive services, job and skills training, employment programs, shelters, transitional housing or housing with no established limitation on the amount of time of residence, food and clothing banks, treatment facilities, or any other activity which clearly meets an identified need of the homeless and fills a gap in the continuum of care;

(B) A description of the need for the program;

(C) A description of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation;

(D) Information about the physical requirements necessary to carry out the program including a description of the buildings and property at the installation that are necessary to carry out the program;

(E) A description of the financial plan, the organization, and the organizational capacity of the representative of the homeless to carry out the program; and,

(F) An assessment of the time required to start carrying out the program.

(iii) The notices of interest from entities other than representatives of the homeless should specify the name of the entity and specific interest in property or facilities along with a description of the planned use.

(3) In addition to the notice required under § 176.20(c)(1), undertake outreach efforts to representatives of the homeless by contacting local government officials and other persons or entities that may be interested in assisting the homeless within the vicinity of the installation.

(i) The LRA may invite persons and organizations identified on the HUD list of representatives of the homeless and any other representatives of the homeless with which the LRA is familiar, operating in the vicinity of the installation, to the workshop described in § 176.20(c)(3)(ii).

(ii) The LRA, in coordination with the Military Department and HUD, shall conduct at least one workshop where representatives of the homeless have an opportunity to:

(A) Learn about the closure/realignment and disposal process;

(B) Tour the buildings and properties available either on or off the installation;

(C) Learn about the LRA's process and schedule for receiving notices of interest as guided by § 176.20(c)(2); and,

(D) Learn about any known land use constraints affecting the available property and buildings.

(iii) The LRA should meet with representatives of the homeless that express interest in discussing possible uses for these properties to alleviate gaps in the continuum of care.

(4) Consider various properties in response to the notices of interest. The LRA may consider property that is located off the installation.

(5) Develop an application, including the redevelopment plan and homeless assistance submission, explaining how the LRA proposes to address the needs of the homeless. This application shall consider the notices of interest received from State and local governments, representatives of the homeless, and other interested parties. This shall include, but not be limited to, entities eligible for public benefit transfers under either 40 U.S.C. 471 *et. seq.*, or 49 U.S.C. 47151–47153; representatives of the homeless; commercial, industrial, and residential development interests; and other interests. From the deadline date for receipt of notices of interest described at § 176.20(c)(1), the LRA shall have 270 days to complete and submit the LRA application to the appropriate Military Department and HUD. The application requirements are described at § 176.30.

(6) Make the draft application available to the public for review and comment periodically during the process of developing the application. The LRA must conduct at least one public hearing on the application prior to its submission to HUD and the appropriate Military Department. A summary of the public comments received during the process of developing the application shall be included in the application when it is submitted.

(d) *Public benefit transfer screening.* The LRA should, while conducting its outreach efforts, work with the Federal agencies that sponsor public benefit transfers under either 40 U.S.C. 471 *et. seq.* or 49 U.S.C. 47151–47153. Those agencies can provide a list of parties in the vicinity of the installation that might be interested in and eligible for public benefit transfers. The LRA should make a reasonable effort to inform such parties of the availability of the property and incorporate their interests within the planning process. Actual recipients of property are to be determined by sponsoring Federal agency. The Military Departments shall notify sponsoring Federal agencies about property that is available based on the community redevelopment plan and keep the LRA apprised of any expressions of interest. Such expressions of interest are not required to be incorporated into the redevelopment plan, but must be considered.

§ 176.25 HUD's negotiations and consultations with the LRA.

HUD may negotiate and consult with the LRA before and during the course of preparation of the LRA's application and during HUD's review thereof with a view toward avoiding any preliminary determination that the application does not meet any requirement of this part. LRAs are encouraged to contact HUD for a list of persons and organizations that are representatives of the homeless operating in the vicinity of the installation.

§ 176.30 LRA application.

(a) *Redevelopment plan.* A copy of the redevelopment plan shall be part of the application.

(b) *Homeless assistance submission.* This component of the application shall include the following:

(1) Information about homelessness in the communities in the vicinity of the installation.

(i) A list of all the political jurisdictions which comprise the LRA.

(ii) A description of the unmet need in the continuum of care system within each political jurisdiction, which should include information about any gaps that exist in the continuum of care for particular homeless subpopulations. The source for this information shall depend upon the size and nature of the

political jurisdictions(s) that comprise the LRA. LRAs representing:

(A) Political jurisdictions that are required to submit a Consolidated Plan shall include a copy of their Homeless and Special Needs Population Table (Table 1), Priority Homeless Needs Assessment Table (Table 2), and narrative description thereof from that Consolidated Plan, including the inventory of facilities and services that assist the homeless in the jurisdiction.

(B) Political jurisdictions that are part of an urban county that is required to submit a Consolidated Plan shall include a copy of their Homeless and Special Needs Population Table (Table 1), Priority Homeless Needs Assessment Table (Table 2), and narrative description thereof from that Consolidated Plan, including the inventory of facilities and services that assist the homeless in the jurisdiction. In addition, the LRA shall explain what portion of the homeless population and subpopulations described in the Consolidated Plan are attributable to the political jurisdiction it represents.

(C) A political jurisdiction not described by § 176.30(b)(1)(ii)(A) or § 176.30(b)(1)(ii)(B) shall submit a narrative description of what it perceives to be the homeless population within the jurisdiction and a brief inventory of the facilities and services that assist homeless persons and families within the jurisdiction. LRAs that represent these jurisdictions are not required to conduct surveys of the homeless population.

(2) Notices of interest proposing assistance to homeless persons and/or families.

(i) A description of the proposed activities to be carried out on or off the installation and a discussion of how these activities meet a portion or all of the needs of the homeless by addressing the gaps in the continuum of care. The activities need not be limited to expressions of interest in property, but may also include discussions of how economic redevelopment may benefit the homeless;

(ii) A copy of each notice of interest from representatives of the homeless for use of buildings and property and a description of the manner in which the LRA's application addresses the need expressed in each notice of interest. If the LRA determines that a particular notice of interest should not be awarded property, an explanation of why the LRA determined not to support that notice of interest, the reasons for which may include the impact of the program contained in the notice of interest on the community as described in § 176.30(b)(2)(iii); and,

(iii) A description of the impact that the implemented redevelopment plan will have on the community. This shall include information on how the LRA's redevelopment plan might impact the character of existing neighborhoods adjacent to the properties proposed to be used to assist the homeless and should discuss alternative plans. Impact on schools, social services, transportation, infrastructure, and concentration of minorities and/or low income persons shall also be discussed.

(3) Legally binding agreements for buildings, property, funding, and/or services.

(i) A copy of the legally binding agreements that the LRA proposes to enter into with the representative(s) of the homeless selected by the LRA to implement homeless programs that fill gaps in the existing continuum of care. The legally binding agreements shall provide for a process for negotiating alternative arrangements in the event that an environmental analysis conducted under § 176.45(b) indicates that any property identified for transfer in the agreement is not suitable for the intended purpose. Where the balance determined in accordance with § 176.30(b)(4) provides for the use of installation property as a homeless assistance facility, legally binding agreements must provide for the reversion or transfer, either to the LRA or to another entity or entities, of the buildings and property in the event they cease to be used for the homeless. In cases where the balance proposed by the LRA does not include the use of buildings or property on the installation, the legally binding agreements need not be tied to the use of specific real property and need not include a reverter clause. Legally binding agreements shall be accompanied by a legal opinion of the chief legal advisor of the LRA or political jurisdiction or jurisdictions which will be executing the legally binding agreements that the legally binding agreements, when executed, will constitute legal, valid, binding, and enforceable obligations on the parties thereto;

(ii) A description of how buildings, property, funding, and/or services either on or off the installation will be used to fill some of the gaps in the current continuum of care system and an explanation of the suitability of the buildings and property for that use; and,

(iii) Information on the availability of general services such as transportation, police, and fire protection, and a discussion of infrastructure such as water, sewer, and electricity in the vicinity of the proposed homeless activity at the installation.

(4) An assessment of the balance with economic and other development needs.

(i) An assessment of the manner in which the application balances the expressed needs of the homeless and the needs of the communities comprising the LRA for economic redevelopment and other development; and

(ii) An explanation of how the LRA's application is consistent with the appropriate Consolidated Plan(s) or any other existing housing, social service, community, economic, or other development plans adopted by the jurisdictions in the vicinity of the installation.

(5) A description of the outreach undertaken by the LRA. The LRA shall explain how the outreach requirements described at § 176.20(c)(1) and § 176.20(c)(3) have been fulfilled. This explanation shall include a list of the representatives of the homeless the LRA contacted during the outreach process.

(c) *Public comments.* The LRA application shall include the materials described at § 176.20(c)(6). These materials shall be prefaced with an overview of the citizen participation process observed in preparing the application.

§ 176.35 HUD's review of the application.

(a) *Timing.* HUD shall complete a review of each application no later than 60 days after its receipt of a completed application.

(b) *Standards of review.* The purpose of the review is to determine whether the application is complete and, with respect to the expressed interest and requests of representatives of the homeless, whether the application:

(1) *Need.* Takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the application for use and needs of the homeless in such communities. HUD will take into consideration the size and nature of the installation in reviewing the needs of the homeless population in the communities in the vicinity of the installation.

(2) Impact of notices of interest. Takes into consideration any economic impact of the homeless assistance under the plan on the communities in the vicinity of the installation, including:

(i) Whether the plan is feasible in light of demands that would be placed on available social services, police and

fire protection, and infrastructure in the community; and,

(ii) Whether the selected notices of interest are consistent with the Consolidated Plan(s) of any other existing housing, social service, community economic, or other development plans adopted by the political jurisdictions in the vicinity of the installation.

(3) Legally binding agreements. Specifies the manner in which the buildings, property, funding, and/or services on or off the installation will be made available for homeless assistance purposes. HUD will review each legally binding agreement to verify that:

(i) They include all the documents legally required to complete the transactions necessary to realize the homeless use(s) described in the application;

(ii) They include all appropriate terms and conditions;

(iii) They address the full range of contingencies including those described at § 176.30(b)(3)(i);

(iv) They stipulate that the buildings, property, funding, and/or services will be made available to the representatives of the homeless in a timely fashion; and,

(v) They are accompanied by a legal opinion of the chief legal advisor of the LRA or political jurisdiction or jurisdictions which will be executing the legally binding agreements that the legally binding agreements will, when executed, constitute legal, valid, binding, and enforceable obligations on the parties thereto.

(4) *Balance.* Balances in an appropriate manner a portion or all of the needs of the communities in the vicinity or the installation for economic redevelopment and other development with the needs of the homeless in such communities.

(5) *Outreach.* Was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation and whether the outreach requirements described at § 176.20(c)(1) and § 176.20(c)(3) have been fulfilled by the LRA.

(c) *Notice of determination.* (1) HUD shall, no later than the 60th day after its receipt of the application, unless such deadline is extended pursuant to § 176.15(a), send written notification both to DoD and the LRA of its preliminary determination that the application meets or fails to meet the requirements of § 176.35(b). If the application fails to meet the requirements, HUD will send the LRA:

(i) A summary of the deficiencies in the application;

(ii) An explanation of the determination; and,

(iii) A statement of how the LRA must address the determinations.

(2) In the event that no application is submitted and no extension is requested as of the deadline specified in § 176.20(c)(5), and the State does not accept within 30 days a DoD written request to become recognized as the LRA, the absence of such application will trigger an adverse determination by HUD effective on the date of the lapsed deadline. Under these conditions, HUD will follow the process described at § 176.40.

(d) *Opportunity to cure.* (1) The LRA shall have 90 days from its receipt of the notice of preliminary determination under § 176.35(c)(1) within which to submit to HUD and DoD a revised application which addresses the determinations listed in the notice. Failure to submit a revised application shall result in a final determination, effective 90 days from the LRA's receipt of the preliminary determination, that the redevelopment plan fails to meet the requirements of § 176.35(b).

(2) HUD shall, within 30 days of its receipt of the LRA's resubmission send written notification of its final determination of whether the application meets the requirements of § 176.35(b) to both DOD and the LRA.

§ 176.40 Adverse determinations.

(a) *Review and consultation.* If the resubmission fails to meet the requirements of § 176.35(b) or if no resubmission is received, HUD will review the original application, including the notices of interest submitted by representatives of the homeless. In addition, in such instances or when no original application has been submitted, HUD:

(1) Shall consult with the representatives of the homeless, if any, for purposes of evaluation the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;

(2) May consult with the applicable Military Department regarding the suitability of the buildings and property at the installation for use to assist the homeless; and,

(3) May consult with representatives of the homeless and other parties as necessary.

(b) *Notice of decision.* (1) Within 90 days of receipt of an LRA's revised application which HUD determines does not meet the requirements of § 176.35(b), HUD shall, based upon its reviews and consultations under § 176.40(a):

(i) Notify DoD and the LRA of the buildings and property at the installation that HUD determines are suitable for use to assist the homeless, and;

(ii) Notify DoD and the LRA of the extent to which the revised redevelopment plan meets the criteria set forth in § 176.35(b).

(2) In the event that an LRA does not submit a revised redevelopment plan under § 176.35(d), HUD shall, based upon its reviews and consultations under § 176.40(a), notify DoD and the LRA of the buildings and property at the installation that HUD determines are suitable for use to assist the homeless, either

(i) Within 190 days after HUD sends its notice of preliminary adverse determination under § 176.35(c)(1), if an LRA has not submitted a revised redevelopment plan; or

(ii) Within 390 days after the Military Department's Federal Register publication of available property under § 176.20(b), if no redevelopment plan has been received and no extension has been approved.

§ 176.45 Disposal of buildings and property.

(a) *Puglic benefit transfer screening.* Not later than the LRA's submission of its redevelopment plan to DoD and HUD, the Military Development will conduct an official public benefit transfer screening in accordance with the Federal Property Management Regulations (41 CFR 101–47.303–2) based upon the uses identified in the redevelopment plan. Federal sponsoring agencies shall notify eligible applicants that any request for property must be consistent with the uses identified in the redevelopment plan. At the request of the LRA, the Military Department may conduct the official State and local public benefit screening at any time after the publication of available property described at § 176.20(b).

(b) *Environmental analysis.* Prior to disposal of any real property, the Military Department shall, consistent with NEPA and section 2905 of the Defense Base Closure and Realignment Act of 1990, as amended (10 U.S.C. 2687 note), complete an environmental impact analysis of all reasonable disposal alternatives. The Military Department shall consult with the LRA throughout the environmental impact analysis process to ensure both that the LRA is provided the most current environmental information available concerning the installation, and that the Military Department receives the most current information available

concerning the LRA's redevelopment plans for the installation.

(c) *Disposal.* Upon receipt of a notice of approval of an application from HUD under § 176.35(c)(1) or § 176.35(d)(2), DoD shall dispose of buildings and property in accordance with the record of decision or other decision document prepared under § 176.45(b). Disposal of buildings and property to be used as homeless assistance facilities shall be to either the LRA or directly to the representative(s) of the homeless and shall be without consideration. Upon receipt of a notice from HUD under § 176.40(b), DoD will dispose of the buildings and property at the installation in consultation with HUD and the LRA.

(d) *LRA's responsibility.* The LRA shall be responsible for the implementation of and compliance with legally binding agreements under the application.

(e) *Reversions to the LRA.* If a building or property reverts to the LRA under a legally binding agreement under the application, the LRA shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. An LRA may not be required to utilize the building or property to assist the homeless.

Dated: June 25, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–17097 Filed 6–30–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286

[DoD 5400.7–R]

RIN 0790–AG

DoD Freedom of Information Act Program Regulation

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This revision provides substantive and administrative changes to conform to the requirements of the Electronic Freedom of Information Act Amendments of 1996, 5 U.S.C. 552, as amended by Public Law 104–231. It also provides guidance to the Department of Defense on implementation of this amended law.

EFFECTIVE DATE: May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. C. Talbott, 703–697–1171.

SUPPLEMENTARY INFORMATION: On February 19, 1997 (62 FR 7398), the Department of Defense published a proposed rule for comment. DoD received a response from two commentors. Seven of the comments received were accepted and incorporated into this final rule.

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that 32 CFR part 286 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of $100 million or more or adversely affect in a material way the economy; a section 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 this Executive Order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule implements the Freedom of Information Act (5 U.S.C. 552), a statute concerning the release of Federal Government records, and does not economically impact Federal Government relations with the private sector.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 286

Freedom of information.

Accordingly, 32 CFR part 286 is revised to read as follows:

PART 286—DOD FREEDOM OF INFORMATION ACT PROGRAM REGULATION

Sec.

Subpart A—General Provisions

286.1 Purpose and applicability.
286.2 Public information.
286.3 Definitions.
286.4 Policy.

Subpart B—FOIA Reading Rooms

286.7 Requirements.
286.8 Indexes.

Subpart C—Exemptions

286.11 General provisions
286.12 Exemptions.

Subpart D—For Official Use Only

286.15 General provisions.
286.16 Markings.
286.17 Dissemination and transmission.
286.18 Safeguarding FOUO information.
286.19 Termination, disposal and unauthorized disclosure.

Subpart E—Release and Processing Procedures

286.22 General provisions.
286.23 Initial determinations.
286.24 Appeals.
286.25 Judicial actions.

Subpart F—Fee Schedule

286.28 General provisions.
286.29 Collection of fees and fee rates.
286.30 Collection of fees and fee rates for technical data.

Subpart G—Reports

286.33 Reports control.
286.34 Annual report content.

Subpart H—Education and Training

286.37 Responsibility and purpose.
Appendix A to Part 286—Combatant Commands—Processing Procedures for FOIA Appeals
Appendix B to Part 286—Addressing FOIA Requests
Appendix C to Part 286—Other Reason Categories
Appendix D to Part 286—Record of Freedom of Information (FOI) Processing Cost
Appendix E to Part 286—Record of Freedom of Information (FOI) Processing Cost for Technical Data
Appendix F to Part 286—Annual Report Freedom of Information Act
Appendix G to Part 286—DoD Freedom of Information Act Program Components

Authority: 5 U.S.C. 552.

Subpart A—General Provisions

§ 286.1 Purpose and applicability.

(a) *Purpose.* This part provides policies and procedures for the DoD implementation of the Freedom of Information Act (5 U.S.C. 552) and DoD Directive 5400.7,[1] and promotes uniformity in the DoD Freedom of Information Act (FOIA) Program.

(b) *Applicability.* This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22121.

Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense (IG DoD), the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as ''the DoD Components''). This part takes precedence over all DoD Component publications that supplement and implement the DoD FOIA Program. A list of DoD Components is at appendix G to this part.

§ 286.2 Public information.

(a) The public has a right to information concerning the activities of its Government. DoD policy is to conduct its activities in an open manner and provide the public with a maximum amount of accurate and timely information concerning its activities, consistent always with the legitimate public and private interests of the American people. A record requested by a member of the public who follows rules established by proper authority in the Department of Defense shall not be withheld in whole or in part unless the record is exempt from mandatory partial or total disclosure under the FOIA. As a matter of policy, DoD Components shall make discretionary disclosures of exempt records or information whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption, but this policy does not create any right enforceable in court. In order that the public may have timely information concerning DoD activities, records requested through public information channels by news media representatives that would not be withheld if requested under the FOIA should be released upon request. Prompt responses to requests for information from news media representatives should be encouraged to eliminate the need for these requesters to invoke the provisions of the FOIA and thereby assist in providing timely information to the public. Similarly, requests from other members of the public for information that would not be withheld under the FOIA should continue to be honored through appropriate means without requiring the requester to invoke the FOIA.

(b) Within the OSD, the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, as Chief Information Officer, in conjunction with the Assistant Secretary of Defense for Public Affairs is responsible for ensuring preparation of reference material or a guide for requesting records or information from the Department of Defense, subject to the nine exemptions of the FOIA. This part shall also include an index of all major information systems, and a description of major information and record locator systems, as defined by the Office of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. DoD FOIA Components shall coordinate with the appropriate office(s) to insure that this is also accomplished within their department or organization.

(c) DoD Components shall also prepare, in addition to normal FOIA regulations, a handbook for the use of the public in obtaining information from their organization. This handbook should be a short, simple explanation to the public of what the FOIA is designed to do, and how a member of the public can use it to access government records. Each DoD Component should explain the types of records that can be obtained through FOIA requests, why some records cannot, by law, be made available, and how the DoD Component determines whether the record can be released. The handbook should also explain how to make a FOIA request, how long the requester can expect to wait for a reply, and explain the right of appeal. The handbook should supplement other information locator systems, such as the Government Information Locator Service (GILS), and explain how a requester can obtain more information about those systems. The handbook should be available on paper and through electronic means, and identify how a requester can access DoD Components' Freedom of Information Act Annual Reports. Similarly, the DoD Components' Freedom of Information Act Annual Reports should refer to the handbook and how to obtain it.

(d) *Control system.* A request for records that invokes the FOIA shall enter a formal control system designed to ensure accountability and compliance with the FOIA. Any request for DoD records that either explicitly or implicitly cites the FOIA shall be processed under the provisions of this part, unless otherwise required by § 286.4(m).

§ 286.3 Definitions.

As used in this part, the following terms and meanings shall be applicable.

Administrative appeal. A request by a member of the general public, made under the FOIA, asking the appellate authority of a DoD Component to reverse a decision to: withhold all or part of a requested record; deny a fee category claim by a requester; deny a request for expedited processing due to demonstrated compelling need under § 286.4(d)(3); deny a request for waiver or reduction of fees; deny a request to review an initial fee estimate; and confirm that no records were located during the initial search.

Agency record. (1) The products of data compilation, such as all books, papers, maps, and photographs, machine readable materials, inclusive of those in electronic form or format, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law in connection with the transaction of public business and in Department of Defense possession and control at the time the FOIA request is made. Care should be taken not to exclude records from being considered agency records, unless they fall within one of the categories of paragraph (2) of this definition.

(2) The following are not included within the definition of the word ''record''.

(i) Objects or articles, such as structures, furniture, vehicles and equipment, whatever their historical value, or value as evidence.

(ii) Anything that is not tangible or documentary record, such as an individual's memory or oral communication.

(iii) Personal records of an individual not subject to agency creation or retention requirements, created and maintained primarily for the convenience of an agency employee, and not distributed to other agency employees for their official use. Personal papers fall into three categories: those created before entering Government service; private materials brought into, created, or received in the office that were not created or received in the course of transacting Government business; and work-related personal papers that are not used in the transaction of Government business (see ''Personal Papers of Executive Branch Officials: A Management Guide,'' National Archives and Records Administration, Office of Records Administration, Washington, DC, 1992 [2]).

(3) A record must exist and be in the possession and control of the Department of Defense at the time of the request to be considered subject to this part and the FOIA. There is no obligation to create, compile, or obtain a record to satisfy a FOIA request. See § 286.4(g)(2) creating a record in the electronic environment.

(4) Hard copy of electronic records, that are subject to FOIA requests under 5 U.S.C. 552(a)(3), and that are available to the public through an established distribution system, or through the **Federal Register**, the National Technical Information Service, or the Internet, normally need not be processed under the provisions of the FOIA. If a request is received for such information, DoD

[2] Available from the Records Administration Center, Agency Services Division (NIA), Washington, DC 20408.

Components shall provide the requester with guidance, inclusive of any written notice to the public, on how to obtain the information. However, if the requester insists that the request be processed under the FOIA, then the request shall be processed under the FOIA. If there is any doubt as to whether the request must be processed, contact the Directorate for Freedom of Information and Security Review.

Appellate authority. The Head of the DoD Component or the Component head's designee having jurisdiction for this purpose over the record, or any of the other adverse determinations outlined in the definitions *initial denital authority* and *administrative appeal* in this section.

DoD Component. An element of the Department of Defense, as defined in § 286.2(b), authorized to receive and act independently on FOIA requests. (See Appendix G to this part). A DoD Component has its own initial denial authority (IDA), appellate authority, and legal counsel.

Electronic record. Records (including e-mail) that are created, stored, and retrievable by electronic means.

Federal agency. As defined by 5 U.S.C. 552(f)(1), a Federal agency is any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency

FOIA request. A written request for DoD records, made by any person, including a member of the public (U.S. or foreign citizen), an organization, or a business, but not including a Federal Agency or a fugitive from the law, that either explicitly or implicitly invokes the FOIA, DoD Directive 5400.7, this part, or DoD Component supplementing regulations or instructions. Written requests may be received by postal service or other commercial delivery means, by facsimile, or electronically.

Initial Denial Authority (IDA). An official who has been granted authority by the head of a DoD component to withhold records requested under the FOIA for one or more of the nine categories of records exempt from mandatory disclosure. IDA's may also deny a fee category claim by a requester; deny a request for expedited processing due to demonstrated compelling need under § 286.4(d)(3), deny a request for a waiver or reduction of fees; review a fee estimate; and confirm that no records were located in response to a request.

Public interest. The interest in obtaining official information that sheds light on an agency's performance of its statutory duties because the information falls within the statutory purpose of the FOIA to inform citizens about what their Government is doing. That statutory purpose, however, is not fostered by disclosure of information about private citizens accumulated in various governmental files that reveals nothing about an agency's official's own conduct.

§ 286.4 Policy.

(a) *Compliance with the FOIA.* DoD personnel are expected to comply with the FOIA, this part, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.

(b) *Openness with the public.* The Department of Dense shall conduct its activities in an open manner consistent with the need for security and adherence to other requirements of law and regulation. Records not exempt from disclosure under the Act shall, upon request, be made readily accessible to the public in accordance with rules promulgated by competent authority, whether or not the Act is invoked.

(c) *Avoidance of procedural obstacles.* DoD Components shall ensure that procedural matters do not unnecessarily impede a requester from obtaining DoD records promptly. Components shall provide assistance to requesters to help them understand and comply with procedures established by this part and any supplemental regulations published by the DoD Components.

(d) *Prompt action on requests.* (1) Generally, when a member of the public complies with procedures established in this part and DoD Component regulations or instructions for obtaining DoD records, and after the request is received by the official designated to respond, DoD Components shall endeavor to provide a final response determination within the statutory 10 working days (20 working days effective October 2, 1997). If a significant number of requests, or the complexity of the requests prevent a final response determination within the statutory time period, DoD Components shall advise the requester of this fact, and explain how the request will be responded to within its multitrack processing system (see paragraph (d)(2) of this section). A final response determination is notification to the requester that the records are released, or will be released on a certain date, or the records are denied under the appropriate FOIA exemption, or the records cannot be provided for one or more of the other reasons in § 286.23. Interim responses acknowledging receipt of the request, negotiations with the requester concerning the scope of the request, the response timeframe, and fee agreements are encouraged; however, such actions do not constitute a final response determination pursuant to the FOIA.

(2) *Multitrack processing.* When a Component has a significant number of pending requests that prevents a response determination being made within 10 working days (20 working days effective October 2, 1997), the requests shall be processed in a multitrack processing system, based on the date of receipt, the amount of work and time involved in processing the requests, and whether the request qualifies for expedited processing as described in paragraph (d)(3) of this section. DoD Components may establish as many processing queues as they wish; however, as a minimum, three processing tracks shall be established, all based on a first-in, first-out concept, and rank ordered by the date of receipt of the request. One track shall be a processing queue for simple requests, one track for complex requests, and one track shall be a processing queue for expedited processing as described in paragraph (d)(3) of this section. Determinations as to whether a request is simple or complex shall be made by each DoD Component. DoD Components shall provide a requester whose request does not qualify for the fastest queue (except for expedited processing as described in paragraph (d)(3) of this section), an opportunity to limit in writing by hard copy, facsimile, or electronically, the scope of the request in order to qualify for the fastest queue. This multitrack processing system does not obviate components' responsibility to exercise due diligence in processing requests in the most expeditious manner possible.

(3) *Expedited processing.* A separate queue shall be established for requests meeting the test for expedited processing. Expedited processing shall be granted to a requester after the requester requests such and demonstrates a compelling need for the information. Notice of the determination as to whether to grant expedited processing in response to a requester's compelling need shall be provided to the requester within 10 calendar days after receipt of the request in the DoD Component's office that will determine whether to grant expedited processing. Once the DoD Component has determined to grant expedited processing, the request shall be processed as soon as practicable.

Actions by DoD Components to initially deny or affirm the initial denial on appeal of a request for expedited processing, and failure to respond in a timely manner shall be subject to judicial review.

(i) *Compelling need.* The failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.

(ii) Compelling need also means that the information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity. An individual primarily engaged in disseminating information means a person whose primary activity involves publishing or otherwise disseminating information to the public. Representatives of the news media (see § 286.28(e)(7)(i)) would normally qualify as individuals primarily engaged in disseminating information. Other persons must demonstrate that their primary activity involves publishing or otherwise disseminating information to the public. ''Urgently needed'' information has a particular value that will be lost if not disseminated quickly. Ordinarily this means a breaking news story of general public interest. However, information of historical interest only, or information sought for litigation or commercial activities would not qualify, nor would a news media publication or broadcast deadline unrelated to the news breaking nature of the information.

(iii) A demonstration of compelling need by a requester shall be made by a statement certified by the requester to be true and correct to the best of their knowledge. This statement must accompany the request in order to be considered and responded to within the 10 calendar days required for decisions on expedited access.

(iv) *Other reasons for expedited processing.* Other reasons that merit expedited processing by DoD Components are an imminent loss of substantial due process rights and humanitarian need. A demonstration of imminent loss of substantial due process rights shall be made by a statement certified by the requester to be true and correct to the best of his or her knowledge. Humanitarian need means that disclosing the information will promote the welfare and interests of mankind. A demonstration of humanitarian need shall be also made by a statement certified by the requester to be true and correct to the best of his or her knowledge. Both statements mentioned above must accompany the request in order to be considered and responded to within the 10 calendar days required for decisions on expedited access. Once the decision has been made to expedite the request for either of these reasons, the request may be processed in the expedited processing queue behind those requests qualifying for compelling need.

(v) These same procedures also apply to requests for expedited processing of administrative appeals.

(e) *Use of exemptions.* It is DoD policy to make records publicly available, unless the record qualifies for exemption under one or more of the nine exemptions. It is DoD policy that DoD Components shall make discretionary releases whenever possible; however, a discretionary release is normally not appropriate for records clearly exempt under exemptions 1, 3, 4, 6, 7(C) and 7(F) (see subpart C of this part). Exemptions 2, 5, and 7(A)(B)(D) and (E) (see subpart C of this part) are discretionary in nature, and DoD Components are encouraged to exercise discretionary releases whenever possible. Exemptions 4, 6 and 7(C) cannot be claimed when the requester is the submitter of the information.

(f) *Public domain.* Nonexempt records released under the authority of this part are considered to be in the public domain. Such records may also be made available in Components' reading rooms in paper form, as well as electronically, to facilitate public access. Discretionary releases to FOIA requesters constitute a waiver of the FOIA exemptions that may otherwise apply. Disclosure to a properly constituted advisory committee, to Congress, or to other Federal Agencies does not waive the exemption. (See § 286.22(d)). Exempt records disclosed without authorization by the appropriate DoD official do not lose their exempt status. Also, while authority may exist to disclose records to individuals in their official capacity, the provisions of this part apply if the same individual seeks the records in a private or personal capacity.

(g) *Creating a record.* (1) A record must exist and be in the possession and control of Department of Defense at the time of the research to be considered subject to this part and the FOIA. There is no obligation to create, compile, or obtain a record to satisfy a FOIA request. A DoD Component, however, may compile a new record when so doing would result in a more useful response to the requester, or be less burdensome to the agency than providing existing records, and the requester does not object. Cost of creating or compiling such a record may not be charged to the requester unless the fee for creating the record is equal to or less than the fee which would be charged for providing the existing record. Fee assessments shall be in accordance with subpart F of this part.

(2) About electronic data, the issue of whether records are actually created or merely extracted from an existing database is not always readily apparent. Consequently, when responding to FOIA requests for electronic data where creation of a record, programming, or particular format are questionable, Components should apply a standard of ''reasonableness.'' In other words, if the capability exists to respond to the request, and the effort would be a ''business as usual'' approach, then the request should be processed. However, the request need not be processed where the capability to respond does not exist without a significant expenditure of resources, thus not being a normal ''business as usual'' approach. As used in this sense, a significant expenditure of resources in both time and manpower, that would cause a significant interference with the operation of the Components' automated information system would not be a business as usual approach.

(h) *Description of requested record.* (1) Identification of the record desired is the responsibility of the requester. The requester must provide a description of the desired record, that enables the Government to locate the record with a reasonable amount of effort. In order to assist DoD Components in conducting more timely searches, requesters should endeavor to provide as much identifying information as possible. When a DoD Component receives a request that does not reasonably describe the requested record, it shall notify the requester of the defect in writing. The requester should be asked to provide the type of information outlined in paragraph (h)(2) of this section. DoD Components are to obligated to act on the request until the requester responds to the specificity letter. When practicable, DoD Components shall offer assistance to the requester in identifying the records sought and in reformulating the request to reduce the burden on the agency in complying with the Act.

(2) The following guidelines are provided to deal with generalized requests and are based on the principle of reasonable effort (Descriptive information about a record may be divided into two broad categories.):

(i) Category I is file-related and includes information such as type of record (for example, memorandum), title, index citation, subject area, date the record was created, and originator.

(ii) Category II is event-related and includes the circumstances that resulted in the record being created or the date and circumstances surrounding the event the record covers.

(3) Generally, a record is not reasonably described unless the description contains sufficient Category I information to permit the conduct of an organized, non random search based on the DoD Component's filing arrangements and existing retrieval systems, or unless the record contains sufficient Category II information to permit inference of the Category I elements needed to conduct such a search.

(4) The following guidelines deal with requests for personal records: Ordinarily, when personal identifiers are provided only in connection with a request of records concerning the requester, only records in a Privacy Act system of records that can be retrieved by personal identifiers need be searched. However, if a DoD Component has reason to believe that records on the requester may exist in a recoded system other than a Privacy Act system, the DoD Component shall search that system under the provisions of the FOIA. In either case, DoD Components may request a reasonable description of teh records desired before searching for such records under the provisions of the FOIA and the Privacy Act. If the record is required to be released under the FOIA, 5 U.S.C. 552a does not bar its disclosure. See paragraph (m) of this section for the relationship between the FOIA and the Privacy Act.

(5) The precious guidelines notwithstanding, the decision of the DoD Component concerning reasonableness of description must be based on knowledge of its files. If the description enables DoD Component personnel to locate the record with reasonable effort, the description is adequate. The fact that a FOIA request is broad or burdensome in its magnitude does not, in and of itself, entitle a DoD Component to deny the request on the ground that it does not reasonably describe the records sought. The key factor is the ability of the DoD Component's staff to reasonably ascertain and locate which records are being requested.

(i) *Referrals*. (1) The DoD FOIA referral policy is based upon the concept of the originator of a record making a release determination on its information. If a DoD Component receives a request for records originated by another DoD Component, it shall contact the DoD Component to determine if it also received the request, and if not, obtain concurrence from the other DoD Component to refer the request. In either situation, the requester shall be advised of the action taken, unless exempt information would be revealed. While referrals to originators of information result in obtaining the best possible decision on release of the information, the policy does not relieve DoD Components from the responsibility of making a release decision on a record should the requester object to referral of the request and the record. Should this situation occur, DoD Components shall still coordinate with the originator of the information prior to making a release determination. A request received by a DoD Component having no records responsive to a request shall be referred routinely to another DoD Component, if the other DoD Component has reason to believe it has the requested record. Prior to notifying a requester of a referral to another DoD Component, the DoD Component receiving the initial request shall consult with the other DoD Component to determine if that DoD Component's association with the material is exempt. If the association is exempt, the DoD Component receiving the initial request will protect the association and any exempt information without revealing the identity of the protected DoD Component. The protected DoD Component shall be responsible for submitting the justifications required in any litigation. Any DoD Component receiving a request that has been misaddressed shall refer the request to the proper address and advise the requester. DoD Components making referrals of requests or records shall include with the referral, a point of contact by name, a telephone number, and an e-mail address.

(2) A DoD Component shall refer for response directly to the requester, a FOIA request for a record that it holds to another DoD Component or agency outside the DoD, if the record originated in the other DoD Component or outside agency. Whenever a record or a portion of a record is refered to another DoD Component or to a Government Agency outside of the DoD for a release determination and direct response, the requester shall be informed of the referral, unless it has been determined that notification would reveal exempt information. Referred records shall only be identified to the extent consistent with security requirements.

(3) A DoD Component may refer a request for a record that it originated to another DoD Component or agency when the other DoD Component or agency has a valid interest in the record, or the record was created for the use of the other DoD Component or agency. In such situations, provide the record and a release recommendation on the record with the referral action. An example of such a situation is a request for audit reports prepared by the Defense Contract Audit Agency. These advisory reports are prepared for the use of contracting officers and their release to the audited contractor shall be at the discretion of the contracting officer. A FOIS request shall be referred to the appropriate DoD Component and the requester shall be notified of the referral, unless exempt information would be revealed. Another example is a record originated by a DoD Component or agency that involves foreign relations, and could affect a DoD Component or organization in a host foreign country. Such a request and any responsive records my be referred to the affected DoD Component or organization for consultation prior to a final release determination within the Department of Defense. See also § 286.22(e).

(4) Within the Department of Defense, a DoD Component shall ordinarily refer a FOIA request and a copy of the record it holds, but that was originated by another DoD Component or that contains substantial information obtained from another DoD Component, to the Component for direct response, after direct coordination and obtaining concurrence from the Component. The requester then shall be notified of such referral. DoD Components shall not, in any case, release or deny such records without prior consultation with the other DoD Component, except as provided in § 286.22(e).

(5) DoD Components that receive referred requests shall answer them in accordance with the time limits established by the FOIA, this part, and their multitrack processing queues, based upon the date of initial receipt of the request at the referring component or agency.

(6) Agencies outside the Department of Defense that are subject to the FOIA.

(i) A DoD Component may refer a FOIA request for any record that originated in an agency outside the Department of Defense or that is based on information obtained from an outside agency to the agency for direct response to the requester after coordination with the outside agency, if that agency is subject to FOIA. Otherwise, the DoD Component must respond to the request.

(ii) A DoD Component shall refer to the agency that provided the record any FOIA request for investigative, intelligence, or any other type of records that are on loan to the Department of Defense for a specific purpose, if the

records are restricted from further release and so marked. However, if for investigative or intelligence purposes, the outside agency desires anonymity, a DoD Component may only respond directly to the requester after coordination with the outside agency.

(7) DoD Components that receive requests for records of the National Security Council (NSC), the White House, or the White House Military Office (WHMO) shall process the requests. DoD records in which the NSC or White House has a concurrent reviewing interest, and NSC, White House, or WHMO records discovered in DoD Components' file shall be forwarded to the Office of the Assistant Secretary of Defense (Public Affairs) (OASD(PA)), Attn: Directorate For Freedom of Information and Security Review (DFOISR). The DFOISR shall coordinate with the NSC, White House, or WHMO and return the records to the originating agency after coordination.

(8) To the extent referrals are consistent with the policies expressed by this paragraph (i) referrals between offices of the same DoD Component are authorized.

(9) On occasion, the Department of Defense receives FOIA requests for General Accounting Office (GAO) records containing DoD information. Even though the GAO is outside the Executive Branch, and not subject to the FOIA, all FOIA requests for GAO documents containing DoD information received either from the public, or on referral from the GAO, shall be processed under the provisions of the FOIA.

(j) *Authentication.* Records provided under this part shall be authenticated with an appropriate seal, whenever necessary, to fulfill an official Government or other legal function. This service, however, is in addition to that required under the FOIA and is not included in the FOIA fee schedule. DoD Components may charge for the service at a rate of $5.20 for each authentication.

(k) *Combatant Commands.* (1) The Combatant Commands are placed under the jurisdiction of the OSD, instead of the administering Military Department or the Chairman of the Joint Chiefs of Staff, only for the purpose of administering the DoD FOIA Program. This policy represents an exception to the policies directed in DoD Directive 5100.3,[3] it authorizes and requires the Combatant Commands to process FOIA requests in accordance with DoD Directive 5400.7 and this part. The Combatant Commands shall forward directly to the OASD(PA) all correspondence associated with the appeal of an initial denial for records under the provisions of the FOIA. Procedures to effect this administrative requirement are outlined in appendix A to this part.

(2) Combatant Commands shall maintain an electronic reading room for FOIA-processed 5 U.S.C. 552(a)(2)(D) records in accordance with subpart B of this part. Records qualifying for this means of public access also shall be maintained in hard copy for public access at Combatant Commands' respective locations.

(l) *Records management.* FOIA records shall be maintained and disposed of in accordance with the National Archives and Records Administration General Records Schedule, and DoD Component records schedules.

(m) *Relationship between the FOIA and the Privacy Act (PA).* Not all requesters are knowledgeable of the appropriate statutory authority to cite when requesting records. In some instances, they may cite neither Act, but will imply one or both Acts. For these reasons, the following guidelines are provided to ensure that requesters receive the greatest amount of access rights under both Acts:

(1) If the record is required to be released under the FOIA, the Privacy Act does not bear its disclosure. Unlike the FOIA, the Privacy Act applies only to U.S. citizens and aliens admitted for permanent residence.

(2) Requesters who seek records about themselves contained in a Privacy Act system of records and who cite or imply only the Privacy Act, will have their requests processed under the provisions of both the Privacy Act and the FOIA. If the Privacy Act system of records is exempt from the provisions of 5 U.S.C. 552a(d)(1), the requester shall be so advised with the appropriate Privacy Act exemption, and then further advised that the information was therefore reviewed for release under the FOIA.

(3) Requesters who seek records about themselves that are not contained in a Privacy Act system of records and who cite or imply the Privacy Act will have their requests processed under the provisions of the FOIA, since the Privacy Act does not apply to these records.

(4) Requesters who seek records about themselves that are contained in a Privacy Act system of records and who cite or imply the FOIA or both Acts will have their requests processed under the provisions of both the Privacy Act and the FOIA. If the Privacy Act system of records is exempt from the provisions of 5 U.S.C. 552a(d)(1) the requester shall be so advised with the appropriate Privacy Act exemption, and then further advised that the information was therefore reviewed for release under the FOIA.

(5) Requesters who seek access to agency records that are not part of a Privacy Act system of records, who cite or imply the Privacy Act and FOIA, will have their requests processed under the FOIA since the Privacy Act does not apply to these records.

(6) Requesters who seek access to agency records and who cite or simply the FOIA will have their requests processed under the FOIA.

(7) Requesters shall be advised in final response which Act was used.

(n) *Non-responsive information in responsive records.* DoD Components shall interpret FOIA requests liberally when determining which records are responsive to the requests, and may release non-responsive information. However, should DoD Components desire to withhold non-responsive information, the following steps shall be accomplished.

(1) Consult with the requester, and ask if the requester views the information as responsive, and if not, seek the requester's concurrence to deletion of non-responsive information without a FOIA exemption. Reflect this concurrence in the response letter.

(2) If the responsive record ''unclassified,'' and the requester does not agree to deletion of non-responsive information without a FOIA exemption, release all non-responsive and responsive information which is not exempt. For non-responsive information that is exempt, notify the requester that even if the information were determined responsive, it would likely be exempt under (state appropriate exemption(s)). Advise the requester of the right to request this information under a separate FOIA request. The separate request shall be placed in the same location within the processing queue as the original request.

(3) If the responsive record is ''classified,'' and the requester does not agree to deletion of non-responsive information without a FOIA exemption, release all unclassified responsive and non-responsive information which is not exempt. If the non-responsive information is exempt, follow the procedures in paragraph (n)(2) of this section. The classified, non-responsive information need not be reviewed for declassification at this point. Advise the requester than even if the classified information were determined responsive, it would likely be exempt under 5 U.S.C. 552(b)(1), and other

[3] See footnote 1 to § 286.1(a).

exemptions if appropriate. Advise the requester of the right to request this information under separate FOIA request. The separate request shall be placed in the same location within the processing queue as the original request.

(o) *Honoring form or format requests.* DoD Components shall provide the record in any form or format requested by the requester if the record is readily reproducible in that form or format. DoD Components shall make reasonable efforts to maintain their records in forms or formats that are reproducible. In responsiding to requests for records, DoD Components shall make reasonable efforts to search for records in electronic form or format, except when such efforts would significantly interfere with the operation of the DoD Components' automated information system. Such determinations shall be made on a case by case basis. See also paragraph (g)(2) of this section

Subpart B—FOIA Reading Rooms

§ 286.7 Requirements.

(a) *Reading room*. Each DoD Component shall provide an appropriate facility or facilities where the public may inspect and copy or have copied the records described in paragraph (b) of this section and § 286.8(a). In addition to the records described in paragraph (b) of this section and § 286.8(a), DoD Components may elect to place other records in their reading room, and also make them electronically available to the public. DoD Components may share reading room facilities if the public is not unduly inconvenienced, and also may establish decentralized reading rooms. When appropriate, the cost of copying may be imposed on the person requesting the material in accordance with the provisions of subpart F of this part.

(b) *Record availability.* The FOIA requires that records described in 5 U.S.C. 552(a)(2)(A), (B), (C), and (D) created on or after November 1, 1996, shall be made available electronically by November 1, 1997, as well as in hard copy in the FOIA reading room for inspection and copying, unless such records are published and copies are offered for sale. Personal privacy information, that if disclosed to a third party requester, would result in an invasion of the first party's personal privacy, and contractor submitted information, that if disclosed to a competing contractor, would result in competitive harm to the submitting contractor shall be deleted from all 5 U.S.C. 552(a)(2) records made available to the general public. In every case, justification for the deletion must be fully explained in writing, and the extent of such deletion shall be indicated on the record which is made publicly available, unless such indication would harm an interest protected by an exemption under which the deletion was made. If technically feasible, the extent of the deletion in electronic records or any other form of record shall be indicated at the place in the record where the deletion was made. However, a DoD Component may publish in the Federal Register a description of the basis upon which it will delete identifying details of particular types of records to avoid clearly unwarranted invasions of privacy, or competitive harm to business submitters. In appropriate cases, the DoD Component may refer to this description rather than write a separate justification for each deletion. 5 U.S.C. 552(a)(2)(A), (B), (C), and (D) records are:

(1) *(a)(2)(A) records.* Final opinions, including concurring and dissenting opinions, and orders made in the adjudication of cases, as defined in 5 U.S.C. 552, that may be cited, used, or relied upon as precedents in future adjudications.

(2) *(a)(2)(B) records.* Statements of policy and interpretations that have been adopted by the agency and are not published in the **Federal Register.**

(3) *(a)(2)(C) records.* Administrative staff manuals and instructions, or portions thereof, that establish DoD policy or interpretations of policy that affect a member of the public. This provision does not apply to instructions for employees on tactics and techniques to be used in performing their duties, or to instructions relating only to the internal management of the DoD Component. Examples of manuals and instructions not normally made available are:

(i) Those issued for audit, investigation, and inspection purposes, or those that prescribe operational tactics, standards of performance, or criteria for defense, prosecution, or settlement of cases.

(ii) Operations and maintenance manuals and technical information concerning munitions, equipment, systems, and intelligence activities.

(4) *(a)(2)(D) records.* Those 5 U.S.C. 552(a)(3) records, which because of the nature of the subject matter, have become or are likely to become the subject of subsequent requests for substantially the same records. These records are referred to as ''FOIA-processed (a)(2) records.''

(i) DoD Components shall decide on a case by case basis whether records fall into this category, based on the following factors:

(A) Previous experience of the DoD Component with similar records.

(B) Particular circumstances of the records involved, including their nature and the type of information contained in them.

(C) The identity and number of requesters and whether there is widespread press, historic, or commercial interest in the records.

(ii) This provision is intended for situations where public access in a timely manner is important, and it is not intended to apply where there may be a limited number of requests over a short period of time from a few requesters. DoD Components may remove the records from this access medium when the appropriate officials determine that access is no longer necessary.

(iii) Should a requester submit a FOIA request for FOIA-processed (a)(2) records, and insist that the request be processed, DoD Components shall process the FOIA request. However, DoD Components have no obligation to process a FOIA request for 5 U.S.C. 552 (a)(2) (A), (B), and (C) records because these records are required to be made public and not FOIA-processed under paragraph (a)(3) of the FOIA.

(iv) DoD Components have no obligation to provide electronic or hard copy reading room access to any (a)(2) record (inclusive of FOIA-processed (a)(2) records) originating outside their respective organizations.

§ 286.8 Indexes.

(a) *''(a)(2)'' Materials.* (1) Each DoD Component shall maintain in each facility prescribed in § 286.7(a), an index of materials described in § 286.7(b), that are issued, adopted, or promulgated, after July 4, 1967. No ''(a)(2)'' materials issued, promulgated, or adopted after July 4, 1967, that are not indexed and either made available or published may be relied upon, used or cited as precedent against any individual unless such individual has actual and-timely notice of the contents of such materials. Such materials issued, promulgated, or adopted before July 4, 1967, need not be indexed, but must be made available upon request if not exempted under this part.

(2) Each DoD Component shall promptly published quarterly or more frequently, and distribute, by sale or otherwise, copies of each index of ''(a)(2)'' materials or supplements thereto unless it publishes in the **Federal Register** an order containing a determination that publication is unnecessary and impracticable. A copy

of each index or supplement not published shall be provided to a requester at a cost not to exceed the direct cost of duplication as set forth in subpart F of this part.

(3) Each index of ''(a)(2)'' materials or supplement thereto shall be arranged topical or by descriptive words rather than by case name or numbering system so that members of the public can readily locate material. Case name and numbering arrangements, however, may also be included for DoD Components convenience.

(4) A general index of FOIA-processed (a)(2) records referred to in § 286.7(b)(4), shall be made available to the public, both in hard copy and electronically by December 31, 1999.

(b) *Other materials.* (1) Any available index of DoD Component material published in the **Federal Register**, such as material required to be published by Section 552(a)(1) of the FOIA, shall be made available in DoD Component FOIA reading rooms, and electronically to the public.

(2) Although not required to be made available in response to FOIA requests or made available in FOIA Reading Rooms, ''(a)(1)'' materials shall, when feasible, be made available to the public in FOIA reading rooms for inspection and copying, and by electronic means. Examples of ''(a)(1)'' materials are: descriptions of any agency's central and field organization, and to the extent they affect the public, rules of procedures, descriptions of forms available, instruction as to the scope and contents of papers, reports, or examinations, and any amendment, revision, or report of the aforementioned.

Subpart C—Exemptions

§ 286.11 General provisions.

Records that meet the exemption criteria of the FOIA may be withheld from public disclosure and need not be published in the **Federal Register**, made available in a library reading room, or provided in response to a FOIA request.

§ 286.12 Exemptions.

FOIA exemptions. The following types of records may be withheld in whole or in part from public disclosure under the FOIA, unless otherwise prescribed by law: (A discretionary release of a record (see also § 286.4(e)) to one requester shall prevent the withholding of the same record under a FOIA exemption if the record is subsequently requested by someone else. However, a FOIA exemption may be invoked to withhold information that is similar or related that has been the subject of a discretionary release. In applying exemptions, the identity of the requester and the purpose for which the record is sought are irrelevant with the exception that an exemption may not be invoked where the particular interest to be protected is the requester's interest.)

(a) *Number 1 (5 U.S.C. 552(b)(1)).* Those properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under the criteria established by Executive Order and implemented by regulations, such as DoD 5200.1–R.[4] Although material is not classified at the time of the FOIA request, a classification review may be undertaken to determine whether the information should be classified. The procedures in DoD 5200.1–R apply. If the information qualifies as exemption 1 information, there is no discretion regarding its release. In addition, this exemption shall be invoked with the following situations are apparent:

(1) The fact if the existence or nonexistence of a record would itself reveal classified information. In this situation, Components shall neither confirm nor deny the existence or nonexistence of the record being requested. A ''refusal to confirm or deny'' response must be used consistently, not only when a record exists, but also when a record does not exist. Otherwise, the pattern of using a ''no record'' response when a record does not exist, and a ''refusal to confirm or deny'' when a record does exist will itself disclose national security information.

(2) Compilations of items of information that are individually unclassified may be classified it the compiled information reveals additional association or relationship that meets the standard for classification under existing executive order for classification and DoD 5200.1–R, and is not otherwise revealed in the individual items of information.

(b) *Number 2 (5 U.S.C. 552(b)(2)).* Those related solely to the internal personnel rules and practice of the Department of Defense or any of its Components. This exemption is entirely discretionary. This exemption has two profiles, high (b)(2) and low (b)(2). Paragraph (b)(2) of this section contains a brief discussion on the low (b)(2) profile; however. that discussion is for information purposes only. When only a minimum Government interest would be affected (administrative burden), there is a great potential for discretionary disclosure of the information. Consequently, DoD Components shall not invoke the low (b)(2) profile.

(1) Records qualifying under high (b)(2) are those containing or constituting statutes, rules, regulations, orders, manuals, directives, instructions, and security classification guides the release of which would allow circumvention of these records thereby substantially hindering the effective performance of a significant function of the Department of Defense. Examples include:

(i) Those operating rules, guidelines, and manuals for DoD investigators, inspectors, auditors, or examiners that must remain privileged in order for the DoD Component to fulfill a legal requirement.

(ii) Personnel and other administrative matters, such as examination questions and answers used in training courses or in the determination of the qualifications of candidates for employment, entrance on duty, advancement, or promotion.

(iii) Computer software, the release of which would allow circumvention of a statute or DoD rules, regulations, orders, manuals, directives, or instructions. In this situation, the use of the software must be closely examined to ensure a circumvention possibility exists.

(2) Records qualifying under the low (b)(2) profile are those that are trivial and housekeeping in nature for which there is not legitimate public interest or benefit to be gained by release, and it would constitute an administrative burden to process the request in order to disclose the records. Examples include rules of personnel's use of parking facilities or regulation of lunch hours, statements of policy as to sick leave, and administrative data such as file numbers, mail routing stamps, initials, data processing notations, brief references to previous communications, and other like administrative markings. DoD Components shall not invoke the low (b)(2) profile.

(c) *Number 3 (5 U.S.C. 552 (b)(3)).* Those concerning matters that a statute specifically exempts from disclosure by terms that permit no discretion on the issue, or in accordance with criteria established by that statute for withholding or referring to particular types of matters to be withheld. The Directorate for Freedom of information and Security Review, Office of the Assistant Secretary of Defense for Public Affairs maintains a list of (b)(3) statutes used within the Department of Defense, and provides updated lists of these statutes to DoD Components on a periodic basis. A few examples of such statutes are:

[4] See footnote 1 to § 286.1(a).

(1) Patent Secrecy, 35 U.S.C. 181–188. Any records containing information relating to inventions that are the subject of patent applications on which Patent Secrecy Orders have been issued.

(2) Restricted Data and Formerly Restricted Data, 42 U.S.C. 2162.

(3) Communication Intelligence, 18 U.S.C. 798.

(4) Authority to Withhold From Public Disclosure Certain Technical Data, 10 U.S.C. 130 and DoD Directive 5230.25.[5]

(5) Confidentiality of Medical Quality Assurance Records: Qualified Immunity for Participants, 10 U.S.C. 1102f.

(6) Physical Protection of Special Nuclear Material: Limitation on Dissemination of Unclassified Information, 10 U.S.C. 128.

(7) Protection of Intelligence Sources and Methods, 50 U.S.C. 403–3(c)(5).

(8) Protection of Contractor Submitted Proposals, 10 U.S.C. 2305(g).

(9) Procurement Integrity, 41 U.S.C. 423.

(d) *Number 4 (5 U.S.C. 552(b)(4)).* Those containing trade secrets or commercial or financial information that a DoD Component receives from a person or organization outside the Government with the understanding that the information or record will be retained on a privileged or confidential basis in accordance with the customary handling of such records. Records within the exemption must contain trade secrets, or commercial or financial records, the disclosure of which is likely to cause substantial harm to the competitive position of the source providing the information; impair the Government's ability to obtain necessary information in the future; or impair some other legitimate Government interest. Commercial or financial information submitted on a voluntary basis, absent any exercised authority prescribing criteria for submission is protected without any requirement to show competitive harm (see paragraph (d)(8) of this section). If the information qualifies as exemption 4 information, there is no discretion in its release. Examples include:

(1) Commercial or financial information received in confidence in connection with loans, bids, contracts, or proposals set forth in or incorporated by reference in a contract entered into between the DoD Component and the offeror that submitted the proposal, as well as other information received in confidence or privileged, such as trade secrets, inventions, discoveries, or other proprietary data. See also § 286.23(h)(2). Additionally, when the provisions of 10 U.S.C. 2305(g) and 41 U.S.C. 423 are met, certain proprietary and source selection information may be withheld under exemption 3.

(2) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, if offered and received in confidence from a contractor or potential contractor.

(3) Personal statements given in the course of inspections, investigations, or—audits, when such statements are received in confidence from the individual and retained in confidence because they reveal trade secrets or commercial or financial information normally considered confidential or privileged.

(4) Financial data provided in confidence by private employers in connection with locality wage surveys that are used to fix and adjust pay schedules applicable to the prevailing wage rate of employees within the Department of Defense.

(5) Scientific and manufacturing processes or developments concerning technical or scientific data or other information submitted with an application for a research grant, or with a report while research is in progress.

(6) Technical or scientific data developed by a contractor or subcontractor exclusively at private expense, and technical or scientific data developed in part with Federal funds and in part at private expense, wherein the contractor or subcontractor has retained legitimate proprietary interests in such data in accordance with 10 U.S.C. 2320–2321 and DoD Federal Acquisition Regulation Supplement (DFARS), Chapter 2 of 48 CFR, subpart 227.71–227.72. Technical data developed exclusively with Federal funds may be withheld under Exemption Number 3 if it meets the criteria of 10 U.S.C. 130 and DoD Directive 5230.25 (see paragraph (c)(5) of this section).

(7) Computer software which is copyrighted under the Copyright Act of 1976 (17 U.S.C. 106), the disclosure of which would have an adverse impact on the potential market value of a copyrighted work.

(8) Proprietary information submitted strictly on a voluntary basis, absent any exercised authority prescribing criteria for submission. Examples of exercised authorities prescribing criteria for submission are statutes, Executive Orders, regulations, invitations for bids, requests for proposals, and contracts. Submission of information under these authorities is not voluntary. (See also § 286.23(h)(3))

(e) *Number 5 (5 U.S.C. 552 (b)(5)).* Those containing information considered privileged in litigation, primarily under the deliberative process privilege. Except as provided in paragraphs (e)(2) through (e)(5) of this section internal advice, recommendations, and subjective evaluations, as contrasted with factual matters, that are reflected in deliberative records pertaining to the decision-making process of an agency, whether within or among agencies (as defined in 5 U.S.C. 552(e)), or within or among DoD Components. In order to meet the test of this exemption, the record must be both deliberative in nature, as well as part of a decision-making process. Merely being an internal record in insufficient basis for withholding under this exemption. Also potentially exempted are records pertaining to the attorney-client privilege and the attorney work-product privilege. This exemption is entirely discretionary.

(1) Examples of the deliberative process include:

(i) The non factual portions of staff papers, to include after-action reports, lessons learned, and situation reports containing staff evaluations, advice, opinions, or suggestions.

(ii) Advice, suggestions, or evaluations prepared on behalf of the Department of Defense by individual consultants or by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed for the purpose of obtaining advice and recommendations.

(iii) Those non factual portions of evaluations by DoD Component personnel of contractors and their products.

(iv) Information of a speculative, tentative, or evaluative nature or such matters as proposed plans to procure, lease or otherwise acquire and dispose of materials, real estate, facilities or functions, when such information would provide undue or unfair competitive advantage to private personal interests or would impede legitimate government functions.

(v) Trade secret or other confidential research development, or commercial information owned by the Government, where premature release is likely to affect the Government's negotiating position or other commercial interest.

(vi) Records that are exchanged among agency personnel and within and among DoD Components or Agencies as part of the preparation for anticipated administrative proceeding by an Agency or litigation before any Federal, State, or military court, as well as records that quality for the attorney-client privilege.

[5] See footnote 1 § 286.1(a).

(vii) Those portions of official reports of inspection, reports of the Inspector Generals, audits, investigations, or surveys pertaining to safety, security, or the internal management, administration, or operation of one or more DoD Components, when these records have traditionally been treated by the courts as privileged against disclosure in litigation.

(viii) Planning, programming, and budgetary information that is involved in the defense planning and resource allocation process.

(2) If any such intra- or inter-agency record or reasonably segregable portion of such record hypothetically would be made available routinely through the discovery process in the course of litigation with the Agency, then it should not be withheld under the FOIA. If, however, the information hypothetically would not be released at all, or would only be released in a particular case during civil discovery where a party's particularized showing of need might override a privilege, then the record may be withheld. Discovery is the formal process by which litigants obtain information from each other for use in the litigation. Consult with legal counsel to determine whether exemption 5 material would be routinely made available through the discover process.

(3) Intra- or inter-agency memoranda or letters that are factual, or those reasonably segregable portions that are factual, are routinely made available through discovery, and shall be made available to a requester, unless the factual material is otherwise exempt from release, inextricably intertwined with the exemption information, so fragmented as to be uninformative, or so redundant of information already available to the requester as to provide no new substantive information.

(4) A direction or order from a superior to a subordinate, though contained in an internal communication, generally cannot be withheld from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters or a request for information or advice that would compromise the decision-making process.

(5) An internal communication concerning a decision that subsequently has been made a matter of public record must be made available to a requester when the rationale for the decision is expressly adopted or incorporated by reference in the record containing the decision.

(f) *Number 6 (5 U.S.C. 552(b)(6)).* Information in personnel and medical files, as well as similar personal information in other files, that, if disclosed to a requester, other than the person about whom the information is about, would result in a clearly unwarranted invasion of personal privacy. Release of information about an individual contained in a Privacy Act System of records that would constitute a clearly unwarranted invasion of privacy is prohibited, and could subject the releaser to civil and criminal penalties. If the information qualifies as exemption 6 information, there is no discretion in its release.

(1) Examples of other files containing personal information similar to that contained in personnel and medical files include:

(i) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment or membership in the Armed Forces, and the eligibility of individuals (civilian, military, or contractor employees) for security clearances, or for access to particularly sensitive classified information.

(ii) Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

(2) Home addresses are normally not releasable without the consent of the individuals concerned. This includes lists of home addresses and military quarters' addresses without the occupant's name. In addition, DoD military and civilian personnel's names and duty addresses who are assigned to units that are sensitive, routinely deployable, or stationed in foreign territories can constitute a clearly unwarranted invasion of personal privacy.

(i) *Privacy Interest.* A privacy interest may exist in personal information even though the information has been disclosed at some place and time. If personal information is not freely available from sources other than the Federal Government, a privacy interest exists in its nondisclosure. The fact that the Federal Government expended funds to prepare, index and maintain records on personal information, and the fact that a requester invokes FOIA to obtain these records indicates the information is not freely available.

(ii) Names and duty addresses published in telephone directories, organizational charts, rosters and similar materials for personnel assigned to units that are sensitive, routinely deployable, or stationed in foreign territories are withholdable under this exemption.

(3) This exemption shall not be used in an attempt to protect the privacy of a deceased person, but it may be used to protect the privacy of the deceased person's family if disclosure would rekindle grief, anguish, pain, embarrassment, or even disruption of peace of mind of surviving family members. In such situations, balance the surviving family members' privacy against the public's right to know to determine if disclosure is in the public interest. Additionally, the deceased's social security number should be withheld since it is used by the next of kin to receive benefits. Disclosures may be made to the immediate next of kin as defined in DoD Directive 5154.24 [6].

(4) When the subject of an investigative report is the requester of the record and the report is contained in a Privacy Act system of records, it may only be denied to the requester if withholding is both authorized by DoD 5400.11–R [7], and by exemption 6 of the FOIA.

(5) A clearly unwarranted invasion of the privacy of third parties identified in a personnel, medical or similar record constitutes a basis for deleting those reasonably segregable portions of that record. When withholding third party personal information from the subject of the record and the record is contained in a Privacy Act system of records, consult with legal counsel.

(6) This exemption also applies when the fact of the existence or nonexistence of a responsive record would itself reveal personally private information, and the public interest in disclosure is not sufficient to outweigh the privacy interest. In this situation, DoD Components shall neither confirm nor deny the existence or nonexistence of the record being requested. This is a Glomar response, and exemption 6 must be cited in the response. Additionally, in order to insure personal privacy is not violated during referrals, DoD Components shall coordinate with other DoD Components or Federal Agencies before referring a record that is exempt under the Glomar concept.

(i) A ''refusal to confirm or deny'' response must be used consistently, not only when a record exists, but also when a record does not exist. Otherwise, the pattern of using a ''no records'' response when a record does not exist and a ''refusal to confirm or deny'' when a record does exist will itself disclose personally private information.

(ii) Refusal to confirm or deny should not be used when:

(A) The person whose personal privacy is in jeopardy has provided the

[6] See footnote 1 to § 286.1(a).

[7] See footnote 1 to § 286.1(a).

requester a waiver of his or her privacy rights;

(B) The person initiated or directly participated in an investigation that lead to the creation of an agency record seeks access to that record; or

(C) the person whose personal privacy is in jeopardy is deceased, the Agency is aware of that fact, and disclosure would not invade the privacy of the deceased's family. See paragraph (f) (3) of this section.

(g) *Number 7 (5 U.S.C. 552(b)(7)).* Records or information compiled for law enforcement purposes; i.e., civil, criminal, or military law, including the implementation of Executive Orders or regulations issued pursuant to law. This exemption may be invoked to prevent disclosure of documents not originally created for, but later gathered for law enforcement purposes. With the exception of parts (C) and (F) (see paragraph (g)(1)(iii) of this section) exemption 7 of the FOIA, this exemption is discretionary. If information qualifies as exemption (7)(C) or (7)(F) of the FOIA (see paragraph (g)(1)(iii) of this section) information, there is no discretion in its release.

(1) This exemption applies, however, only to the extent that production of such law enforcement records or information could result in the following:

(i) Could reasonably be expected to interfere with enforcement proceedings (5 U.S.C. 552(b)(7)(A)).

(ii) Would deprive a person of the right to a fair trial or to an impartial adjudication (5 U.S.C. 552(b)(7)(B)).

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy of a living person, including surviving family members of an individual identified in such a record (5 U.S.C. 552(b)(7)(C)).

(A) This exemption also applies when the fact of the existence or nonexistence of a responsive record would itself reveal personally private information, and the public interest in disclosure is not sufficient to outweigh the privacy interest. In this situation, Components shall neither confirm nor deny the existence or nonexistence of the record being requested. This is a Glomar response, and exemption (7)(C) must be cited in the response. Additionally, in order to insure personal privacy is not violated during referrals, DoD Components shall coordinate with other DoD Components or Federal Agencies before referring a record that is exempt under the Glomar concept.

(B) A ''refusal to confirm or deny'' response must be used consistently, not only when a record exists, but also when a record does not exist. Otherwise, the pattern of using a ''no records'' response when a record does not exist and a ''refusal to confirm or deny'' when a record does exist will itself disclose personally private information.

(C) Refusal to confirm or deny should not be used when:

(*1*) The person whose personal privacy is in jeopardy has provided the requester with a waiver of his or her privacy rights; or

(*2*) The person whose personal privacy is in jeopardy is deceased, and the Agency is aware of that fact.

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a source within the Department of Defense; a State, local, or foreign agency or authority; or any private institution that furnishes the information on a confidential basis; and could disclose information furnished from a confidential source and obtained by a criminal law enforcement authority in a criminal investigation or by an agency conducting a lawful national security intelligence investigation (5 U.S.C. 552(b)(7)(D)).

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law (5 U.S.C. 552(b)(7)(E)).

(vi) Could reasonably be expected to endanger the life or physical safety of any individual (5 U.S.C. 552(b)(7)(F)).

(2) Some examples of exemption 7 are:

(i) Statements of witnesses and other material developed during the course of the investigation and all materials prepared in connection with related Government litigation or adjudicative proceedings.

(ii) The identity of firms or individuals being investigated for alleged irregularities involving contracting with the Department of Defense when no indictment has been obtained nor any civil action filed against them by the United States.

(iii) Information obtained in confidence, expressed or implied, in the course of a criminal investigation by a criminal law enforcement agency or office within a DoD Component, or a lawful national security intelligence investigation conducted by an authorized agency or office within a DoD Component. National security intelligence investigations include background security investigations and those investigations conducted for the purpose of obtaining affirmative or counterintelligence information.

(3) The right of individual litigants to investigative records currently available by law (such as, the Jencks Act, 18 U.S.C. 3500) is not diminished.

(4) When the subject of an investigative report is the requester of the record and the report is contained in a Privacy Act system of records, it may only be denied to the requester if withholding is both authorized by DoD 5400.11R, and by exemption 7 of the FOIA.

(5) *Exclusions.* Excluded from the exemption in this paragraph (g), are the following two situations applicable to the Department of Defense (Components considering invoking an exclusion should first consult with the Department of Justice, Office of Information and Privacy.):

(i) Whenever a request is made that involves access to records or information compiled for law enforcement purposes, and the investigation or proceeding involves a possible violation of criminal law where there is reason to believe that the subject of the investigation or proceeding is unaware of its pendency, and the disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, Components may, during only such times as that circumstance continues, treat the records or information as not subject to the FOIA. In such situation, the response to the requester will state that no records were found.

(ii) Whenever informant records maintained by a criminal law enforcement organization within a DoD Component under the informant's name or personal identifier are requested by a third party using the informant's name or personal identifier, the Component may treat the records as not subject to the FOIA, unless the informant's status as an informant has been officially confirmed. If it is determined that the records are not subject to 5 U.S.C. 552(b)(7), the response to the requester will state that no records were found.

(h) *Number 8 (5 U.S.C. 552(b)(8)).* Those contained in or related to examination, operation or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(i) *Number 9 (5 U.S.C. 552(b)(9)).* Those containing geological and geophysical information and data (including maps) concerning wells.

Subpart D—For Official Use Only

§ 286.15 General provisions.

(a) *General.* Information that has not been given a security classification pursuant to the criteria of an Executive Order, but which may be withheld from the public for one or more of the reasons cited in FOIA exemptions 2 through 9 (see subpart C of this part) shall be considered as being for official use only. No other material shall be considered or marked ''For Official Use Only'' (FOUO), and FOUO is not authorized as an anemic form of classification to protect national security interests. Additional information on FOUO and other controlled, unclassified information may be found in DoD 5200.1–R.

(b) *Prior FOUO application.* The prior application of FOUO markings is not a conclusive basis for withholding a record that is requested under the FOIA. When such a record is requested, the information in it shall be evaluated to determine whether, under current circumstances, FOIA exemptions apply in withholding the record or portions of it. If any exemptions apply, the record may nonetheless be released as a discretionary matter when it is determined that no governmental interest will be jeopardized by its release.

(c) *Historical papers.* Records such as notes, working papers, and drafts retained as historical evidence of DoD Component actions enjoy no special status apart from the exemptions under the FOIA.

(d) *Time to mark records.* The marking of records at the time of their creation provides notice of FOUO content and facilitates review when a record is requested under the FOIA. Records requested under the FOIA that do not bear such markings shall not be assumed to be releasable without examination for the presence of information that requires continued protection and qualifies as exempt from public release.

(e) *Distribution statement.* Information in a technical document that requires a distribution statement pursuant to DoD Directive 5230.24 [8] shall bear that statement and may be marked FOUO, as appropriate.

§ 286.16 Markings.

Location of markings:

(a) An unclassified document containing FOUO information shall be marked ''For Official Use Only'' at the bottom on the outside of the front cover (if any), on each page containing FOUO information, and on the outside of the back cover (if any).

(b) Within a classified document, an individual page that contains both FOUO and classified information shall be marked at the top and bottom with the highest security classification of information appearing on the page. Individual paragraphs shall be marked at the appropriate classification level, as well as unclassified or FOUO, as appropriate.

(c) Within a classified document, an individual page that contains FOUO information but no classified information shall be marked ''For Official Use Only'' at the top and bottom of the page.

(d) Other records, such as photographs, films, tapes, or slides, shall be marked ''For Official Use Only'' or ''FOUO'' in a manner that ensures that a recipient or viewer is aware of the status of the information therein.

(e) FOUO material transmitted outside the Department of Defense requires application of an expanded marking to explain the significance of the FOUO marking. This may be accomplished by typing or stamping the following statement on the record prior to transfer.

This document contains information EXEMPT FROM MANDATORY DISCLOSURE under the FOIA. Exemption(s) . . . . . applies/apply.

§ 286.17 Dissemination and transmission.

(a) *Release and transmission procedures.* Until FOUO status is terminated, the release and transmission instructions that follow apply:

(1) FOUO information may be disseminated within DoD Components and between officials of DoD Components and DoD contractors, consultants, and grantees to conduct official business for the Department of Defense. Recipients shall be made aware of the status of such information, and transmission shall be by means that preclude unauthorized public disclosure. Transmittal documents shall call attention to the presence of FOUO attachments.

(2) DoD holders of FOUO information are authorized to convey such information to officials in other Departments and Agencies of the Executive and Judicial Branches to fulfill a government function, except to the extent prohibited by the Privacy Act. Records thus transmitted shall be marked ''For Official Use Only,'' and the recipient shall be advised that the information may qualify for exemption from public disclosure, pursuant to the FOIA, and that special handling instructions do or do not apply.

(3) Release of FOUO information to Members of Congress is governed by DoD Directive 5400.4.[9] Release to the GAO is governed by DoD Directive 7650.1.[10] Records released to the Congress or GAO should be reviewed to determine whether the information warrants FOUO status. If not, prior FOUO markings shall be removed or effaced. If withholding criteria are met, the records shall be marked FOUO and the recipient provided an explanation for such exemption and marking. Alternatively, the recipient may be requested, without marking the record, to protect against its public disclosure for reasons that are explained.

(b) *Transporting FOUO information.* Records containing FOUO information shall be transported in a manner that prevents disclosure of the contents. When not commingled with classified information, FOUO information may be sent via first-class mail or parcel post. Bulky shipments, such as distributions of FOUO Directives or testing materials, that otherwise qualify under postal regulations, may be sent by fourth-class mail.

(c) *Electronically and facsimile transmitted messages.* Each part of electronically and facsimile transmitted messages containing FOUO information shall be marked appropriately. Unclassified messages containing FOUO information shall contain the abbreviation ''FOUO'' before the beginning of the text. Such messages and facsimiles shall be transmitted in accordance with communications security procedures whenever practicable.

§ 286.18 Safeguarding FOUO information.

(a) *During duty hours.* During normal working hours, records determined to be FOUO shall be placed in an out-of-sight location if the work area is accessible to non-government personnel.

(b) *During nonduty hours.* At the close of business, FOUO records shall be stored so as to prevent unauthorized access. Filing such material with other unclassified records in unlocked files or desks, etc., is adequate when normal U.S. Government or Government-contractor internal building security is provided during nonduty hours. When such internal security control is not exercised, locked buildings or rooms normally provide adequate after-hours protection. If such protection is not considered adequate, FOUO material shall be stored in locked receptacles such as file cabinets, desks, or bookcases. FOUO records that are

[8] See footnote 1 to § 286.1(a).

[9] See footnote 1 to § 286.1(a).

[10] See footnote 1 to § 286.1(a).

subject to the provisions of 50 U.S.C. 402 note shall meet the safeguards outlined for that group of records.

§ 286.19 Termination, disposal and unauthorized disclosure.

(a) *Termination.* The originator or other competent authority; e.g., initial denial and appellate authorities, shall terminate ''For Official Use Only'' markings or status when circumstances indicate that the information no longer requires protection from public disclosure. When FOUO status is terminated, all known holders shall be notified, to the extent practical. Upon notification, holders shall efface or remove the ''For Official Use Only'' markings, but records in file or storage need not be retrieved solely for that purpose.

(b) *Disposal.* (1) Nonrecord copies of FOUO materials may be destroyed by tearing each copy into pieces to prevent reconstructing, and placing them in regular trash containers. When local circumstances or experience indicates that this destruction method is not sufficiently protective of FOUO information, local authorities may direct other methods but must give due consideration to the additional expense balanced against the degree of sensitivity of the type of FOUO information contained in the records.

(2) Record copies of FOUO documents shall be disposed of in accordance with the disposal standards established under 44 U.S.C. 3301–3314, as implemented by DoD Component instructions concerning records disposal.

(c) *Unauthorized disclosure.* The unauthorized disclosure of FOUO records does not constitute an unauthorized disclosure of DoD information classified for security purposes. Appropriate administrative action shall be taken, however, to fix responsibility for unauthorized disclosure whenever feasible, and appropriate disciplinary action shall be taken against those responsible. Unauthorized disclosure of FOUO information that is protected by the Privacy Act may also result in civil and criminal sanctions against responsible persons. The DoD Component that originated the FOUO information shall be informed of its unauthorized disclosure.

Subpart E—Release and Processing Procedures

§ 286.22 General provisions.

(a) *Public information.* (1) Since the policy of the Department of Defense is to make the maximum amount of information available to the public consistent with its other responsibilities, written requests for a DoD record made under the provisions of 5 U.S.C. 552(a)(3) of the FOIA may be denied only when:

(i) Disclosure would result in a foreseeable harm to an interest protected by a FOIA exemption, and the record is subject to one or more of the exemptions of the FOIA.

(ii) The record has not been described well enough to enable the DoD Component to locate it with a reasonable amount of effort by an employee familiar with the files.

(iii) The requester has failed to comply with the procedural requirements, including the written agreement to pay or payment of any required fee imposed by the instructions of the DoD Component concerned. When personally identifiable information in a record is requested by the subject of the record or his attorney, notarization of the request, or a statement certifying under the penalty of perjury that their identity is true and correct may be required. Additionally, written consent of the subject of the record is required for disclosure from a Privacy Act System of records, even to the subject's attorney.

(2) Individuals seeking DoD information should address their FOIA requests to one of the addresses listed in Appendix B to this part.

(b) *Requests from private parties.* The provisions of the FOIA are reserved for persons with private interests as opposed to U.S. Federal Agencies seeking official information. Requests from private persons will be made in writing, and should clearly show all other addressees within the Federal Government to which the request was also sent. This procedure will reduce processing time requirements, and ensure better inter- and intra-agency coordination. However, if the requester does not show all other addressees to which the request was also sent, DoD Components shall still process the request. DoD Components should encourage requesters to send requests by mail, facsimile, or by electronic means. Disclosure of records to individuals under the FOIA is considered public release of information, except as provided for in § 286.4(f) and § 286.12.

(c) *Requests from government officials.* Requests from officials of State or local Governments for DoD Component records shall be considered the same as any other requester. Requests from members of Congress not seeking records on behalf of a Congressional Committee, Subcommittee, either House sitting as a whole, or made on behalf of their constituents shall be considered the same as any other requester (see also § 286.4(f) and paragraph (d) of this section). Requests from officials of foreign governments shall be considered the same as any other requester. Requests from officials of foreign governments that do not invoke the FOIA shall be referred to appropriate foreign disclosure channels and the requester so notified.

(d) *Privileged release to U.S. government officials.* (1) Records exempt from release to the public under the FOIA may be disclosed in accordance with DoD Component regulations to agencies of the Federal Government, whether legislative, executive, or administrative, as follows:

(i) In response to a request of a Committee or Subcommittee of Congress, or to either House sitting as a whole in accordance with DoD Directive 5400.4;

(ii) To other Federal Agencies, both executive and administrative, as determined by the head of a DoD Component or designee;

(iii) In response to an order of a Federal court, DoD Components shall release information along with a description of the restrictions on its release to the public.

(2) DoD Components shall inform officials receiving records under the provisions of this paragraph that those records are exempt from public release under the FOIA. DoD Components also shall advise officials of any special handling instructions. Classified information is subject to the provisions of DoD 5200.1–R, and information contained in Privacy Act systems of records is subject to DoD 5400.11–R.

(e) *Consultation with affected DoD component.* (1) When a DoD Component receives a FOIA request for a record in which an affected DoD organization (including a Combatant Command) has a clear and substantial interest in the subject matter, consultation with that affected DoD organization is required. As an example, where a DoD Component receives a request for records related to DoD operations in a foreign country, the cognizant Combatant Command for the area involved in the request shall be consulted before a release is made. Consultations may be telephonic, electronic, or in hard copy.

(2) The affected DoD Component shall review the circumstances of the request for host-nation relations, and provide, where appropriate, FOIA processing assistance to the responding DoD Component regarding release of information. Responding DoD

Components shall provide copies of responsive records to the affected DoD Component when requested by the affected DoD Component. The affected DoD Component shall receive a courtesy copy of all releases in such circumstances.

(3) Nothing in paragraphs (e)(1) and (e)(2) of this section shall impede the processing of the FOIA request initially received by a DoD Component.

§ 286.23 Initial determinations.

(a) *Initial denial authority.* (1) Components shall limit the number of IDAs appointed. In designating its IDAs, a DoD Component shall balance the goals of centralization of authority to promote uniform decisions and decentralization to facilitate responding to each request within the time limitations of the FOIA.

(2) The initial determination whether to make a record available upon request may be made by any suitable official designated by the DoD Component in published regulations. The presence of the marking ''For Official Use Only'' does not relieve the designated official of the responsibility to review the requested record for the purpose of determining whether an exemption under the FOIA is applicable.

(3) The officials designated by DoD Components to make initial determinations should consult with public affairs officers (PAOs) to become familiar with subject matter that is considered to be newsworthy, and advise PAOs of all requests from news media representatives. In addition, the officials should inform PAOs in advance when they intend to withhold or partially withhold a record, if it appears that the withholding action may be challenged in the media.

(b) *Reasons for not releasing a record.* There are seven reasons for not complying with a request for a record under 5 U.S.C. 552(a)(3):

(1) The request is transferred to another DoD Component, or to another Federal Agency.

(2) The DoD Component determines through knowledge of its files and reasonable search efforts that it neither controls nor otherwise possesses the requested record.

(3) A record has not been described with sufficient particularity to enable the DoD Component to locate it by conducting a reasonable search.

(4) The requester has failed unreasonably to comply with procedural requirements, including payment of fees, imposed by this part or DoD Component supplementing regulations.

(5) The request is withdrawn by the requester.

(6) The information requested is not a record within the meaning of the FOIA and this part.

(7) The record is denied in whole or in part in accordance with procedures set forth in the FOIA and this part.

(c) *Denial tests.* To deny a requested record that is in the possession and control of a DoD Component, it must be determined that disclosure of the record would result in a foreseeable harm to an interest protected by a FOIA exemption, and the record is exempt under one or more of the exemptions of the FOIA. An outline of the FOIA's exemptions is contained in subpart C of this part.

(d) *Reasonably segregable portions.* Although portions of some records may be denied, the remaining reasonably segregable portions must be released to the requester when it reasonably can be assumed that a skillful and knowledgeable person could not reconstruct the excised information. Unless indicating the extent of the deletion would harm an interest protected by an exemption, the amount of deleted information shall be indicated on the released portion of paper records by use of brackets or darkened areas indicating removal of information. In no case shall the deleted areas be left ''white'' without the use of brackets to show the bounds of deleted information. In the case of electronic deletion, or deletion in audiovisual or microfiche records, if technically feasible, the amount of redacted information shall be indicated at the place in the record such deletion was made, unless including the indication would harm an interest protected by the exemption under which the deletion is made. This may be done by use of brackets, shaded areas, or some other identifiable technique that will clearly show the limits of the deleted information. When a record is denied in whole, the response advising the requester of that determination will specifically state that it is not reasonable to segregate portions of the record for release.

(e) *Response to requester.* (1) Whenever possible, initial determinations to release or deny a record normally shall be made and the decision reported to the requester within 10 working days (20 working days effective October 2, 1997) after receipt of the request by the official designated to respond. When a DoD Component has a significant number of pending requests which prevent a response determination within the 10 working day period (20 working days effective October 2, 1997), the requester shall be so notified in an interim response, and advised whether their request qualifies for the fast track or slow track within the DoD Components' multitrack processing system. Requesters who do not meet the criteria for fast track processing shall be given the opportunity to limit the scope of their request in order to qualify for fast track processing. See also § 286.4(d) for greater detail on multitrack processing and compelling need meriting expedited processing.

(2) When a decision is made to release a record, a copy should be made available promptly to the requester once he has complied with preliminary procedural requirements.

(3) When a request for a record is denied in whole or in part, the official designated to respond shall inform the requester in writing of the name and title or position of the official who made the determination, and shall explain to the requester the basis for the determination in sufficient detail to permit the requester to make a decision concerning appeal. The requester specifically shall be informed by the exemptions on which the denial is based, inclusive of a brief statement describing what the exemption(s) cover. When the initial denial is based in whole or in part on a security classification, the explanation should include a summary of the applicable Executive Order criteria for classification, as well as an explanation, to the extent reasonably feasible, of how those criteria apply to the particular record in question. The requester shall also be advised of the opportunity and procedures for appealing an unfavorable determination to a higher final authority within the DoD Component.

(4) The final response to the requester should contain information concerning the fee status of the request, consistent with the provisions of subpart F of this part.

(5) The explanation of the substantive basis for a denial shall include specific citation of the statutory exemption applied under provisions of this part; e.g., 5 U.S.C. 552(b)(1). Merely referring to classification; to a ''For Official Use Only'' making on the requested record; or to this part or a DoD Component's regulation does not constitute a proper citation or explanation of the basis for invoking an exemption.

(6) When the time for response becomes an issue, the official responsible for replying shall acknowledge to the requester the date of the receipt of the request.

(7) When denying a request for records, in whole or in part, a DoD Component shall make a reasonable

effort to estimate the volume of the records denied and provide this estimate to the requester, unless providing such an estimate would harm an interest protected by an exemption of the FOIA. This estimate should be in number of pages or in some other reasonable form of estimation, unless the volume is otherwise indicated through deletions on records disclosed in part.

(8) When denying a request for records in accordance with a statute qualifying as a FOIA exemption 3 statute, DoD Components shall, in addition to stating the particular statute relied upon to deny the information, also state whether a court has upheld the decision to withhold the information under the particular statute, and a concise description of the scope of the information being withheld.

(f) *Extension of time.* (1) In unusual circumstances, when additional time is needed to respond to the initial request, the DoD Component shall acknowledge the request in writing within the 10 day period (20 days effective October 2, 1997), describe the circumstances requiring the delay, and indicate the anticipated date for a substantive response that may not exceed 10 additional working days, except as provided in paragraphs (f)(2) through (f)(6) of this section.

(2) With respect to a request for which a written notice has extended the time limits by 10 additional working days, and the Component determines that it cannot make a response determination within that additional 10 working day period, the requester shall be notified and provided an opportunity to limit the scope of the request so that it may be processed within the extended time limit, or an opportunity to arrange an alternative time frame for processing the request or a modified request. Refusal by the requester to reasonably modify the request or arrange for an alternative time frame shall be considered a factor in determining whether exceptional circumstances exist with respect to DoD Components' request backlogs. Exceptional circumstances do not include a delay that results from predictable component backlogs, unless the DoD Component demonstrates reasonable progress in reducing its backlog.

(3) Unusual circumstances that may justify delay are:

(i) The need to search for and collect the requested records from other facilities that are separate from the office determined responsible for a release or denial decision on the requested information.

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are requested in a single request.

(iii) The need for consultation, which shall be conducted with all practicable speed, with other agencies having a substantial interest in the determination of the request, or among two or more DoD Components having a substantial subject-matter interest in the request.

(4) DoD Components may aggregate certain requests by the same requester, or by a group of requesters acting in concert, if the DoD Component reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances set forth above, and the requests involve clearly related matters. Multiple requests involving unrelated matters shall not be aggregated. If the requests are aggregated under these conditions, the requester or requesters shall be so notified.

(5) In cases where the statutory time limits cannot be met and no informal extension of time has been agreed to, the inability to process any part of the request within the specified time should be explained to the requester with a request that he agree to await a substantive response by an anticipated date. It should be made clear that any such agreement does not prejudice the right of the requester to appeal the initial decision after it is made. DoD Components are reminded that the requester still retains the right to treat this delay as a defacto denial with full administrative remedies.

(6) As an alternative to the taking of formal extension of time as described in paragraph (f) of this section, the negotiation by the cognizant FOIA coordinating office of informal extensions in time with requesters is encouraged where appropriate.

(g) *Misdirected requests.* Misdirected requests shall be forwarded promptly to the DoD Component or other Federal Agency with the responsibility for the records requested. The period allowed for responding to the request misdirected by the requester shall not begin until the request is received by the DoD Component that manages the records requested.

(h) *Records of non-U.S. government source.* (1) When a request is received for a record that falls under exemption 4 (see subpart C of this part), that was obtained from a non-U.S. Government source, or for a record containing information clearly identified as having been provided by a non-U.S. Government source, the source of the record or information [also known as ''the submitter'' for matters pertaining to proprietary data under 5 U.S.C. 552, Exemption (b)(4), § 286.12 and E. O. 12600 (3 CFR, 1987 Comp., p. 235), shall be notified promptly of that request and afforded reasonable time (e.g., 30 calendar days) to present any objections concerning the release, unless it is clear that there can be no valid basis for objection. This practice is required for those FOIA requests for data not deemed clearly exempt from disclosure under exemption (b)(4) of 5 U.S.C. 552(a). If, for example, the record or information was provided with actual or presumptive knowledge of the non-U.S. Government source and established that it would be made available to the public upon request, there is no obligation to notify the source. Any objections shall be evaluated. The final decision to disclose information claimed to be exempt under exemption (b)(4) shall be made by an official equivalent in rank to the official who would make the decision to withhold that information under the FOIA. When a substantial issue has been raised, the DoD Component may seek additional information from the source of the information and afford the source and requester reasonable opportunities to present their arguments on the legal and substantive issues involved prior to making an agency determination. When the source advises it will seek a restraining order or take court action to prevent release of the record or information, the requester shall be notified, and action on the request normally shall not be taken until after the outcome of that court action is known. When the requester brings court action to compel disclosure, the submitter shall be promptly notified of this action.

(2) If the submitted information is a proposal in response to a solicitation for a competitive proposal, and the proposal is in the possession and control of DoD, and meets the requirements of 10 U.S.C. 2305(g), the proposal shall not be disclosed, and no submitter notification and subsequent analysis is required. The proposal shall be withheld from public disclosure pursuant to 10 U.S.C. 2305(g) and exemption (b)(3) of 5 U.S.C. 552. This statute does not apply to bids, unsolicited proposals, or any proposal that is set forth or incorporated by reference in a contract between a DoD Component and the offeror that submitted the proposal. In such situations, normal submitter notice shall be conducted in accordance with paragraph (h)(1) of this section except for sealed bids that are opened and read

to the public. The term proposal means information contained in or originating from any proposal, including a technical, management, or cost proposal submitted by an offeror in response to solicitation for a competitive proposal, but does not include an offeror's name or total price or unit prices when set forth in a record other than the proposal itself. Submitter notice, and analysis as appropriate, are required for exemption (b)(4) matters that are not specifically incorporated in 10 U.S.C. 2305(g).

(3) If the record or information was submitted on a strictly voluntary basis, absent any exercised authority that prescribes criteria for submission, and after consultation with the submitter, it is absolutely clear that the record or information would customarily not be released to the public, the submitter need not be notified. Examples of exercised authorities prescribing criteria for submission are statutes, Executive Orders, regulations, invitations for bids, requests for proposals, and contracts. Records or information submitted under these authorities are not voluntary in nature. When it is not clear whether the information was submitted on a voluntary basis, absent any exercised authority, and whether it would customarily be released to the public by the submitter, notify the submitter and ask that it describe its treatment of the information, and render an objective evaluation. If the decision is made to release the information over the objection of the submitter, notify the submitter and afford the necessary time to allow the submitter to seek a restraining order, or take court action to prevent release of the record or information.

(4) The coordination provisions of this paragraph (h) also apply to any non-U.S. Government record in the possession and control of the DoD from multi-national organizations, such as the North Atlantic Treaty Organization (NATO), United Nations Commands, the North American Aerospace Defense Command (NORAD), the Inter-American Defense Board, or foreign governments. Coordination with foreign governments under the provisions of this paragraph (h) may be made through Department of State, or the specific foreign embassy.

(i) *File of initial denials.* Copies of all initial denials shall be maintained by each DoD Component in a form suitable for rapid retrieval, periodic statistical compilation, and management evaluation. Records denied at the initial stage shall be maintained for a period of six years to meet the statute of limitations requirement.

(j) *Special mail services.* Components are authorized to use registered mail, certified mail, certificates of mailing and return receipts. However, their use should be limited to instances where it appears advisable to establish proof of dispatch or receipt of FOIA correspondence.

(k) *Receipt accounts.* The Treasurer of the United States has established two accounts for FOIA receipts, and all money orders or checks remitting FOIA fees should be made payable to the U.S. Treasurer. These accounts, which are described in paragraphs (k)(1) and (k)(2) of this section shall be used for depositing all FOIA receipts, except receipts for industrially funded and non appropriated funded activities. Components are reminded that the below account numbers must be preceded by the appropriate disbursing office two digit prefix. Industrially funded and non appropriated funded activity FOIA receipts shall be deposited to the applicable fund.

(1) *Receipt Account 3210 Sale of Publications and Reproductions, Freedom of Information Act.* This account shall be used when depositing funds received from providing existing publications and forms that meet the Receipt Account Series description found in Federal Account Symbols and Titles.

(2) *Receipt Account 3210 Fees and Other Charges for Services, Freedom of Information Act.* This account is used to deposit search fees, fees for duplicating and reviewing (in the case of commercial requesters) records to satisfy requests that could not be filled with existing publications or forms.

§ 286.24 Appeals.

(a) *General.* If the official designated by the DoD Component to make initial determinations on requests for records declines to provide a record because the official considers it exempt under one or more of the exemptions of the FOIA, that decision may be appealed by the requester, in writing, to a designated appellant authority. The appeal should be accompanied by a copy of the letter denying the initial request. Such appeals should contain the basis for disagreement with the initial refusal. Appeal procedures also apply to the disapproval of a fee category claim by a requester, disapproval of a request for waiver or reduction of fees, disputes regarding fee estimates, review on an expedited basis a determination not to grant expedited access to agency records, and for no record determinations when the requester considers such responses adverse in nature. Appeals of Office of the Secretary of Defense and Chairman of the Joint Chiefs of Staff determinations may be sent to the address in Appendix B, paragraph 2.a., of this part. If a request is merely misaddressed, and the receiving DoD Component simply advises the requester of such and refers the request to the appropriate DoD Component, this shall not be considered a no record determination.

(b) *Time of receipt.* A FOIA appeal has been received by a DoD Component when it reaches the office of an appellate authority having jurisdiction. Misdirected appeals should be referred expeditiously to the proper appellant authority.

(c) *Time limits.* (1) The requester shall be advised to file an appeal so that it reaches the appellate authority no later than 60 calendar days after the date of the initial denial letter. At the conclusion of this period, the case may be considered closed; however, such closure does not prevent the requester for filing litigation. In cases where the requester is provided several incremental determinations for a single request, the time for the appeal shall not begin until the requester receives the last such notification. Records that are denied shall be retained for a period of six years to meet the statute of limitations requirement.

(2) Final determinations on appeals normally shall be made within 20 working days after receipt. When a DoD Component has a significant number of appeals preventing a response determination with 20 working days, the appeals shall be processed in a multitrack processing system, based at a minimum, on the three processing tracks established for initial requests. See § 286.4(d). All of the provisions of § 286.4(d) apply also to appeals of initial determinations, to include establishing additional processing queues as needed.

(d) *Delay in responding to an appeal.* (1) If additional time is needed due to the unusual circumstances described in § 286.23 (f), the final decision may be delayed for the number of working days (not to exceed 10), that were not used are additional time for responding to the initial request.

(2) If a determination cannot be made and the requester notified within 20 working days, the appellate authority shall acknowledge to the requester, in writing, the date of receipt of the appeal, the circumstances surrounding the delay, and the anticipated date for substantive response. Requesters shall be advised that, if the delay exceeds the statutory extension provision or is for reasons other than the unusual circumstances identified in § 286.23 (f), they may consider their administrative remedies exhausted. They may, however, without prejudicing their right

of judicial remedy, await a substantive response. The DoD Component shall continue to process the case expeditiously, whether or not the requester seeks a court order for release of the records, but a copy of any response provided subsequent to filing of a complaint shall be forwarded to the Department of Justice.

(e) *Response to the requester.* (1) When an appellate authority makes a final determination to release all or a portion of records withheld by an IDA, a written response and a copy of the records so released should be forwarded promptly to the requester after compliance with any preliminary procedural requirements, such as payment of fees.

(2) Final refusal of an appeal must be made in writing by the appellate authority or by a designated representative. The response, at a minimum, shall include the following:

(1) The basis for the refusal shall be explained to the requester in writing, both with regard to the applicable statutory exemption or exemptions invoked under provisions of the FOIA and with respect to other appeal matters as set forth in paragraph (1) of this section.

(ii) When the final refusal is based in whole or in part on a security classification, the explanation shall include a determination that the record meets the cited criteria and rationale of the governing Executive Order, and that this determination is based on a declassification review, with the explanation of how that review confirmed the continuing validity of the security classification.

(iii) The final denial shall include the name and title or position of the official responsible for the denial.

(iv) In the case of appeals for total denial of records, the response shall advise the requester that the information being denied does not contain meaningful portions that are reasonably segregable.

(v) When the denial is based upon an exemption 3 statute (see § 286.12(e)), the response, in addition to citing the statute relied upon to deny the information, shall state whether a court has upheld the decision to withhold the information under the statute, and shall contain a concise description of the scope of the information withheld.

(vi) The response shall advise the requester of the right of judicial review.

(f) *Consultation.* (1) Final refusal involving issues not previously resolved or that the DoD Component knows to be inconsistent with rulings of other DoD Components ordinarily should not be made before consultation with the DoD Office of the General Counsel.

(2) Tentative decisions to deny records that raise new or significant legal issues of potential significance to other Agencies of the Government shall be provided to the DoD Office of the General Counsel.

§ 286.25 Judicial actions.

(a) *General.* (1) This section states current legal and procedural rules for the convenience of the reader. The statements of rules do not create rights or remedies not otherwise available, nor do they bind the Department of Defense to particular judicial interpretations or procedures.

(2) A requester may seek an order from a U.S. District Court to compel release of a record after administrative remedies have been exhausted; i.e., when refused a record by the head of a Component or an appellate designee or when the DoD Component has failed to respond within the time limits prescribed by the FOIA and in this part.

(b) *Jurisdiction.* The requester may bring suit in the U.S. District Court in the district in which the requester resides or is the requesters place of business, in the district in which the record is located, or in the District of Columbia.

(c) *Burden of proof.* The burden of proof is on the DoD Component to justify its refusal to provide a record. The court shall evaluate the case de novo (anew) and may elect to examine any requested record in camera (in private) to determine whether the denial was justified.

(d) *Actions by the Court.* (1) When a DoD Component has failed to make a determination within the statutory time limits but can demonstrate due diligence in exceptional circumstances, to include negotiating with the requester to modify the scope of their request, the court may retain jurisdiction and allow the Component additional time to complete its review of the records.

(2) If the court determines that the requester's complaint is substantially correct, it may require the United States to pay reasonable attorney fees and other litigation costs.

(3) When the court orders the release of denied records, it may also issue a written finding that the circumstances surrounding the withholding raise questions whether DoD Component personnel acted arbitrarily and capriciously. In these cases, the special counsel of the Merit System Protection Board shall conduct an investigation to determine whether or not disciplinary action is warranted. The DoD Component is obligated to take the action recommended by the special counsel.

(4) The court may punish the responsible official for contempt when a DoD Component fails to comply with the court order to produce records that it determines have been withheld improperly.

(e) *Non-United States Government Source Information.* A requester may bring suit in a U.S. District Court to compel the release of records obtained from a non-government source or records based on information obtained from a non-government source. Such source shall be notified promptly of the court action. When the source advises that it is seeking court action to prevent release, the DoD Component shall defer answering or otherwise pleading to the complainant as long as permitted by the Court or until a decision is rendered in the court action of the source, whichever is sooner.

(f) *FOIA litigation.* Personnel responsible for processing FOIA requests at the DoD Component level shall be aware of litigation under the FOIA. Such information will provide management insights into the use of the nine exemptions by Component personnel. Whenever a complaint under the FOIA is filed in a U.S. District Court, the DoD Component named in the complaint shall forward a copy of the complaint by any means to the OASD(PA), Attn: DFOISR, with an information copy to the DoD Office of the General Counsel, Attn: Office of Legal Counsel.

Subpart F—Fee Schedule

§ 286.28 General provisions.

(a) *Authorities.* The Freedom of Information Act, as amended; the Paperwork Reduction Act (44 U.S.C. Chapter 35), as amended; the Privacy Act of 1974, as amended; the Budget and Accounting Act of 1921 and the Budget and Accounting Procedures Act, as amended (see 31 U.S.C.); and 10 U.S.C. 2328.

(b) *Application.* (1) The fees described in this subpart apply to FOIA requests, and conform to the Office of Management and Budget Uniform Freedom of Information Act Fee Schedule and Guidelines. They reflect direct costs for search, review (in the case of commercial requesters); and duplication of documents, collection of which is permitted by the FOIA. They are neither intended to imply that fees must be charged in connection with providing information to the public in the routine course of business, nor are they meant as a substitute for any other schedule of fees, such as DoD

Instruction 7230.7,[11] which does not supersede the collection of fees under the FOIA. Nothing in this subpart shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records. A ''statue specifically providing for setting the level of fees for particular types of records'' (5 U.S.C. 552 (a)(4)(A)(vi)) means any statute that enables a Government Agency such as the Government Printing Office (GPO) or the National Technical Information Service (NTIS), to set and collect fees. Components should ensure that when documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs such as the GPO or NTIS, they inform requesters of the steps necessary to obtain records from those sources.

(2) The term ''direct costs'' means those expenditures a Component actually makes in searching for, reviewing (in the case of commercial requesters), and duplicating documents to respond to an FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits), and the costs of operating duplicating machinery. These factors have been included in the fee rates prescribed at § 286.29. Not included in direct costs are overhead expenses such as costs of space, heating or lighting the facility in which the records are stored.

(3) The term ''search'' includes all time spent looking, both manually and electronically, for material that is responsive to a request. Search also includes a page-by-page or line-by-line identification (if necessary) of material in the record to determine if it, or portions thereof are responsive to the request. Components should ensure that searches are done in the most efficient and least expensive manner so as to minimize costs for both the Component and the requester. For example, Components should not engage in line-by-line searches when duplicating an entire document known to contain responsive information would prove to be the less expensive and quicker method of complying with the request. Time spent reviewing documents in order to determine whether to apply one or more of the statutory exemptions is not search time, but review time. See paragraph (b)(5) of this section for the definition of review, and paragraph (c)(5) of this section and § 286.29(b)(2) for information pertaining to computer searches.

(4) The term ''duplication'' refers to the process of making a copy of a document in response to an FOIA request. Such copies can take the form of paper copy, microfiche, audiovisual, or machine readable documentation (e.g., magnetic tape or disc), among others. Every effort will be made to ensure that the copy provided is in a form that is reasonably useable, the requester shall be notified that the copy provided is the best available and that the Agency's master copy shall be made available for review upon appointment. For duplication of computer tapes and audiovisual, the actual costs, including the operator's time, shall be charged. In practice, if a Component estimates that assessable duplication charges are likely to exceed $25.00, it shall notify the requester of the estimate, unless the requester has indicated in advance his or her willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with Component personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(5) The term ''review'' refers to the process of examining documents located in response to an FOIA request to determine whether one or more of the statutory exemptions permit withholding. It also includes processing the documents for disclosure, such as excising them for release. Review does not include the time spent resolving general legal or policy issues regarding the application of exemptions. It should be noted that charges for commercial requesters may be assessed only for the initial review. Components may not charge for reviews required at the administrative appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review would be properly assessable.

(c) *Fee restrictions.* (1) No fees may be charged by any DoD Component if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee. With the exception of requesters seeking documents for a commercial use, Components shall provide the first two hours of search time, and the first one hundred pages of duplication without charge. For example, for a request (other than one from a commercial requester) that involved two hours and ten minutes of search time, and resulted in one hundred and five pages of documents, a Component would determine the cost of only ten minutes of search time, and only five pages of reproduction. If this processing cost was equal to, or less than, the cost to the Component for billing the requester and processing the fee collected, no charges would result.

(2) Requesters receiving the first two hours of search and the first one hundred pages of duplication without charge are entitled to such only once per request. Consequently, if a Component, after completing its portion of a request, finds it necessary to refer the request to a subordinate office, another DoD Component, or another Federal Agency to action their portion of the request, the referring Component shall inform the recipient of the referral of the expended amount of search time and duplication cost to date.

(3) The elements to be considered in determining the ''cost of collecting a fee'' are the administrative costs to the Component of receiving and recording a remittance, and processing the fee for deposit in the Department of Treasury's special account. The cost to the Department of Treasury to handle such remittance is negligible and shall not be considered in Components' determinations.

(4) For the purposes of these restrictions, the word ''pages'' refers to paper copies of a standard size, which will normally be ''8½ × 11'' or ''11 × 14''. Thus, requesters would not be entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or 100 pages of computer printout however, might meet the terms of the restriction.

(5) In the case of computer searches, the first two free hours will be determined against the salary scale of the individual operating the computer for the purposes of the search. As an example, when the direct costs of the computer central processing unit, input-output devices, and memory capacity equal $24.00 (two hours of equivalent search at the clerical level), amounts of computer costs in excess of that amount are chargeable as computer search time. In the event the direct operating cost of the hardware configuration cannot be determined, computer search shall be based on the salary scale of the operator executing the computer search. See § 286.29 for further details regarding fees for computer searches.

(d) *Fee waivers.* (1) Documents shall be furnished without charge, or at a charge reduced below fees assessed to the categories of requesters in paragraph (e) of this section when the Component determines that waiver or reduction of the fees is in the public interest because

[11] See footnote 1 to § 286.1(a).

furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the Department of Defense and is not primarily in the commercial interest of the requester.

(2) When assessable costs for a FOIA request total $15.00 or less, fees shall be waived automatically for all requesters, regardless of category.

(3) Decisions to waive or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis, consistent with the following factors:

(i) Disclosure of information ''is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government.''

(A) *The subject of the request.* Components should analyze whether the subject matter of the request involves issues that will significantly contribute to the public understanding of the operations or activities of the Department of Defense. Requests for records in the possession of the Department of Defense which were originated by non-government organizations and are sought for their intrinsic content, rather than informative value, will likely not contribute to public understanding of the operations or activities of the Department of Defense. An example of such records might be press clippings, magazine articles, or records forwarding a particular opinion or concern from a member of the public regarding a DoD activity. Similarly, disclosures of records of considerable age may or may not bear directly on the current activities of the Department of Defense; however, the age of a particular record shall not be the sole criteria for denying relative significance under this factor. It is possible to envisage an informative issue concerning the current activities of the Department of Defense, based upon historical documentation. Requests of this nature must be closely reviewed consistent with the requester's state purpose for desiring the records and the potential for public understanding of the operations and activities of the Department of Defense.

(B) *The informative value of the information to be disclosed.* This factor requires a close analysis of the substantive contents of a record, or portion of the record, to determine whether disclosure is meaningful, and shall inform the public on the operations or activities of the Department of Defense. While the subject of a request may contain information that concerns operations or activities of the Department of Defense, it may not always hold great potential for contributing to a meaningful understanding of these operations or activities. An example of such would be a previously released record that has been heavily redacted, the balance of which may contain only random words, fragmented sentences, or paragraph headings. A determination as to whether a record in this situation will contribute to the public understanding of the operations or activities of the Department of Defense must be approached with caution, and carefully weighed against the arguments offered by the requester. Another example is information already known to be in the public domain. Disclosure of duplicative, or nearly identical information already existing in the public domain may add no meaningful new information concerning the operations and activities of the Department of Defense.

(C) *The contribution to an understanding of the subject by the general public likely to result from disclosure.* The key element in determining the applicability of this factor is whether disclosure will inform, or have the potential to inform the public, rather than simply the individual requester or small segment of interested persons. The identity of the requester is essential in this situation in order to determine whether such requester has the capability and intention to disseminate the information to the public. Mere assertions of plans to author a book, researching a particular subject, doing doctoral dissertation work, or indigence are insufficient without demonstrating the capacity to further disclose the information in a manner that will be informative to the general public. Requesters should be asked to describe their qualifications, the nature of their research, the purpose of the requested information, and their intended means of dissemination to the public.

(D) *The significance of the contribution to public understanding.* In applying this factor, Components must differentiate the relative significance or impact of the disclosure against the current level of public knowledge, or understanding which exists before the disclosure. In other words, will disclosure on a current subject of wide public interest be unique in contributing previously unknown facts, thereby enhancing public knowledge, or will it basically duplicate what is already known by the general public? A decision regarding significance requires objective judgment, rather than subjective determination, and must be applied carefully to determine whether disclosure will likely lead to a significant public understanding of the issue. Components shall not make value judgments as to whether the information is important enough to be made public.

(ii) Disclosure of the information ''is not primarily in the commercial interest of the requester.''

(A) *The existence and magnitude of a commercial interest.* If the request is determined to be of a commercial interest, Components should address the magnitude of that interest to determine if the requester's commercial interest is primary, as opposed to any secondary personal or non-commercial interest. In addition to profit-making organizations, individual persons or other organizations may have a commercial interest in obtaining certain records. Where it is difficult to determine whether the requester is of a commercial nature, Components may draw inference from the requester's identity and circumstances of the request. In such situations, the provisions of paragraph (e) of this section. Components are reminded that in order to apply the commercial standards of the FOIA, the requester's commercial benefit must clearly override any personal or non-profit interest.

(B) *The primary interest in disclosure.* Once a requester's commercial interest has been determined, Components should then determine if the disclosure would be primarily in that interest. This requires a balancing test between the commercial interest of the request against any public benefit to be derived as a result of that disclosure. Where the public interest is served above and beyond that of the requester's commercial interest, a waiver or reduction of fees would be appropriate. Conversely, even if a significant public interest exists, and the relative commercial interest of the requester is determined to be greater than the public interest, then a waiver or reduction of fees would be inappropriate. As examples, news media organizations have a commercial interest as business organizations; however, their inherent role of disseminating news to the general public can ordinarily be presumed to be of a primary interest. Therefore, any commercial interest becomes secondary to the primary interest in serving the public. Similarly, scholars writing books or engaged in other forms of academic research, may recognize a commercial benefit, either directly, or indirectly (through the institution they represent); however, normally such pursuits are primarily undertaken for educational purposes, and the application of a fee charge

would be inappropriate. Conversely, data brokers or others who merely compile government information for marketing can normally be presumed to have an interest primarily of a commercial nature.

(4) Components are reminded that the factors and examples used in this subsection are not all inclusive. Each fee decision must be considered on a case-by-case basis and upon the merits of the information provided in each request. When the element of doubt as to whether to charge or waive the fee cannot be clearly resolved, Components should rule in favor of the requester.

(5) In addition, the following additional circumstances describe situations where waiver or reduction of fees are most likely to be warranted:

(i) A record is voluntarily created to prevent an otherwise burdensome effort to provide voluminous amounts of available records, including additional information not requested.

(ii) A previous denial of records is reversed in total, or in part, and the assessable costs are not substantial (e.g. $15.00–$30.00).

(e) *Fee assessment.* (1) Fees may not be used to discourage requesters, and to this end, FOIA fees are limited to standard charges for direct document search, review (in the case of commercial requesters) and duplication.

(2) In order to be as responsive as possible to FOIA requests while minimizing unwarranted costs to the taxpayer, Components shall adhere to the following procedures:

(i) Analyze each request to determine the category of the requester. If the Component determination regarding the category of the requester is different than that claimed by the requester, the Component shall:

(A) Notify the requester to provide additional justification to warrant the category claimed, and that a search for responsive records will not be initiated until agreement has been attained relative to the category of the requester. Absent further category justification from the requester, and within a reasonable period of time (i.e., 30 calendar days), the Component shall render a final category determination, and notify the requester of such determination, to include normal administrative appeal rights of the determination.

(B) Advise the requester that, notwithstanding any appeal, a search for responsive records will not be initiated until the requester indicates a willingness to pay assessable costs appropriate for the category determined by the Component.

(ii) Requesters should submit a fee declaration appropriate for the following categories:

(A) *Commercial.* Requesters should indicate a willingness to pay all search, review and duplication costs.

(B) *Educational or noncommercial scientific institution or news media.* Requesters should indicate a willingness to pay duplication charges in excess of 100 pages if more than 100 pages of records are desired.

(C) *All others.* Requesters should indicate a willingness to pay assessable search and duplication costs if more than two hours of search effort or 100 pages of records are desired.

(iii) If the conditions are not met as identified in this paragraph (e), then the request need not be processed and the requester shall be so informed.

(iv) In the situations described by paragraphs (e)(2)(i) and (e)(2)(ii) of this section, Components must be prepared to provide an estimate of assessable fees if desired by the requester. While it is recognized that search situations will vary among Components, and that an estimate is often difficult to obtain prior to an actual search, requesters who desire estimates are entitled to such before committing to a willingness to pay. Should Components' actual costs exceed the amount of the estimate or the amount agreed to by the requester, the amount in excess of the estimate or the requester's agreed amount shall not be charged without the requester's agreement.

(v) No DoD Component may require advance payment of any fee; i.e., payment before work is commenced or continued on a request, unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $250.00. As used in this sense, a timely fashion is 30 calendar days from the date of billing (the fees have been assessed in writing) by the Component.

(vi) Where a Component estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250.00, the Component shall notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payments, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment.

(vii) Where a requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 calendar days from the date of the billing), the Component may require the requester to pay the full amount owed, plus any applicable interest, or demonstrate that he or she has paid the fee, and to make an advance payment of the full amount of the estimated fee before the Component begins to process a new or pending request from the requester. Interest will be at the rate prescribed in 31 U.S.C. 3717 and confirmed with respective Finance and Accounting Offices.

(viii) After all work is completed on a request, and the documents are ready for release, Components may request payment before forwarding the documents, particularly for those requesters who have no payment history, or for those requesters who have failed previously to pay a fee in a timely fashion (i.e., within 30 calendar days from the date of the billing). In the case of the latter, the previsions of paragraph (e)(2)(vii) of this section apply.

(ix) When Components act under paragraphs (e)(2)(i) through (e)(2)(vii) of this section, the administrative time limits of the FOIA will begin only after the Component has received a willingness to pay fees and satisfaction as to category determination, or fee payments (if appropriate).

(x) Components may charge for time spent searching for records, even if that search fails to locate records responsive to the request. Components may also charge search and review (in the case of commercial requesters) time if records located are determined to be exempt from disclosure. In practice, if the Component estimates that search charges are likely to exceed $25.00, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his or her willingness to pay fees as high as those anticipated. Such a notice shall offer the requester the opportunity to confer with Component personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(3) *Commercial requesters.* Fees shall be limited to reasonable standard charges for document search, review and duplication when records are requested for commercial use. Requesters must reasonably describe the records sought. (See § 286.4(h))

(i) The term ''commercial use'' request refers to a request from, or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interest of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, Components must determine the use to which a requester will put the documents requested. Moreover, where Component has reasonable cause to doubt the use to which a requester will put the records sought, or where that

use is not clear from the request itself, Components should seek additional clarification before assigning the request to a specific category.

(ii) When Components receive a request for documents for commercial use, they should assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial requesters (unlike other requesters) are not entitled to two hours of free search time, nor 100 free pages of reproduction of documents. Moreover, commercial requesters are not normally entitled to a waiver or reduction of fees based upon an assertion that disclosure would be in the public interest. However, because use is the exclusive determining criteria, it is possible to envision a commercial enterprise making a request that is not for commercial use. It is also possible that a non-profit organization could make a request that is for commercial use. Such situations must be addressed on a case-by-case basis.

(4) *Education institution requesters.* Fees shall be limited to only reasonable standard charges for document duplication (excluding charges for the first 100 pages) when the request is made by an educational institution whose purpose is scholarly research. Requesters must reasonably describe the records sought (see § 286.4(h)). The term ''education institution'' refers to a pre-school, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research. Fees shall be waived or reduced in the public interest if the criteria of paragraph (d) of this section have been met.

(5) *Non-commercial scientific institution requesters.* Fees shall be limited to only reasonable standard charges for document duplication (excluding charges for the first 100 pages) when the request is made by a non-commercial scientific institution whose purpose is scientific research. Requesters must reasonably describe the records sought (see § 286.4(h)). The term ''non-commercial scientific institution'' refers to an institution that is not operated on a ''commercial'' basis as defined in paragraph (e)(3) of this section and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. Fees shall be waived or reduced in the public interest if the criteria of paragraph (d) of this section have been met.

(6) Components shall provide documents to requesters in paragraphs (e)(4) and (e)(5) of this section for the cost of duplication alone, excluding charges for the first 100 pages. To be eligible for inclusion in these categories, requesters must show that the request is being made under the auspices of a qualifying institution and that the records are not sought for commercial use, but in furtherance of scholarly (from an educational institution) or scientific (from a non-commercial scientific institution) research.

(7) *Representatives of the news media.* Fees shall be limited to only reasonable standard charges for document duplication (excluding charges for the first 100 pages) when the request is made by a representative of the news media. Requesters must reasonably describe the records sought (see § 286.4(h)). Fees shall be waived or reduced if the criteria of paragraph (d) of this section have been met.

(i) The term ''representative of the news media'' refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term ''news'' means information that is about current events or that would be or current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of ''news'') who make their products available for purchase or subscription by the general public. These examples are not meant to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of ''freelance'' journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication though that organization, even through not actually employed by it. A publication contract would be the clearest proof, but Components may also look to the past publication record of a requester in making this determination.

(ii) To be eligible for inclusion in this category, a requester must meet the criteria in paragraph (e)(7)(i) of this section and his or her request must not be made for commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use. For example, a document request by a newspaper for records relating to the investigation of a defendant in a current criminal trial of public interest could be presumed to be a request form an entity eligible for inclusion in this category, and entitled to records at the cost of reproduction alone (excluding charges for the first 100 pages).

(iii) ''Representative of the news media'' does not include private libraries, private repositories of Government records, or middlemen, such as information vendors or data brokers.

(8) *All other requesters.* Components shall charge requesters who do not fit into any of the categories described in paragraphs (e)(3), (e)(4), (e)(5), or (e)(7) of this section fees which recover the full direct cost of searching for and duplicating records, except that the first two hours of search time and the first 100 pages of duplication shall be furnished without charge. Requesters must reasonably describe the records sought (see § 286.4(h)). Requests from subjects about themselves will continue to be treated under the fee provisions of the Privacy Act of 1974, which permit fees only for duplication. Components are reminded that this category of requester may also be eligible for a wavier or reduction of fees if disclosure of the information is in the public interest as defined under paragraph (d)(1) of this section. (See also paragraph (e)(3)(ii) of this section)

(f) *Aggregating requests.* Except for requests that are for a commercial use, a Component may not charge for the first two hours of search time or for the first 100 pages of reproduction. However, a requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When a Component reasonably believes that a requester or, on rare occasions, a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of avoiding the assessment of fees, the Agency may aggregate any such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period in which the requests have occurred. For example, it would be reasonable to presume that multiple requests of this type made within a 30 day period had been made to avoid fees. For requests made over a longer period however, such a presumption becomes harder to sustain and Components should have a solid basis for determining that aggregation is warranted in such cases. Components

are cautioned that before aggregating requests from more than one requester, they must have a concrete basis on which to conclude that the requesters are acting in concert and are acting specifically to avoid payment of fees. In no case may Components aggregate multiple requests on unrelated subjects from one requester.

(g) *Effect of the Debt Collection Act of 1982 (5 U.S.C. 5515 note).* The Debt Collect Act of 1982 (5 U.S.C. 5515 note) provides for a minimum annual rate of interest to be charged on overdue debts owed the Federal Government Components may levy this interest penalty for any fees that remain outstanding 30 calendar days from the date of billing (the first demand notice) to the requester of the amount owed. The interest rate shall be as prescribed in 31 U.S.C. 3717 U.S.C. 3717. Components should verify the current interest rate with respective Finance and Accounting Offices. After one demand letter has been sent, and 30 calendar days have lapsed with no payment, Components may submit the debt to respective Finance and Accounting Offices for collection pursuant to 5 U.S.C. 5515 note.

(h) *Computation of fees.* The fee schedule in this subpart shall be used to compute the search, review (in the case of commercial requesters) and duplication costs associated with processing a given FOIA request. Cost shall be computed on time actually spent. Neither time-based no dollar-minimum charges for search, review and duplication are authorized.

§ 286.29 Collection of fees and rates.

(a) *Collection of fees.* Collection of fees will be made at the time of providing the documents to the requester or recipient when the requester specifically states that the costs involved shall be acceptable or acceptable up to a specified limit that covers the anticipated costs. Collection of fees may not be made in advance unless the requester has failed to pay previously assessed fees within 30 calendar days from the date of the billing by the DoD Component, or the Component has determined that the fees will be in excess of $250 (see § 286.28 (e)).

(b) *Search time*—(1) *Manual search.*

Type	Grade	Hourly rate ($)
Clerical	E9/GS8 and below	12
Professional	O1–O1/GS9–GS15.	25
Executive	O7/GS16/ES1 and above.	45

(2) *Computer search.* Fee assessments for computer search consists of two parts; individual time (hereafter referred to as human time), and machine time.

(i) *Human time.* Human time is all time spent by humans performing the necessary tasks to prepare the job for a machine to execute the run command. If execution of a run requires monitoring by a human, that human time may be also assessed as computer search. The terms ''programmer/operator'' shall not be limited to the traditional programmers or operators. Rather, the terms shall be interpreted in their broadest sense to incorporate any human involved in performing the computer job (e.g. technician, administrative support, operator, programmer, database administrator, or action officer).

(ii) *Machine time.* Machine time involves only direct costs of the Central Processing Unit (CPU), input/output devices, and memory capacity used in the actual computer configuration. Only this CPU rate shall be charged. No other machine related costs shall be charged. In situation where the capability does not exist to calculate CPU time, no machine costs can be passed on to the requester. When CPU calculations are not available, only human time costs shall be assessed to requesters. Should DoD Components lease computers, the services charged by the lessor shall not be passed to the requester under the FOIA.

(c) *Duplication.*

Type	Cost per page (cents)
Pre-Printed material	02
Office Copy	15
Microfiche	25
Computer Copies (tapes, discs or printouts).	Actual cost of duplicating the tape, disc or printout (includes operator's time and cost of the medium).

(d) *Review time* (in the case of commercial requesters).

Type	Grade	Hourly rate ($)
Clerical	E9/GS8 and below.	12
Professional	O1–O6/GS9–GS15.	25
Executive	O7/GS16/ES1 and above.	45

(e) *Audiovisual documentary materials.* Search costs are computed as for any other record. Duplication cost is the actual direct cost of reproducing the material, including the wage of the person doing the work. Audiovisual materials provided to a requester need not be in reproducible format or quality.

(f) *Other records.* Direct search and duplication cost for any record not described in this section shall be computed in the manner described for audiovisual documentary material.

(g) *Cost for special services.* Complying with requests for special services is at the discretion of the Components. Neither the FOIA, nor its fee structure cover these kinds of services. Therefore, Components may recover the costs of special services requested by the requester after agreement has been obtained in writing from the requester to pay for one or more of the following services:

(1) Certifying that records are true copies.

(2) Sending records by special methods such as express mail, etc.

§ 286.30 Collection of fees and fee rates for technical data.

(a) *Fees for technical data.* (1) Technical data, other than technical data that discloses critical technology with military or space application, if required to be released under the FOIA, shall be released after the person requesting such technical data pays all reasonable costs attributed to search, duplication and review of the records to be released. Technical data, as used in this section, means recorded information, regardless of the form or method of the recording of a scientific or technical nature (including computer software documentation). This term does not include computer software, or data incidental to contract administration, such as financial an/or management information. DoD Components shall retain the amounts received by such a release, and it shall be merged with and available from which the costs were incurred in complying with request. All reasonable costs as used in this sense are the full costs to the Federal Government of rendering the service, or fair market value of the service, whichever is higher. Fair market value shall be

determined in accordance with commercial rates in the local geographical area. In the absence of a known market value, charges shall be based on recovery of full costs to the Federal Government. The full costs shall include all direct and indirect costs to conduct the search and to duplicate the records responsive to the request. This cost is to be differentiated from the direct costs allowable under this section for other types of information released under FOIA.

(2) *Waiver.* Components shall waive the payment of costs required in paragraph (a)(1) of this section which are greater than the costs that would be required for release of this same information under § 286.29 if:

(i) The request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable it to submit an offer, or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States. However, Components may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, which will be refunded upon submission of an offer by the citizen or corporation;

(ii) The release of technical data is requested in order to comply with the terms of an international agreement; or

(iii) The Component determines in accordance with § 286.28(d)(a), that such a waiver is in the interest of the United States.

(b) *Fee rates*—(1) *Search time*—(i) *Manual search.*

Type	Grade	Hourly rate ($)
Clerical	E9/GS8 and below.	13.25
(Minimum charge).		8.30

(ii) *Professional and executive* (To be established at actual hourly rate prior to search. A minimum charge will be established at ½ hourly rates). Computer search is based on the total cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration. The wage (based upon the scale in paragraph (b)(1)(i) of this section) for the computer operator and/or programmer determining how to conduct, and subsequently executing the search will be recorded as part of the computer search. See § 286.29(b)(2) for further details regarding computer search.

(2) *Duplication.*

Type	Cost
Aerial photograph maps, specifications, permits, charts, blueprints, and other technical engineering documents	$2.50
Engineering data (microfilm):	
Aperture cards:	
Silver duplicate negative, per card	.75
When key punched and verified, per card	.85
Diazo duplicate negative, per card	.65
When key punched and verified, per card	.75
35mm roll film, per frame	.50
16mm roll film, per frame	.45
Paper prints (engineering drawings), each	1.50
Paper reprints of microfilm indices, each	.10

(3) *Review time.*

Type	Grade	Hourly rate ($)
Clerical	E9/GS8 and below.	13.25
(Minimum charge).		8.30

(4) *Professional and executive* (To be established at actual hourly rate prior to review. A minimum charge will be established at an hourly rate).

(5) *Other technical data records.* Charges for any additional services not specifically provided in paragraph (b)(3) of this section consistent with Volume 11A of DoD 7000.14–R,[12] shall be made by Components at the following rates:

Minimum charge for office copy (up to six images)	$3.50
Each additional image	10
Each typewritten page	3.50
Certification and validation with seal, each	5.20
Hand-drawn plots and sketches, each hour or fraction thereof	12.00

Subpart G—Reports

§ 286.33 Reports control.

(a) Each DoD Component shall compile FOIA statistics on a fiscal year basis beginning October 1, 1997, and report same to the Directorate for Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs) (DFOISR, OASD(PA)) no later than November 30 following the fiscal year's close. In turn, DFOISR, OASD(PA) will produce a consolidated DoD report for submission to the Attorney General.

(b) Existing DoD standards and registered data elements are to be utilized to the greatest extent possible in accordance with the provisions of DoD 8320.1–M,[13] ''Data Administration Procedures''.

(c) The reporting requirement outlined in this subpart is assigned Report Control Symbol DD–PA(A)1365.

§ 286.34 Annual report content.

The current edition of DD Form 2564 will be used to submit component input. Instructions for completion follow:

(a) *Item 1.* Initial request determinations.

(1) *Total requests processed.* Enter the total number of initial FOIA requests responded to (completed) during the fiscal year.

Note: Since more than one action frequently is taken on a completed case, Total Actions, (see paragraph (a)(6) of this section) the sum of paragraphs (a)(2) through (a)(5) of this section can exceed *Total Requests Processed* (See Appendix F to this part for form layout).

(2) *Granted in full.* Enter the total number of initial FOIA requests responded to that were granted in full during the fiscal year. (This may include requests granted by your office, yet still requiring action by another office.)

(3) *Denied in part.* Enter the total number of initial FOIA requests responded to and denied in part based on one or more of the nine FOIA exemptions. (Do not report denial of fee waivers.)

(4) *Denied in full.* Enter the total number of initial FOIA requests responded to and denied in full based on one or more of the nine FOIA exemptions. (Do not report denial of fee waivers.)

(5) *''Other reason'' responses.* Enter the total number of initial FOIA requests in which you were unable to provide all or part of the requested information based on an ''other reason'' response. Paragraph (b)(2) of this section explains the six possible ''other reasons''.

(6) *Total Actions.* Enter the total number of FOIA actions taken during the fiscal year. This number will be the sum of paragraph (a)(2) through (a)(5) of this section.

Note. Total actions must be equal to or greater than the number of total requests processed (paragraph (a)(1) of this section).)

(b) *Item 2.* (1) *Exemptions Invoked on Initial REQUEST Determinations.* Enter the number of times an exemption was

[12] See footnote 1 to § 286.1(a).

[13] See footnote 1 to § 286.1(a).

claimed for each request that was denied in full or in part. Since more than one exemption may be claimed when responding to a single request, this number will be equal to or greater than the sum of paragraphs (a)(3) and (a)(4) of this section.

(2) *''Other reasons'' cited on initial determinations.* Identify the ''other reason'' response cited when responding to a FOIA request and enter the number of times each was claimed.

(i) *Transferred request.* Enter the number of times a request was transferred to another DoD component or Federal Agency for action.

(ii) *Lack of records.* Enter the number of times a search of files failed to identify records responsive to subject request.

(iii) *Failure of requester to reasonably describe record.* Enter the number of times a FOIA request could not be acted upon since the requester failed to reasonably describe the record(s) being sought.

(iv) *Other failures by requester to comply with published rules and/or directives.* Enter the number of times a requester failed to follow published rules concerning time, place, fees, and procedures.

(v) *Request withdrawn by requester.* Enter the number of times a requester withdrew a request and/or appeal.

(vi) *Not an agency record.* Enter the number of times a requester was provided a response indicating the requested information was not an agency record.

(vii) *Total.* Enter the sum of paragraph (b)(2)(i) through (b)(2)(vi) of this section. This number will be equal to or greater than the number in paragraph (a)(5) of this section since more than one reason may be claimed for each ''other reason'' response.

(c) *Item 3.* Appeal determinations.

(1) *Total appeal responses.* Enter the total number of FOIA appeals responded to (completed) during the fiscal year.

(2) *Granted in full.* Enter the total number of FOIA appeals responded to and granted in full during the year.

(3) *Denied in part.* Enter the total number of FOIA appeals responded to and denied in part based on one or more of the nine FOIA exemptions.

(4) *Denied in full.* Enter the total number of FOIA appeals responded to and denied in full based on one or more of the nine FOIA exemptions.

(5) *''Other reason'' responses.* Enter the total number of FOIA appeals in which you were unable to provide the requested information based on an ''other reason'' response. Paragraph (b)(2) of this section explains the six possible ''other reasons''.

(6) *Total actions.* Enter the total number of FOIA appeal actions taken during the fiscal year. This number will be the sum of paragraphs (c)(2) through (c)(5) of this section and should be equal or greater than the number of total appeal responses, paragraph (c)(1) of this section.

(d) *Item 4.* (1) *Exemtions invoked on appeal determinations.* Enter the number of times an exemption was claimed for each appeal that was denied in full or in part. Since more than one exemption may be claimed when responding to a single request, this number will be equal to or greater than the sum of paragraphs (c)(3) and (c)(4) of this section.

(2) *''Other reasons'' cited on appeal determinations.* Identify the ''other reason'' response cited when responding to a FOIA appeal and enter the number of times each was claimed. See paragraph (b)(2) of this section for description of ''other reasons''. This number can be equal to or possibly greater than the number in paragraph (c)(5) of this section since more than one reason may be claimed for each ''other reason'' response.

(e) *Item 5. Exemption 3 statutes invoked on initial and appeal determinations.* Identify the number of times you have used a specific statute to support each use of exemption 3 identified in paragraphs (b)(1) and (d)(1) of this section. List the statutes used to support each use of exemption 3; the number of instances in which the statute was cited; note whether or not the statute has been upheld in a court hearing; and provide a concise description of the material withheld in each individual case by the statute's use. Ensure you cite specific sections of acts invoked. To qualify as a 5 U.S.C. 552(b)(3) exemption, the statute must contain clear wording that the information covered will not be disclosed. The total number of instances reported above will be equal to or greater than the total number of 5 U.S.C. 552(b)(3) exemptions listed in paragraphs (b)(1) and (d)(1) of this section.

(f) *Item 6. Number and median age of cases pending as of September 30 of the preceding year.* (1) *Total number of initial requests pending as of September 30, preceding year.* Enter the total number of initial FOIA requests pending (open) as of the day before the current reporting period began (September 30 previous to the reported period, fiscal year).

(2) *Median age of requests pending as of September 30 of the preceding year.* Enter the median age of pending FOIA requests as of the day before the current reporting period began (September 30 previous to the reported period, fiscal year).

(3) *Examples.* (i) Given five cases aged 10, 25, 35, 65, and 100 days from date of receipt as of the previous September 30. The total requests pending is five. The median age (days) of open requests is the middle, not average value, in this set of numbers (10, 25, 35, 65, and 100), 35 (the middle value in the set).

(ii) Given six pending cases, aged 10, 20, 30, 50, 120, and 200 days from date of receipt, as of the previous September 30, the total requests pending is six. The median age (days) of open requests 40 days (the mean [average] of the two middle numbers in the set, in this case the average of middle values 30 and 50).

(g) *Item 7. Number of initial requests received during the fiscal year.* Enter the total number of initial FOIA requests received during the reporting period (fiscal year being reported).

(h) *Item 8. Types of requests processed and median age.* Information is reported for three types of initial requests completed during the reporting period: Simple; Complex; and Expedited Processing. The following items of information are reported for these requests:

(1) *Total number of initial requests.* Enter the total number of initial requests processed during the reporting period (fiscal year) by type (Simple, complex and expedited processing) in the appropriate row on the form.

(2) *Median age (days).* Enter the median number of days required to process each type of case (Simple, complex and expedited processing) during the period in the appropriate row on the form.

(3) *Example.* Given seven initial requests, multitrack—Simple completed during the fiscal year, aged 10, 25, 35, 65, 79, 90 and 400 days when completed. The total number of requests completed was seven. The median age (days) of completed requests is 65, the middle value in the set.

(i) *Item 9. Fees collected from the public.* Enter the total amount of fees collected from the public during the fiscal year. This includes search, review and reproduction costs only.

(j) *Item 10*—(1) *FOIA program costs.*—(i) *Personnel costs.* Paragraphs (j)(1)(i) and (j)(1)(ii) of this section are used to capture man-years and salary costs of personnel primarily involved in planning, program management and/or administrative handling of FOIA requests. Determine salaries for military personnel by using the composite

standard pay rates (DoD 7220.9–M [14]). For civilian personnel use Office of Personnel Management salary table and add 16% for benefits. A sample computation is shown:

Grade	Number of personnel	Salary	Percent of time	Costs
O–5	1	$90,707	10	$9,071
O–1	1	37,545	10	3,755
E–7	1	44,375	50	22,188
Totals	3		70	35,014

(A) *Estimated man-years.* Add the total percentages of time for personnel involved in administering the FOIA program and divide by 100. In the example shown in the table in this paragraph (j)(1)(i), (10+10+50)/100=.7 man-years.

(B) *Man-year costs.* Total costs associated with salaries of individuals involved in administering FOIA program. In the example shown in the table in this paragraph (j)(1)(i), the total cost if $35,014.

(C) *Estimated man-hour costs by category.* This section accounts for all other personnel not reported in paragraphs (j)(1)(i)(A) and (j)(1)(i)(B) of this section who are involved in processing FOIA requests. Enter the total hourly cost for each of the five areas described.

(*1*) *Search time.* This includes only those direct costs associated with time spent looking for material that is responsive to a request, including line-by-line identification of material within a document to determine if it is responsive to the request. Searches may be done manually or by computer using existing programming.

(*2*) *Review and excising.* This includes all direct costs incurred during the process of examining documents located in response to a request to determine whether any portion of any document located is permitted to be withheld. It also includes excising documents to prepare them for release. It does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(*3*) *Coordinatoin and approval.* This includes all costs involved in coordinating the release/denial of documents requested under the FOIA.

(*4*) *Correspondence/form preparation.* This includes all costs involved in typing responses, filling out forms, etc., to respond to a FOIA request.

(*5*) *Other activities.* This includes all other processing costs not covered above, such as processing time by the mail room.

(*6*) *Total.* Enter the sum of paragraphs (j)(1)(A) through (j)(1)(i)(E) of this section.

(D) *Overhead.* This is the cost of supervision, space, and administrative support. It is computed as 25% of the sum of paragraphs (j)(1)(i)(B) and (j)(1)(i)(C) of this section.

(E) *Total.* Enter the sum of paragraphs (j)(1)(i)(B), (j)(1)(i)(C) and (j)(1)(i)(D) of this section.

(ii) *Other case-related costs.* Using the fee schedule, enter the total amounts incurred in each of the following paragraphs.

(A) *Computer search time.* This includes cost of central processing unit, input/output devices, memory, etc. of the computer system used, as well as the wage of the machine's operator/programmer. Since desk top/personal computers have no central processing units, when these systems are involved, computer search shall consist only of personnel time to accomplish the job.

(B) *Office copy reproduction.* This is the cost of reproducing normal documents with office copying equipment.

(C) *Microfiche reproduction.* This is the cost of reproducing records and providing microfiche.

(D) *Printed records.* This is the cost of providing reproduced copies of forms, publications, or reports.

(E) *Computer copy.* This is the actual cost of duplicating magnetic tapes, floppy diskettes, computer printouts, etc.

(F) *Audiovisual materials.* This is the actual cost of duplicating audio or video tapes or like materials, to include the wage of the person doing the work.

(G) *Other.* Report all other costs which are easily identifiable, such as per diem, operation of courier vehicles, training courses, printing (indexes and forms), long distance telephone calls, special mail services, use of indicia, etc.

(H) *Subtotal.* Enter the sum of paragraphs (j)(1)(ii)(A) through (j)(1)(ii)(G) of this section.

(I) *Overhead.* This is the cost of supervision, space, and administrative support. It is computed as 25% of paragraph (j)(1)(ii)(H) of this section.

(J) *Total.* Enter the sum of paragraphs (j)(1)(ii)(H) and (j)(1)(ii)(I) of this section.

(iii) *Cost of routine requests processed.* This item is optional. Some reporting activities may find it economical to develop an average cost factor for processing repetitive routine requests rather than tracking costs on each request as it is processed. Care should be exercised so that costs are comprehensive to include a 25% overhead, yet are not duplicated elsewhere in the report. Multiply the number of routine requests processed time the cost factor to compute this amount.

(iv) *Total costs.* Enter the sum of paragraphs (j)(1)(i) through (j)(1)(iii) of this section.

(2) *Number of full time staff.* Enter the number of people in your agency that process FOIA actions full time.

(k) *Item 11. Date report prepared.* Enter the date the report was completed and signed by an approving official.

(l) *Item 12. Name, address & phone number of agency.* Enter data for the agency or activity that prepared the report.

(m) *Item 13. Signature, typed name, and title of approving official.* Enter the name and title of the individual approving the report. Approval of the report is indicated by the official's signature.

Subpart H—Education and Training

§ 286.37 Respnsibility and purpose.

(a) *Responsibility.* The Head of each DoD Component is responsible for the establishment of educational and training programs on the provisions and requirements of this part. The educational programs should be targeted toward all members of the DoD Component, developing a general understanding and appreciation of the DoD FOIA Program; whereas, the training programs should be focused toward those personnel who are

[14] See footnote 1 to § 286.1(a).

involved in the day-to-day processing of FOIA requests, and should provide a thorough understanding of the procedures outlined in this part.

(b) *Purpose.* The purpose of the educational and training programs is to promote a positive attitude among DoD personnel and raise the level of understanding and appreciation of the DOD FOIA Program, thereby improving the interaction with members of the public and improving the public trust in the DoD.

(c) *Scope and principles.* Each Component shall design its FOIA educational and training programs to fit the particular requirements depending upon their degree of involvement in the implementation of this part. The program should be designed to accomplish the following objectives:

(1) Familiarize personnel with the requirements of the FOIA and its implementation by this part.

(2) Instruct personnel, who act in FOIA matters, concerning the provisions of this part, advising them of the legal hazards involved and the strict prohibition against arbitrary and capricious withholding of information.

(3) Provide for the procedural and legal guidance and instruction, as may be required, in the discharge of the responsibilities of initial denial and appellate authorities.

(4) Advise personnel of the penalties for noncompliance with the FOIA.

(d) *Implementation.* To ensure uniformity of interpretation, all major educational and training programs concerning the implementation of this part should be coordinated with the Director, Freedom of Information and Security Review, OASD(PA).

(e) *Uniformity of legal interpretation.* In accordance with DoD Directive 5400.7, the DoD Office of the General Counsel shall ensure uniformity in the legal position and interpretation of the DoD FOIA Program.

Appendix A to Part 286—Combatant Commands—Processing Procedures for FOIA Appeals

1. General

a. In accordance with DoD Directive 5400 [1] and this part, the Combatant Commands are placed under the jurisdiction of the Office of the Secretary of Defense, instead of the administering Military Department, only for the purpose of administering the Freedom of Information Act (FOIA) Program. This policy represents an exception to the policies in DoD Directive 5100.3.[2]

b. The policy change in paragraph 1.a. of this section authorizes and requires the Combatant Commands to process FOIA requests in accordance with DoD Directive 5100.7 and DoD Instruction 54001.10 [3] and to forward directly to the OASD(PA) all correspondence associated with the appeal of an initial denial for information under the provisions of the FOIA.

2. Responsibilities of Commands

Combatant Commanders in Chief shall:

a. Designate the officials authorized to deny initial FOIA requests for records.

b. Designate an office as the point-of-contact for FOIA matters.

c. Refer FOIA cases to the OASD(PA) for review and evaluation when the issues raised are of unusual significance, precedent setting, or otherwise require special attention or guidance.

d. Consult with other OSD and DoD Components that may have a significant interest in the requested record prior to a final determination. Coordination with Agencies outside of the Department of Defense, if required, is authorized.

e. Coordinate proposed denials of records with the appropriate Combatant Command's Office of the Staff Judge Advocate.

f. Answer any request for a record within 10 working days (20 working days effective October 2, 1997) of receipt. The requester shall be notified that his request has been granted or denied. In unusual circumstances, such notification may state that additional time, not to exceed 10 working days, is required to make determination.

g. Provide to the OASD(PA) when the request for a record is denied in whole or in part, a copy of the response to the requester or his representative, and any internal memoranda that provide background information or rationale for the denial.

h. State in the response that the decision to deny the release of the requested information, in whole or in part, may be appealed to the Assistant Secretary of Defense for Public Affairs, Directorate for Freedom of Information and Security Review, Room 2C757, the Pentagon, Washington, DC 20301–1400.

i. Upon request, submit to OASD(PA) a copy of the records that were denied. ASD(PA) shall make such requests when adjudicating appeals.

3. Fees for FOIA Requests

The fees charged for requested records shall be in accordance with subpart F of this part.

4. Communications

Excellent communication capabilities currently exists between the OASD(PA) and the Public Affairs Offices of the Combatant Commands. This communication capability shall be used for FOIA cases that are time sensitive.

5. Information Requirements

a. The Combatant Commands shall submit to the OASD(PA) an annual report. The instructions for the report are outlined in subpart G of this part.

b. The annual reporting requirement contained in this regulation shall be submitted in duplicate to the OASD(PA) not later than each November 30. This reporting requirement has been assigned Report Control Symbol DD-PA(A) 1365 in accordance with DoD 8910.1-M. [4]

Appendix B to Part 286—Addressing FOIA Requests

1. General

a. The Department of Defense includes the Office of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Military Departments, the Combatant Commands, the Inspector General, the Defense Agencies, and the DoD Field Activities.

b. The Department of Defense does not have a central repository for DoD records. FOIA requests, therefore, should be addressed to the DoD Component that has custody of the record desired. In answering inquiries regarding FOIA requests, DoD personnel shall assist requesters in determining the correct DoD Component to address their requests. If there is uncertainty as to the ownership of the record desired, the requester shall be referred to the DoD Component that is most likely to have the record.

2. Listing of DoD Component Addresses for FOIA Requests

a. *Office of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff.* Send all requests for records from the below listed offices to: Office of the Assistant Secretary of Defense (Public Affairs), ATTN: Directorate for Freedom of Information and Security Review, Room 2C757, 1400 Defense Pentagon, Washington, DC 20301–1400.

(1) Executive Secretariat

(2) Under Secretary of Defense (Policy)

(i) Assistant Secretary of Defense (International Security Affairs)

(ii) Assistant Secretary of Defense (International Security Policy)

(iii) Assistant Secretary of Defense (Special Operations & Low Intensity Conflict)

(iv) Assistant Secretary of Defense (Strategy & Requirements)

(v) Deputy to the Under Secretary of Defense (Policy Support)

(vi) Director of Net Assessment

(vii) Defense Security Assistant Agency

(viii) Defense technology Security Administration

(3) Under Secretary of Defense (Acquisition & Technology)

(i) Deputy Under Secretary of Defense (Logistics)

(ii) Deputy Under Secretary of Defense (Advanced Technology)

(iii) Deputy Under Secretary of Defense (Acquisition Reform)

(iv) Deputy Under Secretary of Defense (Environmental Security)

(v) Deputy Under Secretary of Defense (Space)

(vi) Deputy Under Secretary of Defense (International & Commercial Programs)

(vii) Deputy Under Secretary of Defense (Industrial Affairs & Installations)

[1] Copies may be obtained, at cost, from the National Technical Information Service 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to section 1.a. of this appendix.

[3] See footnote 1 to section 1.a. of this appendix.

[4] See footnote 1 to section 1.a. of this appendix.

(viii) Assistant to the Secretary of Defense (Nuclear, Chemical & Biological Defense Programs)
(ix) Director, Defense Research & Engineering
(x) Director, Small & Disadvantaged Business Utilization
(xi) Director, Defense Procurement
(xii) Director, Test Systems Engineering & Evaluation
(xiii) Director, Strategic & Tactical Systems
(xiv) Director, Administration and Management
(xv) Defense Evaluation Support Activity
(xvi) DoD Radiation Experiments Command Center
(xvii) On-Site Inspection Agency
(4) Under Secretary of Defense (Comptroller)
(5) Director Program Analysis and Evaluation
(6) Under Secretary of Defense (Personnel & Readiness)
(i) Assistant Secretary of Defense (Health Affairs)
(ii) Assistant Secretary of Defense (Legislative Affairs)
(iii) Assistant Secretary of Defense (Public Affairs)
(iv) Assistant Secretary of Defense (Command, Control, Communications & Intelligence)
(v) Assistant Secretary of Defense (Reserve Affairs)
(7) General Counsel, Department of Defense
(8) Director, Operational Test and Evaluation
(9) Assistant to the Secretary of Defense (intelligence Oversight)
(10) Defense Advanced Research Projects Agency
(11) Ballistic Missile Defense Organization
(12) Defense Systems Management College
(13) National Defense University
(14) Armed Forces Staff College
(15) Department of Defense Dependents Schools
(16) Uniformed Services University of the Health Sciences
(17) Armed Forces Radiology Research Institute
(18) Washington Headquarters Service

b. *Department of the Army.* Army records may be requested from those Army officials who are listed in 32 CFR part 518. Send requests to the Freedom of Information and Privacy Acts Office, SAIS–IA–R/FP, Suite 201, 1725 Jefferson Davis Hwy, Arlington, VA 22202–4102, for records of the Headquarters, U.S. Army, or if there is uncertainty as to which Army activity may have the records.

c. *Department of the Navy.* Navy and Marine Corps records may be requested from any Navy or Marine Corps activity by addressing a letter to the Commanding Officer and clearly indicating that it is an FOIA request. Send requests to Chief of Naval Operations, NO9B30, 2000 Navy, Pentagon, Washington, DC 20350–2000, for records of the Headquarters, Department of the Navy, and to Commandant of the Marine Corps, (ARAD), Headquarters U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775, for records of the U.S. Marine Corps, or if there is uncertainty as to which Navy or Marine activities may have the records.

d. *Department of the Air Force.* Air Force records may be requested from the Commander of any Air Force installation, major command, or field operating agency (ATTN: FOIA Office). For Air Force records of Headquarters, United States Air Force, or if there is uncertainty as to which Air Force activity may have the records, send requests to Department of the Air Force, OL–P, 11CS/SCSR(FOIA), Room 4A1088C, 1000 Air Force, Pentagon, Washington, DC 20330–1000.

e. *Defense Contract Audit Agency (DCAA).* DCAA records may be requested from any of its regional offices or from its Headquarters. Requesters should send FOIA requests to the Defense Contract Audit Agency, ATTN: CMR, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060–6219, for records of its headquarters or if there is uncertainty as to which DCAA region may have the records sought.

f. *Defense Information Systems Agency (DISA).* DISA records may be requested from any DISA field activity or from its Headquarters. Requesters should send FOIA requests to Defense Information Systems Agency, Regulatory/General Counsel, 701 South Courthouse Road, Arlington, VA 22204–2199.

g. *Defense Intelligence Agency (DIA).* FOIA requests for DIA records may be addressed to Defense Intelligence Agency, ATTN: SVI–1, Washington, DC 20340–5100.

h. *Defense Investigative Service (DIS).* All FOIA requests for DIS records should be sent to the Defense Investigative Service, Office of FOIA and Privacy V0020, 1340 Braddock Place, Alexandria, VA 22314–1651.

i. *Defense Logistics Agency (DLA).* DLA records may be requested from its headquarters or from any of its field activities. Requesters should send FOIA requests to Defense Logistics Agency, ATTN: DLA/CAAV, John J. Kingman Road, Suite 2533, Ft. Belvoir, VA 22060–6221.

j. *National Imagery and Mapping Agency (NIMA).* FOIA requests for NIMA records may be sent to the National Imagery and Mapping Agency, General Counsel's Office, GCM, Mail Stop D–10, 4600 Sangamore Road, Bethesda, MD 20816–5003.

k. *Defense Special Weapons Agency (DSWA).* FOIA requests for DSWA records may be sent to the Defense Special Weapons Agency, Public Affairs Office, Room 113, 6801 Telegraph Road, Alexandria, VA 22310–3398.

l. *National Security Agency (NSA).* FOIA requests for NSA records may be sent to the National Security Agency/Central Security Service, FOIA/PA Services, N5P5, 9800 Savage Road, Suite 6248, Fort George G. Meade, MD 20755–6248.

m. *Inspector General of the Department of Defense (IG, DoD).* FOIA requests for IG, DoD records may be sent to the Inspector General of the Department of Defense, Chief FOIA/PA Office, 400 Army Navy Drive, Room 405, Arlington, VA 22202–2884.

n. *Defense Finance and Accounting Service (DFAS).* DFAS records may be requested from any of its regional offices or from its Headquarters. Requesters should send FOIA requests to Defense Finace and Accounting Service, Directorate for External Services, Crystal Mall 3, Room 416, Arlington, VA 22240–5291, for records of its Headquarters, or if there is uncertainty as to which DFAS region may have the records sought.

o. *National Reconnaissance Office (NRO).* FOIA requests for NRO records may be sent to the National Reconnaissance Office, Information Access and Release Center, Attn: FOIA Officer, 14675 Lee Road, Chantilly, VA 20151–1715.

3. Other Addresses

Although the following organizaitons are OSD and Chairman of the Joint Chiefs of Staff Components for the purposes of the FOIA, requests may be sent directly to the addresses indicated:

a. *Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS).* Director, OCHAMPUS, ATTN: Freedom of Information Officer, Aurora, CO 80045–6900.

b. *Chairman Armed Services Board of Contract Appeals (ASBCA).* Chairman, Armed Services Board of Contract Appeals, Skyline Six Rm 703, 5109 Leesburg Pike, Falls Church, VA 22041–3208.

c. *U.S. Central Command.* Commander-in-Chief, Central Command, CCJ1/AG, MacDill Air Force Base, FL 33608–7001.

d. *U.S. European Command.* Commander-in-Chief, Headquarters, U.S. European Command/ECJ1–AA(FOIA) Unit 30400 Box 1000, APO AE 09128–4209.

e. *U.S. Southern Command.* Commander-in-Chief, U.S. Southern Command, Unit 1110, SCJ1–A, APO AA 34003–0007.

f. *U.S. Pacific Command.* Commander-in-Chief, U.S. Pacific Command, USPACOM FOIA Coordinator (J042), Administrative Support Division, Joint Secretariat, Box 28, Camp H.M. Smith, HI 96861–5025.

g. *U.S. Special Operations Command.* Commander-in-Chief, U.S. Special Operations Command, Chief, Command Information Management Branch, ATTN: SOJ6–SI, 7701 Tampa Point Blvd., MacDill Air Force Base, FL 33621–5323.

h. *U.S. Atlantic Command.* Commander-in-Chief, U.S. Atlantic Command, Code J02P, Norfolk, VA 23511–5100.

i. *U.S. Space Command.* Commander-in-Chief, U.S. Space Command, Command Records Manager/FOIA/PA Officer, 150 Vandenberg Street, Suite 1105, Peterson Air Force Base, CO 80914–5400.

j. *U.S. Transportation Command.* Commander-in-Chief, U.S. Transportation Command, ATTN: TCIM–F, 508 Scott Drive, Scott Air Force Base, IL 62225–5357.

k. *U.S. Strategic Command.* Commander-in-Chief, U.S. Strategic Command, Attn: J0734, 901 SAC Blvd., Suite 1E5, Offutt Air Force Base, NE 68113-6073.

4. National Guard Bureau

FOIA requests for National Guard Bureau records may be sent to the Chief, National Guard Bureau, ATTN: NGB–ADM, Room 2C363, 2500 Army Pentagon, Washington, DC 20310–2500.

5. Miscellaneous

If there is uncertainty as to which DoD Component may have the DoD record sought, the requester may address a Freedom of Information request to the Office of the Assistant Secretary of Defense (Public Affairs), Directorate for Freedom of

Information and Security Review, Room 2C757, 1400 Defense Pentagon, Washington, DC 20301–1400.

Appendix C to Part 286—Other Reason Categories

1. Transportation Requests

This category applies when responsibility for making a determination or a decision on category 2, 3, or 4 of this appendix is shifted from one Component to another, or to another Federal Agency.

2. Lack of Records

This category covers those situations wherein the requester is advised the DoD Component has no record or has no statutory obligation to create a record.

3. Failure of Requester To Reasonably Describe Record

This category is specifically based on section 552(a)(3)(a) of the FOIA.

4. Other Failures by Requesters To Comply With Published Rules or Directives

This category is based on Section 552(a)(3)(b) of the FOIA and includes instances of failure to follow published rules concerning time, place, fees, and procedures.

5. Request Withdrawn by Requester

This category covers those situations wherein the requester asks an agency to disregard the request (or appeal) or pursues the request outside FOIA channels.

6. Not an Agency Record

This category covers situations where the information requested is not an agency record within the meaning of the FOIA and this part.

BILLING CODE 5000–04–M

Appendix D to Part 286-

RECORD OF FREEDOM OF INFORMATION (FOI) PROCESSING COST

Please read instructions on back before completing form.

1. REQUEST NUMBER	2. TYPE OF REQUEST *(X one)*				3. DATE COMPLETED *(YYYYMMDD)*
		a. INITIAL		b. APPEAL	

4. CLERICAL HOURS *(E-9/GS-8 and below)*	TOTAL HOURS (1)		HOURLY RATE (2)		COST (3)
a. SEARCH		X	$12.00	=	*
b. REVIEW/EXCISING					**
c. CORRESPONDENCE AND FORMS PREPARATION					
d. OTHER ACTIVITY					

5. PROFESSIONAL HOURS *(O-1 - O-6/GS-9 - GS-15)*	TOTAL HOURS (1)		HOURLY RATE (2)		COST (3)
a. SEARCH		X	$25.00	=	*
b. REVIEW/EXCISING					**
c. COORDINATION/APPROVAL/DENIAL					
d. OTHER ACTIVITY					

6. EXECUTIVE HOURS *(O-7 - GS-16/ES 1 and above)*	TOTAL HOURS (1)		HOURLY RATE (2)		COST (3)
a. SEARCH		X	$45.00	=	*
b. REVIEW/EXCISING					**
c. COORDINATION/APPROVAL/DENIAL					

7. COMPUTER SEARCH	TOTAL HOURS (1)		HOURLY RATE (2)		COST (3)
a. MACHINE HOURS		X		=	*
b. PROGRAMMER/OPERATOR TIME					
(1) Clerical			$12.00		*
(2) Professional			$25.00		*

8. OFFICE COPY REPRODUCTION	NUMBER (1)		RATE (2)		COST (3)
a. PAGES REPRODUCED		X	.15	=	*

9. MICROFICHE REPRODUCTION	NUMBER (1)		RATE (2)		COST (3)
a. MICROFICHE REPRODUCED		X	.25	=	*

10. PRINTED RECORDS	TOTAL PAGES (1)		RATE (2)		COST (3)
a. FORMS		X	.02	=	*
b. PUBLICATIONS					*
c. REPORTS					*

11. COMPUTER COPY	NUMBER (1)		ACTUAL COST (2)		COST (3)
a. TAPE		X		=	*
b. PRINTOUT					*

12. AUDIOVISUAL MATERIALS	NUMBER (1)		ACTUAL COST (2)		COST (3)
a. MATERIALS REPRODUCED		X		=	*

13. FOR FOI OFFICE USE ONLY

a. SEARCH FEES PAID		f. TOTAL COLLECTABLE COSTS	
b. REVIEW FEES PAID		g. TOTAL PROCESSING COSTS	
c. COPY FEES PAID		h. TOTAL CHARGED	
d. TOTAL PAID		i. FEES WAIVED/REDUCED *(X one)*	Yes / No
e. DATE PAID *(YYYYMMDD)*			

** Chargeable to all requesters after application of all waiver criteria.*
*** Chargeable only to commercial requesters.*

DD FORM 2086, MAY 1997 PREVIOUS EDITION IS OBSOLETE.

INSTRUCTIONS FOR COMPLETING DD FORM 2086

This form is used to record costs associated with the processing of a Freedom of Information request.

1. REQUEST NUMBER - First two digits will express Calendar Year followed by dash (-) and Component's request number, i.e., 97-001.

2. TYPE OF REQUEST - Mark the appropriate block to indicate initial request or appeal of a denial.

3. DATE COMPLETED - Enter year, month and day, i.e., 19970621.

4. CLERICAL HOURS - For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search - Time spent in locating from the files the requested information.

Review/Excising - Time spent in reviewing the document content and determining if the entire document must retain its classification or segments could be excised thereby permitting the remainder of the document to be declassified. In reviews for other than classification, FOI exemptions 2 through 9 should be considered.

Correspondence and Forms Preparation - Time spent in preparing the necessary correspondence and forms to answer the request.

Other Activity - Time spent in activity other than above, such as duplicating documents, hand carrying documents to other locations, restoring files, etc.

- Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category.

5. PROFESSIONAL HOURS - For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search/Review/Excising, and Other Activity - See explanation above.

Coordination/Approval/Denial - Time spent coordinating the staff action with interested offices or agencies and obtaining the approval for the release or denial of the requested information.

- Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category.

6. EXECUTIVE HOURS - For each applicable activity category, enter the time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search/Review/Excising - See explanation above.

Coordination/Approval/Denial - See explanation above.

- Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category.

7. COMPUTER SEARCH - When the amount of government- owned (not leased) computer processing machine time required to complete a search is known, and accurate cost information for operation on an hourly basis is available, enter the time used and the hourly rate. Then, calculate the total cost which is fully chargeable to the requester.

- Programmer and operator costs are calculated using the same method as in Items 4 and 5. This cost is also fully chargeable to requesters as computer search time.

8. OFFICE COPY REPRODUCTION - Enter the number of pages reproduced.

- Multiply by the rate per copy and enter cost figures.

9. MICROFICHE REPRODUCTION - Enter the number of microfiche copies reproduced.

- Multiply by the rate per copy and enter cost figures.

10. PRINTED RECORDS - Enter total pages in each category. The categories are:

Forms *(Include any type of printed forms)*

Publications *(Include any type of bound document, such as directives, regulations, studies, etc.)*

Reports *(Include any type of memorandum, staff action paper, etc.)*

- Multiply the total number of pages in each category by the rate per page and enter cost figures.

11. COMPUTER COPY - Enter the total number of tapes and/or printouts.

- Multiply by the actual cost per tape or printout and enter cost figures.

12. AUDIOVISUAL MATERIALS - Duplication cost is the actual cost of reproducing the material, including the wages of the person doing the work.

13. FOR FOI OFFICE USE ONLY -

Search Fees Paid - Enter total search fees paid by the requester.

Review Fees Paid - Enter total review fees paid by the requester.

Copy Fees Paid - Enter the total of copy fees paid by the requester.

Total Paid - Add search fees paid and copy fees paid. Enter total in the total paid block.

Date Paid - Enter year, month, and day, i.e., 19971024, the fee payment was received.

Total Collectable Costs - Add the blocks in the cost column marked with an asterisk and enter total in the total collectable cost block. Apply the appropriate waiver for the category of requester prior to inserting the final figure. Further discussion of chargeable fees is contained in Chapter VI of DoD Regulation 5400.7-R.

Total Processing Costs - Add all blocks in the cost column and enter total in the total processing cost block. The total processing cost in most cases will exceed the total collectable cost.

Total Charged - Enter the total amount that the requester was charged, taking into account the fee waiver threshold and fee waiver policy.

Fees Waived/Reduced - Indicate if the cost of processing the request was waived or reduced by placing an "X" in the "Yes" block or the "No" block.

DD FORM 2086 (BACK), MAY 1997

Appendix E to Part 286--

RECORD OF FREEDOM OF INFORMATION (FOI) PROCESSING COST FOR TECHNICAL DATA

Please read instructions on back before completing form.

1. REQUEST NUMBER	2. TYPE OF REQUEST *(X one)*		3. DATE COMPLETED *(YYYYMMDD)*
	a. INITIAL	b. APPEAL	

4. CLERICAL HOURS *(E-9/GS-8 and below)*	TOTAL HOURS (1)		HOURLY RATE (2)		COST (3)
a. SEARCH		X	$13.25	=	*
b. REVIEW/EXCISING					*
c. CORRESPONDENCE AND FORMS PREPARATION					
d. OTHER ACTIVITY					
e. MINIMUM CHARGE			$ 8.30		

5. PROFESSIONAL HOURS *(O-1 - O-6/GS-9 - GS/GM-15)*	TOTAL HOURS (1)		HOURLY RATE (2)		COST (3)
a. SEARCH		X	ACTUAL HOURLY RATE	=	*
b. REVIEW/EXCISING					*
c. COORDINATION/APPROVAL/DENIAL					
d. OTHER ACTIVITY					
e. MINIMUM CHARGE			1/2 HOURLY RATE		

6. EXECUTIVE HOURS *(O-7/GM-16/ES 1 and above)*	TOTAL HOURS (1)		HOURLY RATE (2)		COST (3)
a. SEARCH		X	ACTUAL HOURLY RATE	=	*
b. REVIEW/EXCISING					*
c. COORDINATION/APPROVAL/DENIAL					
d. MINIMUM CHARGE			1/2 HOURLY RATE		

7. COMPUTER SEARCH	TOTAL HOURS (1)		HOURLY RATE (2)		COST (3)
a. MACHINE HOURS		X		=	*
b. PROGRAMMER/OPERATOR TIME					
- Clerical			$13.25 OR MINIMUM		*
- Professional			ACTUAL OR MINIMUM		*

8. REPRODUCTION	NUMBER (1)		RATE (2)		COST (3)
a. AERIAL PHOTOGRAPHS, SPECIFICATIONS, PERMITS, CHARTS, BLUEPRINTS, AND OTHER TECHNICAL DOCUMENTS		X	$ 2.50	=	*
b. ENGINEERING DATA *(Microfilm)*					
- Aperture cards					
-- Silver duplicate negative, per card			.75		*
-- When keypunched and verified, per card			.85		*
-- Diazo duplicate negative, per card			.65		*
-- When keypunched and verified, per card			.75		*
- 35 mm roll film, per frame			.50		*
- 16 mm roll film, per frame			.45		*
- Paper prints *(engineering drawings)*, each			1.50		*
- Paper reprints of microfilm indices, each			.10		*
c. AUDIOVISUAL MATERIALS *(Insert actual cost in block (2))*					*
d. OTHER TECHNICAL DATA RECORDS Charges for any additional services not specifically provided above shall be made by components at the following rates:					
- Minimum charge for office copy *(up to six images)*			$ 3.50		*
- Each additional image		X	.10	=	*
- Each typewritten page			3.50		*
- Certification and validation with seal, each			5.20		*
- Hand-drawn plots and sketches, each hour or fraction thereof			12.00		*

** Chargeable to all requesters.*

9. FOR FOI OFFICE USE ONLY						
a. SEARCH FEES PAID		f. TOTAL COLLECTABLE				
b. REVIEW FEES PAID		g. TOTAL PROCESSING				
c. COPY FEES PAID		h. TOTAL CHARGED				
d. TOTAL PAID		i. FEES WAIVED/REDUCED *(X one)*		YES		NO
e. DATE PAID *(YYYYMMDD)*						

DD FORM 2086-1, MAY 1997 PREVIOUS EDITION IS OBSOLETE.

INSTRUCTIONS FOR COMPLETING DD FORM 2086-1

This form is used to record costs associated with the processing of a Freedom of Information request for technical data.

1. REQUEST NUMBER - First two digits will express Calendar Year followed by dash (-) and Component's request number, i.e., 87-001.

2. TYPE OF REQUEST - Mark the appropriate block to indicate initial request or appeal of a denial.

3. DATE COMPLETED - Enter year, month and day, i.e., 19970621.

4. CLERICAL HOURS - For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search - Time spent in locating from the files the requested information.

Review/Excising - Time spent reviewing the document content and determining if the entire document must retain its classification or segments could be excised thereby permitting the remainder of the document to be declassified. In reviews for other than classification, FOI exemptions 2 through 9 should be considered.

Correspondence and Forms Preparation - Time spent in preparing the necessary correspondence and forms to answer the request.

Other Activity - Time spent in activity other than above, such as duplicating documents, hand carrying documents to other locations, restoring files, etc.

- Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category. Both search and review costs are chargeable to the requester.

5. PROFESSIONAL HOURS - For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search/Review/Excising, and Other Activity - See explanation above.

Coordination/Approval/Denial - Time spent coordinating the staff action with interested offices or agencies and obtaining the approval for the release or denial of the requested information.

- Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category. Both search and review costs are chargeable to the requester.

6. EXECUTIVE HOURS - For each applicable activity category, enter the time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search/Review/Excising - See explanation above.

Coordination/Approval/Denial - See explanation above.

- Multiply the time in the total hours column in each category by the hourly rate and enter the cost figures for each category. Review costs are chargeable to the requester.

7. COMPUTER SEARCH - When the amount of government-owned (not leased) computer processing machine time is known, and accurate cost information for operation on an hourly basis is available, enter the time used and the hourly rate. Then, calculate the total cost which is fully chargeable to the requester.

- Programmer and operator costs are calculated using the same method as in Items 4 and 5. This cost is also fully chargeable to requesters as computer search time.

8. REPRODUCTION - Enter the number of pages or items reproduced.

- Multiply by the rate per copy and enter cost figures. The entire cost is chargeable to the requester. Reproduction cost for audiovisual material is the actual cost of reproducing the material, including the wage of the person doing the work.

9. FOR FOI OFFICE USE ONLY -

Search Fees Paid - Enter total search fees paid by the requester.

Review Fees Paid - Enter total review fees paid by the requester.

Copy Fees Paid - Enter the total of copy fees paid by the requester.

Total Paid - Add search fees paid and copy fees paid. Enter total in the total paid block.

Date Paid - Enter year, month, and day, i.e., 19971024, the fee payment was received.

Total Collectable Costs - Add the blocks in the cost column marked with an asterisk and enter total in the total collectable cost block. Only search, reproduction and printed records are chargeable to the requester. Further discussion of collectable costs is contained in Chapter VI, Section 3, DoD Regulation 5400.7-R.

Total Processing Costs - Add all blocks in the cost column and enter total in the total processing cost block. The total processing cost in most cases will exceed the total collectable cost.

Total Charged - Enter the total amount that the requester was charged, taking into account the fee waiver threshold and fee waiver policy.

Fees Waived/Reduced - Indicate if the cost of processing the request was waived or reduced by placing an "X" in the "YES" block or an "X" in the "NO" block.

Appendix F to Part 286--

ANNUAL REPORT FREEDOM OF INFORMATION ACT	REPORT CONTROL SYMBOL

1. INITIAL REQUEST DETERMINATIONS

a. TOTAL REQUESTS	b. GRANTED IN FULL	c. DENIED IN PART	d. DENIED IN FULL	e. "OTHER REASONS"	f. TOTAL ACTIONS

2a. EXEMPTIONS INVOKED ON INITIAL REQUEST DETERMINATIONS

(b) (1)	(b) (2)	(b) (3)	(b) (4)	(b) (5)	(b) (6)	(b) (7)	(b) (8)	(b) (9)

2b. "OTHER REASONS" CITED ON INITIAL REQUEST DETERMINATIONS

1	2	3	4	5	6	TOTAL

3. APPEAL DETERMINATIONS

a. TOTAL REQUESTS	b. GRANTED IN FULL	c. DENIED IN PART	d. DENIED IN FULL	e. "OTHER REASONS"	f. TOTAL ACTIONS

4a. EXEMPTIONS INVOKED ON APPEAL DETERMINATIONS

(b) (1)	(b) (2)	(b) (3)	(b) (4)	(b) (5)	(b) (6)	(b) (7)	(b) (8)	(b) (9)

4b. "OTHER REASONS" CITED ON APPEAL DETERMINATIONS

1	2	3	4	5	6	TOTAL

5. b (3) STATUTES INVOKED ON INITIAL AND APPEAL DETERMINATIONS *(Continue on plain paper as necessary)*

(1)(b)(3) STATUTE CLAIMED	NUMBER OF INSTANCES	COURT UPHELD? *(Yes or No)*	CONCISE DESCRIPTION OF MATERIAL WITHHELD

DD FORM 2564, MAY 1997 PREVIOUS EDITION IS OBSOLETE AFTER COMPLETION OF THE CY 1997 REPORT.

6. NUMBER AND MEDIAN AGE OF CASES PENDING AS OF SEPTEMBER 30 OF THE PRECEDING YEAR	
a. TOTAL INITIAL REQUESTS PENDING *(open)* AS OF SEPTEMBER 30	
b. MEDIAN AGE *(in days)* OF OPEN INITIAL REQUESTS	
7. TOTAL NUMBER OF INITIAL REQUESTS RECEIVED DURING THE FISCAL YEAR	

8. TYPES OF INITIAL REQUESTS PROCESSED AND MEDIAN AGE		
	TOTAL NUMBER OF CASES	MEDIAN AGE *(Days)*
a. SIMPLE		
b. COMPLEX		
c. EXPEDITED PROCESSING		
9. TOTAL AMOUNT COLLECTED FROM THE PUBLIC		$

10a. FOI PROGRAM COSTS			
I. PERSONNEL COSTS		II. OTHER CASE-RELATED COSTS	
A. ESTIMATED MANYEARS		A. COMPUTER SEARCH TIME	$
B. MANYEAR COSTS	$	B. OFFICE COPY REPRODUCTION	$
C. ESTIMATED MANHOUR COSTS BY		C. MICROFICHE REPRODUCTION	$
(1) Search Time	$	D. PRINTED RECORDS	$
(2) Review and Excising	$	E. COMPUTER COPY	$
(3) Coordination and Approval	$	F. AUDIOVISUAL MATERIALS	$
(4) Correspondence/Form Preparation	$	G. OTHER	$
(5) Other Activities	$	H. SUBTOTAL *(A through G)*	$
(6) Total *((1) through (5))*	$	I. OVERHEAD *(25% x H)*	$
D. OVERHEAD *((B+C) x 25%)*	$	J. TOTAL *(H+I)*	$
E. TOTAL *(B through D)*	$		
III. COST OF ROUTINE REQUESTS PROCESSED	$	IV. TOTAL COSTS *(I through III)*	$

10b. NUMBER OF FULL TIME STAFF	11. DATE REPORT PREPARED
12. AGENCY	**13. APPROVING OFFICIAL**
a. NAME	a. SIGNATURE
b. ADDRESS *(Include ZIP Code)*	b. TYPED NAME *(Last, First, Middle Initial)*
c. TELEPHONE NUMBER *(Include Area Code)*	c. TITLE

DD FORM 2564 (BACK), MAY 1997

BILLING CODE 5000–04–C

Appendix G to Part 286—DoD Freedom of Information Act Program Components

a. Office of the Secretary of Defense/ Chairman of the Joint Chiefs of Staff/ Combatant Commands, Defense Agencies, and the DoD Field Activities
b. Department of the Army
c. Department of the Navy
d. Department of the Air Force
e. Defense Information Systems Agency
f. Defense Contract Audit Agency
g. Defense Intelligence Agency
h. Defense Investigative Science
i. Defense Logistics Agency
j. National Imagery and Mapping Agency
k. Defense Special Weapons Agency
l. National Security Agency
m. Office of the Inspector General, Department of Defense
n. Defense Finance and Accounting Service
o. National Reconnaissance Office

Dated: June 20, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–16742 Filed 6–30–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 27

[CGD 96–052]

RIN 2105–AC63

Civil Money Penalties Inflation Adjustments; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulations which were published Tuesday, April 8, 1997, (62 FR 16695). The regulations incorporated into the Code of Federal Regulations inflation adjustments for civil money penalties pursuant to the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

DATES: This correction is effective on July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Greg Parks, Office of Regulations and Administrative Law at (202) 267–1534.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections amend title 33 of the Code of Federal Regulations to reflect the Debt Collection Improvement Act of 1996 (DCIA) (Pub. L. 104–134) which requires Federal agencies to adjust certain Civil Monetary Penalties (CMPs) to account for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for each applicable CMP, and to make further adjustments at least once every 4 years for these penalty amounts.

Need for Correction

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

Correction of Publication

Accordingly, the publication on April 8, 1997, of the final regulations (62 FR 16695), which were the subject of FR Doc. 97–8781 is corrected as follows:

PART 27—[CORRECTED]

In § 27.3, beginning on page 16700, Table 1—Civil Monetary Penalty Inflation Adjustments, is corrected to read as follows:

TABLE 1.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS *

U.S. Code citation	Civil monetary penalty description	New maximum penalty amount
14 U.S.C. 88(c)	Saving Life and Property	5,500
14 U.S.C. 645(h)	Confidentiality of Medical Quality Assurance Records (first offense)	3,000
14 U.S.C. 645(h)	Confidentiality of Medical Quality Assurance Records (subsequent offense)	22,000
33 U.S.C. 471	Anchorage Ground/Harbor Regulations General	110
33 U.S.C. 474	Anchorage Ground/Harbor Regulations St. Mary's River	220
33 U.S.C. 495	Bridges/Failure to Comply with Regulations	1,100
33 U.S.C. 499	Bridges/Drawbridges	1,100
33 U.S.C. 502	Bridges/Failure to Alter Bridge Obstructing Navigation	1,100
33 U.S.C. 533	Bridges/Maintenance & Operation	1,100
33 U.S.C. 1208(a)	Bridge to Bridge Communication	550
33 U.S.C. 1208(b)	Bridge to Bridge Communication	550
33 U.S.C. 1232	PWSA Regulations	27,500
33 U.S.C. 1236(b)	Vessel Navigation: Regattas or Marine Parades	5,500
33 U.S.C. 1236(c)	Vessel Navigation: Regattas or Marine Parades	5,500
33 U.S.C. 1236(d)	Vessel Navigation: Regattas or Marine Parades	2,500
33 U.S.C. 1319(d)	Pollution Prevention	27,500
33 U.S.C. 1319(g)(2)(A)	Pollution Prevention (per violation)	11,000
33 U.S.C. 1319(g)(2)(A)	Pollution Prevention (total under subparagraph)	27,500
33 U.S.C. 1319(g)(2)(B)	Pollution Prevention (per day of violation)	11,000
33 U.S.C. 1319(g)(2)(B)	Pollution Prevention (total under subparagraph)	137,500
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (per violation)	11,000
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (total under paragraph)	27,500
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (per day of violation)	11,000
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (total under paragraph)	137,500
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per day of violation)	27,500
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit of hazsub discharged).	1,100
33 U.S.C. 1321(b)(7)(B)	Oil/Hazardous Substances: Discharges	27,500
33 U.S.C. 1321(b)(7)(C)	Oil/Hazardous Substances: Discharges	27,500

TABLE 1.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS *—Continued

U.S. Code citation	Civil monetary penalty description	New maximum penalty amount
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit) of hazsub discharged).	3,300
33 U.S.C. 1321(j)	Oil/Hazardous Substances Prevention Regulations	27,500
33 U.S.C. 1322(j)	Marine Sanitation Devices	2,200
33 U.S.C. 1322(j)	Marine Sanitation Devices	5,500
33 U.S.C. 1517(a)	Deepwater Ports Regulations	11,000
33 U.S.C. 1608(a)	International Regulations	5,500
33 U.S.C. 1608(b)	International Regulations	5,500
33 U.S.C. 1908(b)(1)	Pollution from Ships	27,500
33 U.S.C. 1908(b)(2)	Pollution from Ships	5,500
33 U.S.C. 2072(a)	Inland Navigation Rules	5,500
33 U.S.C. 2072(b)	Inland Navigation Rules	5,500
33 U.S.C. 2609(a)	Shore Protection	27,500
33 U.S.C. 2609(b)	Shore Protection	11,000
33 U.S.C. 2716a(a)	Oil Pollution Liability and Compensation	27,500
46 U.S.C. 1505(a)	Safe Containers for International Cargo	5,500
46 U.S.C. App 1805(c)(2)	Suspension of Passenger Service	55,000
46 U.S.C. 2110(e)	Vessel Inspection or Examination fees	5,500
46 U.S.C. 2115	Alcohol and Dangerous Drug Testing	1,000
46 U.S.C. 2302(a)	Negligent Operations	1,100
46 U.S.C. 2302(c)(1)	Negligent Operations	1,100
46 U.S.C. 2306(a)(2)(B)(4)	Vessel Reporting Requirements: Owner	5,500
46 U.S.C. 2306(b)(2)	Vessel Reporting Requirements: Master	1,100
46 U.S.C. 3102(c)(1)	Immersion Suits	5,500
46 U.S.C. 3302(j)(5)	Inspection Permit	1,100
46 U.S.C. 3318(a)	Vessel Inspection	5,500
46 U.S.C. 3318(g)	Vessel Inspection	5,500
46 U.S.C. 3318(h)	Vessel Inspection	1,100
46 U.S.C. 3318(i)	Vessel Inspection	1,100
46 U.S.C. 3318(j)(1)	Vessel Inspection	11,000
46 U.S.C. 3318(j)(1)	Vessel Inspection	2,000
46 U.S.C. 3318(k)	Vessel Inspection	11,000
46 U.S.C. 3318(l)	Vessel Inspection	5,500
46 U.S.C. 3502(e)	List/Count of Passengers	110
46 U.S.C. 3504(c)	Notification to Passengers	11,000
46 U.S.C. 3504(c)	Notification to Passengers	550
46 U.S.C. 3506	Copies of Laws on Passenger Vessels	220
46 U.S.C. 3718(a)(1)	Dangerous Cargo Carriage	27,500
46 U.S.C. 4106	Uninspected Vessels	5,500
46 U.S.C. 4311(b)	Recreational Vessels (Maximum for related series of violations)	110,000
46 U.S.C. 4311(b)	Recreational Vessels	2,200
46 U.S.C. 4311(c)	Recreational Vessels	1,100
46 U.S.C. 4507	Vessel Inspection	5,500
46 U.S.C. 4703	Abandonment of Barges	1,100
46 U.S.C. 5116(a)	Load Lines	5,500
46 U.S.C. 5116(b)	Load Lines	11,000
46 U.S.C. 5116(c)	Load Lines	5,500
46 U.S.C. 6103(a)	Reporting Marine Casualties	25,000
46 U.S.C. 6103(b)	Reporting Marine Casualties	5,500
46 U.S.C. 8101(e)	Manning of Inspected Vessels	1,100
46 U.S.C. 8101(f)	Manning of Inspected Vessels	11,000
46 U.S.C. 8101(g)	Manning of Inspected Vessels	11,000
46 U.S.C. 8101(h)	Manning of Inspected Vessels	1,100
46 U.S.C. 8102(a)	Watchmen on Passenger Vessels	1,100
46 U.S.C. 8103(f)	Citizenship Requirements	550
46 U.S.C. 8104(i)	Watches on Vessels	11,000
46 U.S.C. 8104(j)	Watches on Vessels	11,000
46 U.S.C. 8302(e)	Staff Department on Vessels	110
46 U.S.C. 8304(d)	Officer's Competency Certificates	110
46 U.S.C. 8502(e)	Coastwise Pilotage	11,000
46 U.S.C. 8502(f)	Coastwise Pilotage	11,000
46 U.S.C. 8503	Federal Pilots	27,500
46 U.S.C. 8701(d)	Merchant Mariners Documents	550
46 U.S.C. 8702(e)	Crew Requirements	11,000
46 U.S.C. 8906	Small Vessel Manning	25,000
46 U.S.C. 9308(a)	Pilotage: Great Lakes	11,000
46 U.S.C. 9308(b)	Pilotage: Great Lakes	11,000
46 U.S.C. 9308(c)	Pilotage: Great Lakes	11,000
46 U.S.C. 10104(b)	Failure to Report Sexual Offense	5,500
46 U.S.C. 10307	Posting of Agreements	110

TABLE 1.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS *—Continued

U.S. Code citation	Civil monetary penalty description	New maximum penalty amount
46 U.S.C. 10308(b)	Foreign Engagements by Seamen	110
46 U.S.C. 10309(b)	Replacement of Lost/Deserted Seamen	220
46 U.S.C. 10310	Discharge of Seamen	55
46 U.S.C. 10312(c)	Foreign/Intercoastal Voyages	110
46 U.S.C. 10314(a)(2)	Pay Advances to Seamen	550
46 U.S.C. 10314(b)	Pay Advances to Seamen	550
46 U.S.C. 10315(c)	Allotments to Seamen	550
46 U.S.C. 10321	Seamen Protection: General	220
46 U.S.C. 10505(b)	Advances	550
46 U.S.C. 10508(b)	Seamen Protection: General	22
46 U.S.C. 10711	Effects of Deceased Seamen	220
46 U.S.C. 10902(a)(2)	Complaints of Unfitness	550
46 U.S.C. 10903(d)	Proceedings on Examination of Vessel	110
46 U.S.C. 10907(b)	Permission to Make Complaint	550
46 U.S.C. 11101(f)	Accommodations for Seamen	550
46 U.S.C. 11102(b)	Medicine Chests on Vessels	550
46 U.S.C. 11104(b)	Destitute Seamen	110
46 U.S.C. 11105(c)	Wages on Discharge	550
46 U.S.C. 11303(a)	Log Books	220
46 U.S.C. 11303(b)	Log Books	220
46 U.S.C. 11303(c)	Log Books	185
46 U.S.C. 11506	Carrying of Sheath Knives	55
46 U.S.C. 12122(a)	Identification of Vessels	550
46 U.S.C. 12309(b)	Numbering of Undocumented Vessels	1,100
46 U.S.C. 12507(b)	Vessel Identification System	11,000
46 U.S.C. 14701	Measurement of Vessels	22,000
46 U.S.C. 14701	Registry/Recording: Tonnage	22,000
46 U.S.C. 14702	Measurement/False Statements	22,000
46 U.S.C. 31309	Instruments and Liens	11,000
46 U.S.C. 5123	Hazardous Materials-Relating to Vessels	27,500

*Table may not include all civil monetary penalties. If penalty is not listed, check applicable statute for penalty amount.

Dated: June 25, 1997.

Paul M. Blayney,

Rear Admiral, U.S. Coast Guard, Chief Counsel.

[FR Doc. 97–17147 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–95–178]

RIN 2115–AE46

Special Local Regulation: The ''Great Connecticut River Raft Race'', Middletown, CT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations governing the Connecticut River Raft Race. The name of the event is being changed to the ''Great Connecticut River Raft Race'' due to a change in sponsor. The regulated area is being moved up river to coincide with a change in the race course. This regulation is necessary to control vessel traffic within the regulated area due to the confined nature of the waterway and anticipated congestion at the time of the event, thus providing for the safety of life and property on the affected navigable waterway.

EFFECTIVE DATE: July 26, 1997.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James B. Donovan, Assistant Search and Rescue Branch, First Coast Guard District, (617) 223–8278.

SUPPLEMENTARY INFORMATION:

Regulatory History

A Notice of Proposed Rulemaking (NPRM) was published for this rule on May 13, 1996 (61 FR 21998). The docket number for the NPRM was incorrect. The correct number is CGD01–95–178. No comments were received, no public hearing was requested and none was held.

Background and Purpose

The Connecticut River Raft Race is in its twenty-second year, and is a popular local event. A permanent Special Local Regulation, 33 CFR Part 100.102, governs the running of this event. Due to a change in sponsor, the name of the event is changed to the ''Great Connecticut River Raft Race'' and the location of the race is moved a short distance up river. Given the recurring nature of the event, the Coast Guard is amending 33 CFR Part 100.102. The race course and regulated area will consist of that portion of the Connecticut River between Marker nos. 92 and 73, Middletown, CT. Future event dates and times will be published annually, in a **Federal Register** document.

This event will include approximately 60 homemade rafts and is expected to draw approximately 60 homemade rafts and is expected to draw approximately 100 spectator craft. The Coast Guard, Connecticut Department of Environmental Protection, and local fire and police departments will each assign a patrol to the event. However, due to confined space and the restricted maneuverability of the participating rafts, the regulated area is necessary to control spectator and commercial vessel movement. Spectator craft are authorized to watch the race from any location as long as they remain outside the designated regulated area. In emergency situations, the Coast Guard patrol commander may establish escort procedures for vessels requiring transit through the regulated area.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the limited duration of the race, the infrequent presence of commercial traffic on the affected portion of the Connecticut River, and the extensive, advance advisories that will be made to the affected maritime community.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard has considered the environmental impacts of this rule and concluded that, under paragraph 2.B.2.e.34(h) of COMDTINST 16475.1B, (as revised by 61 FR 13563, March 27, 1996) this rule is a special local regulation issued in conjunction with a regatta or marine parade and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

Final Regulation

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR Part 100 as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.102 is revised to read as follows:

§ 100.102 Great Connecticut River Raft Race, Middletown, CT

(a) *Regulated Area.* That section of the Connecticut River between Dart Island (Marker no. 73) and Portland Shoals (Marker no. 92), Middletown, CT.

(b) *Special Local Regulations.*

(1) The Coast Guard patrol commander may delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels encountering emergencies which require transit through the regulated area should contact the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast guard patrol commander may authorized a vessel to transit through the regulated area with a Coast Guard designated escort.

(4) All persons and vessels shall comply with the instructions of the Coast Guard on-scene patrol commander. On-scene patrol personnel may include commissioned, warrant, and petty officers of the U.S. Coast guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary will also be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective Period.* This rule is effective from 10 a.m. to 2 p.m. on the last Saturday in July. If tidal conditions are not conductive to performing the event it will take place the first Saturday in August.

Dated: July 26, 1996.[1]

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 97–17083 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

[1] **Note:** This document was received at the Office of the Federal Register on June 25, 1997.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–97–053]

RIN 2115–AE46

Special Local Regulation: Fireworks Displays Within the First Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This document provides notice of the dates and times of the special local regulations contained in 33 CFR 100.114, ''Fireworks Displays Within the First Coast Guard District.'' All vessels will be restricted from entering the area of navigable water within a 500-yard radius of the fireworks launch platform for each event listed in the table below. Implementation of these regulations is necessary to control vessel traffic within the regulated area to ensure the safety of spectators.

EFFECTIVE DATE: The regulations in 33 CFR 100.114 are effective from one hour before the scheduled start of the event until thirty minutes after the last firework is exploded for each event listed in the table below. The events are listed chronologically with their corresponding number listed in the special local regulation, 33 CFR 100.114.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James B. Donovan, Office of Search and Rescue, First Coast Guard District, (617) 223–8278.

SUPPLEMENTARY INFORMATION: Discussion of Notice: This notice implements the special local regulations in 33 CFR 100.114 (62 FR 30988; June 6, 1997). All vessels are prohibited from entering a 500 yard radius of navigable water surrounding the launch platform used in each fireworks display listed below.

Table 1—Fireworks Displays

June

2. Barnum Festival Fireworks
Date: June 27, 1997
Rain date: June 27, 1997
Time: 8:00 p.m. to 10:00 p.m.
Location: Seaside Park-Bridgeport Harbor, Bridgeport, CT

Lat: 43°11′05″ N, Long: 073°09′05″ W (NAD 1983)

July

1. Boston Harborfest Fireworks
Date: July 3, 1997
Time: 9:00 p.m. to 10:00 p.m.
Location: Just off Coast Guard Base, Boston Harbor, MA
Lat: 42°22′13″ N, Long: 071°03′00″ W (NAD 1983)
2. American Legion Post 83 Fireworks
Date: June 28, 1997
Rain date: June 29, 1997
Time: 8:30 p.m. to 10:30 p.m.
Location: Branford Point, Branford, CT
Lat: 41°21′ N, Long: 072°05′20″ W (NAD 1983)
3. Devon Yacht Club Fireworks
Date: July 5, 1997
Time: 9:00 p.m. to 9:30 p.m.
Location: Devon Yacht Club, Amagansett, NY
Lat: 40–59.5′ N, Long: 072–06.5′ W (NAD 1983)
4. Hempstead Fireworks
Date: July 4, 1997
Time: 9:00 p.m. to 10:00 p.m.
Location: Point Lookout, Hempstead, NY
Lat: 40–35.5′ N, Long: 073–35.5′ W (NAD 1983)
5. Schooner Days Fireworks
Date: July 4, 1997
Time: 8:30 p.m. to 9:00 p.m.
Location: Rockland Harbor, ME
Lat: 44–06.00N, Long: 069–05.30W (NAD 1983)
7. Bangor Fireworks
Date: July 4, 1997
Time: 9:30 p.m. to 10:00 p.m.
Location: Bangor Waterfront, Bangor, ME
Lat: 44–47.38N, Long: 068–46.23W (NAD 1983)
8. Bar Harbor Fireworks
Date: July 4, 1997
Time: 9:00 p.m. to 9:30 p.m.
Location: Bar Harbor Waterfront, Bar Harbor, ME
Lat: 44–23.42N, Long: 068–12.29W (NAD 1983)
9. Stewarts 4th of July Fireworks Display
Date: July 4, 1997
Time: 9:00 p.m. to 10:00 p.m.
Location: Sandy Point, Somes Sound, Northeast Harbor, ME
Lat: 44–18.31N, Long: 068–18.17W (NAD 1983)
10. Walsh's Fireworks
Date: July 4, 1997
Time: 8:20 p.m. to 9:00 p.m.
Location: Union River Bay, ME
Lat: 44–24.31N, Long: 068–27.14W (NAD 1983)
12. Town of Barnstable Fireworks
Date: July 4, 1997
Time: 9:00 p.m. to 10:00 p.m.
Location: Barge located off Dunbar Point/ Kalmus Beach
Lat: 41–38.50′N, Long: 070–16.00′W (NAD 1983)
Event will be held from a barge vice the shore.
13. Fourth of July Celebration
Date: July 4, 1997
Rain Date: July 5, 1997
Time: 9:00 p.m. to 10:30 p.m.
Location: West Beach, Manchester Bay, Beverly Farms, MA
Lat: 42°33′28″N, Long: 070°48′18″W (NAD 1983)
14. Edgartown Fireworks
Date: July 4, 1997
Time: 9:00 p.m. to 9:30 p.m.
Location: Off Light House Beach, Edgartown, MA
Lat: 41–23.10N, Long: 070–29.49W (NAD 1983)
15. Falmouth Fireworks
Date: July 4, 1997
Time: 9:00 p.m. to 10:00 p.m.
Location: Falmouth Harbor, ¼ Nautical Mile east of Bouy #16
Lat: 41–32′N, Long: 070–37′W (NAD 1983)
16. Gloucester Fireworks
Date: July 4, 1997
Rain Date: July 5, 1997
Time: 8:00 p.m. to 11:00 p.m.
Location: Stage Fort Park, Gloucester, MA
Lat: 42°36′18″N, Long: 070°40′34″W (NAD 1983)
17. Marion Fireworks
Date: July 4, 1997
Time: 9:00 p.m. to 11:00 p.m.
Location: Marion, MA
Lat: 41–40N, Long: 070–45.40W (NAD 1983)
18. City of New Bedford Fireworks
Date: July 6, 1997
Time: 9:00 p.m. to 10:00 p.m.
Location: New Bedford Harbor, MA
Lat: 41–38′N, Long: 071–17′W (NAD 1983)
19. Onset Fireworks
Date: July 5, 1997
Time: 8:15 p.m. to 11:00 p.m.
Location: Onset Harbor, MA
Lat: 41–44.45N, Long: 070–40W (NAD 1983)
20. Plymouth Fireworks Display
Date: July 4, 1997
Rain Date: July 6, 1997
Time: 8:00 p.m. to 10:00 p.m.
Location: Vicinity of the Plymouth Breakwater, Plymouth Harbor, MA
Lat: 41°57′47″N, Long: 070°39′19″W (NAD 1983)
21. Wellfleet Fireworks
Date: July 4, 1997
Time: 7:00 p.m. to 11:30 p.m.
Location: Indian Neck Parking lot, Wellfleet, MA
Lat: 41–55.30N, Long: 070–02W (NAD 1983)
22. Weymouth 4th of July Fireworks
Date: July 3, 1997
Rain Date: July 5, 1997
Time: 9:00 p.m. to 10:30 p.m.
Location: Weymouth Fore River, Weymouth, MA
Lat: 42°15′09″N, Long: 071°56′35″W (NAD 1983)
24. Bristol 4th of July Fireworks
Date: July 4, 1997
Time: 8:30 p.m. to 11:00 p.m.
Location: Bristol Harbor, MA
Lat: 41.39′N, Long: 071–17′W (NAD 1983)
25. Oyster Harbor Club Fourth of July Festival
Date: July 4, 1997
Rain Date: July 5, 1997
Time: 9:00 p.m. to 10:00 p.m.
Location: Tims Cove, Cotuit Bay: Osterville, RI
Lat: 41–36.5N, Long: 070–26W (NAD 1983)
28. Fairfield Aerial Fireworks
Date: July 5, 1997
Rain Date: July 12, 1997
Time: 8:00 p.m. to 11:00 p.m.
Location: Fairfield, CT
Lat: 41–08.22N, Long: 073–14.02W (NAD 1983)
30. Middletown Fireworks
Date: July 5, 1997
Rain Date: July 6, 1997
Time: 8:15 p.m. to 10:30 p.m.
Location: Middletown, CT
Lat: 41–33.36N, Long: 072–38.30W (NAD 1983)
31. Hartford Riverfest
Date: July 5, 1997
Time: 8:00 p.m. to 10:00 p.m.
Location: Hartford, CT
32. City of Norwalk Fireworks
Date: July 3, 1997
Rain Date: July 4, 1997
Time: 8:15 p.m. to 10:45 p.m.
Location: Norwalk, MA
Lat: 41–04.50N, Long: 073–23.22W (NAD 1983)
33. Norwich American Wharf Fireworks
Date: July 5, 1997
Rain Date: July 6, 1997
Time: 9:00 p.m. to 11:00 p.m.
Location: Norwich, CT
Lat: 41–31.22N, Long: 072–04.50W (NAD 1983)
35. Stratford Fireworks
Date: July 3, 1997
Rain Date: July 5, 1997
Time: 8:00 p.m. to 10:30 p.m.
Location: Stratford, CT
Lat: 41–10.11′N, Long: 073–06.19′W (NAD 1983)
36. Westport P.A.L. Fireworks
Date: July 3, 1997
Rain Date: July 7, 1997
Time: 8:30 to 11:00 p.m.
Location: Westport, CT
Lat: ° ′N, Long: ° ′ ′W (NAD 1983)
38. Montauk Independence Day
Date: July 4, 1997
Time: 10:00 p.m. to 11:00 p.m.
Location: Montauk Town Beach, Montauk, NY
Lat: 41–02N, Long: 071–56.2′W (NAD 1983)
39. Dolan Family Fireworks
Date: July 4, 1997
Rain Date: July 5, 1997
Time: 9:00 p.m. to 11:00 p.m.
Location: Cove Neck, NY
Lat: 40–54.00N, Long: 073–30.00W (NAD 1983)
40. Jones Beach State Park Fireworks
Date: July 4, 1997
Time: 9:15 p.m. to 9:45 p.m.
Location: Jones Beach State Park, Wantagh, NY
Lat: 40–35.2′N, Long: 073–30.5′W (NAD 1983)
41. Staten Island's 4th of July Will no longer occur, and will been removed from Special Local Regulation, 33 CFR 100.114
42. Fireworks on the Navesink
Date: July 3, 1997
Rain Date: July 4, 1997
Time: 8:30 p.m. to 10:30 p.m.
Location: Red Bank Beach, Red Bank, NJ
Lat: 20–21–20N, Long: 074–04–10W (NAD 1983)
44. Thames River Fireworks
Date: July 12, 1997
Rain Date: July 13, 1997
Time: 8:30 p.m. to 10:30 p.m.
Location: Thames River, CT

Lat: 41–21.00′N, Long: 072–05.20′W (NAD 1983)
45. Stamford Fireworks
Date: July 3, 1997
Rain Date: July 5, 1997
Time: 9:00 p.m. to 11:00 p.m.
Location: Stamford, CT
Lat: 41–02.09N, Long: 073–30.57W (NAD 1983)
46. Town of Babylon Fireworks
Date: July 19, 1997
Time: 9:00 p.m. to 9:30 p.m.
Location: Nezeras Island, Babylon, NY
Lat: 40–39N, Long: 073–20W (NAD 1983)
47. Boys Harbor Fireworks Extravaganza
Date: July 19, 1997
Time: 8:45 p.m. to 10:00 p.m.
Location: Three mile harbor, East Hampton, NY
Lat: 41–01N, Long: 072–11W (NAD 1983)
48. Belfast Fireworks
Date: July 22, 1997
Time: 10:00 p.m. to 10:45 p.m.
Location: Belfast Bay, ME
Lat: 44–24.97N, Long: 068–59.21W (NAD 1983)

Dated: June 25, 1997.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 97–17069 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–97–045]

Special Local Regulations for Marine Events; Welcome America Fireworks and Liberty Lighted Boat Parade; Delaware River, Philadelphia, Pennsylvania

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements the special local regulations of 33 CFR 100.509 during the Welcome America Fireworks and Liberty Lighted Boat Parade, to be held in the Delaware River adjacent to Penns Landing, Philadelphia, Pennsylvania on July 3 and July 5, 1997. These special local regulations are needed to control vessel traffic within the vicinity of Penns Landing due to the confined nature of the waterway and expected vessel congestion during the fireworks display and boat parade. The effect will be to restrict general navigation in the regulated area for the safety of event participants and other vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.509 is effective from 8:30 p.m. to 11:30 p.m. on July 3, 1997 and from 7 p.m. to 11 p.m. on July 5, 1997.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer T.J. Donovan, Marine Events Coordinator, Commander, Coast Guard Main Safety Office/Group Philadelphia, 1 Washington Ave., Philadelphia, PA 19147–4395, (215) 271–4825.

SUPPLEMENTARY INFORMATION: The Welcome America Committee is sponsoring a 4th of July celebration adjacent to Penns Landing on the Delaware River, Philadelphia, Pennsylvania. Waterborne activities will include a 15 minute fireworks display on July 3, 1997 and a lighted boat parade on July 5, 1997, consisting of approximately 40 decorated and illuminated vessels, ranging in length from 20′ to 200′. Therefore, to ensure the safety of participants and transiting vessels, 33 CFR 100.509 will be in effect from one hour before until one hour after each of the two events. Under provisions of 33 CFR 100.509, a vessel may not enter the area between Pier 30 and the Benjamin Franklin Bridge unless it is registered as a participant with the event sponsor or it receives permission from the Coast Guard patrol commander. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

Dated: June 18, 1997.

J. Carmichael,

Captain, USCT Acting Commander, Fifth Coast Guard District.

[FR Doc. 97–17084 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–97–043]

RIN 2115–AE46

Special Local Regulations for Marine Events; Virginia Is for Lovers Cup Unlimited Hydroplane Races, Willoughby Bay, Norfolk, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the Virginia is for Lovers Cup Unlimited Hydroplane Races to be held in Willoughby Bay, Norfolk, Virginia. The event will be held from 8 a.m. to 5 p.m. EDT (Eastern Daylight Time) July 12 & 13, 1997. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATES: This regulation is effective from 8 a.m. to 5 p.m. EDT on July 12 & 13, 1997.

FOR FURTHER INFORMATION CONTACT: CWO D. Merrill, Marine Events Coordinator, Commander, Coast Guard Group Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, Virginia 23703, (757) 483–8521.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The request to hold the event was not submitted until May 30, 1997. Publishing a notice of proposed rulemaking and delaying its effective date would be contrary to safety interests, since immediate action is needed to minimize potential danger to the public posed by the large number of racing vessels participating in this event.

Discussion of regulations

On July 12 & 13, 1997, the City of Norfolk will sponsor the Virginia is for Lovers Cup Unlimited Hydroplane Races in Willoughby Bay. The event will consist of Hydroplanes, Hydrolights and Jersey Speed Skiffs racing at high speeds along a 2 mile oval course. These regulations are necessary to control spectator craft and provide for the safety of life and property on navigable waters during the event.

This event was originally scheduled for May 24–26, 1997. Special local regulations were adopted to provide for the safety of life and property during the event; however, the event was canceled because of inclement weather.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory procedures of DOT is unnecessary. Entry into the regulated

area will only be prohibited while the race boats are actually competing. Since vessels will be allowed to transit the event area between heats, the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). This rule does not impose any new restrictions on vessel traffic, but merely changes effective dates of a regulation. Therefore, the Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.b.2.e(34)(h) of Commandant Instruction M16475.1b (as amended, 61 FR 13564; March 27, 1996), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary Section 100.35T–05–043 is added to read as follows:

§ 100.35T–05–043 Willoughby Bay, Norfolk, Virginia

(a) *Definitions:*

(1) *Regulated area:* The waters of Willoughby Bay from shoreline to shoreline, and the approaches to Willoughby Bay bounded by a line drawn westerly from the northern corner of Willoughby Spit located at latitude 36°58′06″ North, longitude 76°17′58″ West, to Willoughby Bay Channel Light 7 (LLNR 10595) located at latitude 36°58′06″ North, longitude 76°18′18″ West; thence southwesterly to the shoreline at the Norfolk Naval Base located at latitude 36°57′21″ North, longitude 76°18′27″ West. All coordinates reference Datum: NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Hampton Roads.

(b) *Special Local Regulations:*

(1) Except for participants in the Virginia is for Lovers Cup Unlimited Hydroplane Races and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(3) The Patrol Commander will allow vessel traffic to transit the event area between races.

(c) *Effective dates:* This regulation is effective from 8 a.m. to 5 p.m. EDT on July 12 & 13, 1997.

Dated: June 17, 1997.

J. Carmichael,

Captain, USCT, Acting Commander, Fifth Coast Guard District.

[FR Doc. 97–17089 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–97–056]

RIN 2115–AE46

Special Local Regulation: Fireworks Displays Within the First Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This document provides notice of the dates and times of the special local regulations contained in 33 CFR 100.114, ''Fireworks Displays within the First Coast Guard District.'' All vessels will be restricted from entering the area of navigable water within a 500 yard radius of the fireworks launch platform for each event listed in the table below. Implementation of these regulations is necessary to control vessel traffic within the regulated area to ensure the safety of spectators.

EFFECTIVE DATE: The regulations in 33 CFR 100.114 are effective from one hour before the scheduled start of the event until thirty minutes after the last firework is exploded for each event listed in the table below. The events are listed chronologically with their corresponding number listed in the special local regulation, 33 CFR 100.114.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James B. Donovan, Office of Search and Rescue, First Coast Guard District, (617) 223–8278.

SUPPLEMENTARY INFORMATION: Discussion of Notice: This notice implements the special local regulations in 33 CFR 100.114 (62 FR 30988; June 6, 1997). All vessels are prohibited from entering a 500 yard radius of navigable water surrounding the launch platform used in each fireworks display listed below.

Table 1—Fireworks Displays

JULY

26. Shooters Independence Day
Date: July 4 and 5, 1997 (two nights)
Time: 12 a.m. to 12:30 a.m.
Location: Providence River off India Point Park, Providence, RI
Lat: 41°48′50″N, Long: 071°24′00″W (NAD 1983)

27. Tiverton Waterfront Festival
Date: June 28, 1997
Time: 9:30 p.m. to 10 p.m.
Location: Grinnel's Beach, Sakonnet River, Tiverton, RI
Lat: 41°37′00″N, Long: 071°13′00″W (NAD 1983)

Dated: June 19, 1997.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 97–17087 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 144

46 CFR Parts 109, 159, 160, and 199

[CGD 85–205]

RIN 2115–AC51

Inflatable Liferafts; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulations [CGD 85–205] which were published May 9, 1997 (62 FR 25525). The final rule completely revised Coast Guard regulations for the approval and servicing of inflatable liferafts in 46 CFR Part 160.

DATES: This rule is effective on July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Kurt J. Heinz, Lifesaving and Fire Safety Standards Division (G–MSE–4), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, telephone 202–267–1444, fax 202–267–1069, e-mail: kheinz@comdt.uscg.mil.

SUPPLEMENTARY INFORMATION:

Need for Correction

The Coast Guard published a document in the **Federal Register** on May 9, 1997 (62 CFR 25525), completely revising its regulations in 46 CFR Part 160 for the approval and servicing of inflatable liferafts. That document also made a consequential amendment to 46 CFR 199.190(g)(3)(i), to update an obsolete reference to the old regulations. However, it failed to address similar obsolete references in 33 CFR 144.01–15 (d) and 46 CFR 109.301(g)(3)(ii). This document amends those paragraphs as necessary to update obsolete references to the old regulations, and to update a requirement in 33 CFR 144.01–15(d) for equipment which is no longer approved under the new regulations. It also makes one purely editorial correction to the paragraph numbering in 46 CFR 160.151–13(g).

Correction of Publication

In rule FR Doc. 97–11897 published on May 9, 1997 (62 FR 25525), make the following corrections:

1. On page 25543, second column, under Consequential Revisions, add the following before the existing paragraph:

''This final rule amends 33 CFR 144.01–15(d) to replace the obsolete requirement for ''Limited Service'' liferafts (which will no longer be approved) with a requirement for the analogous liferafts approved under this rule, and to remove the obsolete note referencing the servicing requirements in the old regulations. This amendment will not affect existing installed liferafts, and so should not have any substantive impact on anyone.

This final rule also amends 46 CFR 109.301(g)(3)(ii) to replace the obsolete reference to servicing procedures in subpart 160.051 with a reference to supbart 106.151.''

2. On page 25544, third column, under *List of Subjects*, add the following before the existing text:

33 CFR Part 144

Continental shelf, Marine safety, Occupational safety and health.

46 CFR Part 109

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

3. On page 25544, third column, replace the words of issuance with the following:

''For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 144 and 46 CFR parts 109, 159, 160, and 199 as follows:''

4. On page 25544, third column, following the words of issuance, insert the following amendatory paragraphs 1 through 4 and text, and renumber existing amendatory paragraphs 1 through 12 as 5 through 17: 33 CFR Part 144.

1. The authority citation for part 144 continues to read as follows:

Authority: 43 U.S.C. 1333d; 46 U.S.C. 3102(a); 46 CFR 1.46.

2. In § 144.01–15, remove the Note following paragraph (d), and revise paragraph (d) to read as follows:

§ 144.01–15 Alternates for life floats.

* * * * *

(d) Inflatable liferafts shall be approved by the Coast Guard under approval series 160.151. An approved ''Limited Service'' or ''Ocean Service'' liferaft installed on board a platform before May 9, 1997, may continue to be used to meet the requirements of this section provided it is maintained in good and serviceable condition.

46 CFR Part 109

3. The authority citation for part 109 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 5115, 6101, 10104; 49 CFR 1.46.

4. In § 109.301, revise paragraph (g)(3)(ii) to read as follows:

§ 109.301 Operational readiness, maintenance, and inspection of lifesaving equipment.

* * * * *

(g) *Servicing of inflatable lifesaving appliances, inflated rescue boats, and marine evacuation systems.*

* * * * *

(3) Each inflatable liferaft must be serviced—

* * * * *

(ii) In accordance with servicing procedures meeting the requirements of part 160, subpart 160.151 of this chapter.

* * * * *

46 CFR Part 160

§ 160.151–13 [Corrected]

5. On page 25549, top of the second column, renumber paragraphs (h) (1)–(4) of § 160.151–13 as (g)(3) (i)–(iv).

Dated: June 24, 1997.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97–17067 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–97–003]

RIN AE94

Puget Sound and Adjacent Waters, WA–Regulated Navigation

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On May 1, 1997, the Coast Guard published a direct final rule (62 FR 23659). This direct final rule notified the public of the Coast Guard's intent to correct an administrative error which unintentionally omitted the District Commander's authority to grant waivers from the rule excluding tankers over 125,000 dead weight tons from operating in Puget Sound, Puget Sound

Vessel Traffic Service's (VTS) authority to grant deviations from the requirement that vessels keep the center of the precautionary areas to port, and emergency authority for masters, pilots, and others to deviate from the requirement that vessels keep the center of the precautionary areas to port. This language was inadvertently left out when the Vessel Traffic Service regulations were changed in 1994. This direct final rule merely reinstates that deviation authority originally granted to the Thirteenth Coast Guard District Commander and to the Puget Sound VTS. The Coast Guard has not received any adverse comments or any notice of an intent to submit adverse comments objecting to this rule as written. Therefore, this rule will go into effect as scheduled.

DATES: The effective date of the direct final rule is confirmed as July 30, 1997.

FOR FURTHER INFORMATION CONTACT: Lieutenant T.G. Favreau, Compliance Branch Chief, U.S. Coast Guard, Thirteenth Coast Guard District, Marine Safety Division, 915 Second Avenue, room 3506, Seattle, WA 98174–1067, telephone (206) 220–7224.

Dated: June 10, 1997.

J. David Spade,

Rear Admiral, U.S. Coast Guard, District Commander.

[FR Doc. 97–17081 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–97–007]

RIN 2115–AA9

Safety Zone Regulations; City of Astoria Fourth of July Fireworks, Columbia River, Astoria OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the City of Astoria Fourth of July fireworks display to be held on the Columbia River in Astoria, Oregon. The event will be held on Friday, July 4, 1997, from 9 p.m. (PDT) to 11 p.m. (PDT). The Coast Guard, through this action, intends to protect persons, facilities, and vessels from safety hazards associated with the fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on July 4, 1997, at 9 p.m. (PDT) and terminates on July 4, 1997, at 11 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LT T.G. Allan, c/o Captain of the Port, Portland, 6767 N. Basin Ave, Portland, Oregon 97217–3992, (503) 240–9327.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the area of the fireworks display. Due to the complex planning and coordination involved, the event sponsor, the Astoria Chamber of Commerce and the City of Astoria, were unable to provide the Coast Guard with notice of the final details until 30 days prior to the date of the event. Therefore, sufficient time was not available to publish a proposed rule in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures in this case would be impracticable.

Background and Purpose

The event requiring this regulation is a fireworks display sponsored by the Astoria Chamber of Commerce and the City of Astoria. The fireworks display is scheduled to begin on July 4, 1997, at 10 p.m. (PDT). This event may result in a large number of vessels congregating near the fireworks launching barge. To promote the safety of both the spectators and participants, a safety zone is being established on the waters of the Columbia River around the fireworks launching barge, and entry into this safety zone is prohibited unless authorized by the Captain of the Port. This action is necessary due to the possibility of debris and unexploded fireworks falling into the Columbia River in the vicinity of the launching barge. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal agencies.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the entry into the safety zone will only be restricted for 2 hours on the day of the event, and that less than 1 mile of the waterway will be restricted. The entities most likely to be affected by this action are commercial ship, and tug and burge operators on the Columbia River. Most of these entities are aware of the fireworks display and the safety zone, and they can schedule their transits accordingly. If safe to do so, the representative of the Captain of the Port assigned to enforce this safety zone may authorize commercial vessels to pass through the safety zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). For the reasons outlined in the Regulatory Evaluation above, the Coast Guard expects the impact of this final rule to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this final rule and has concluded that, under section

2.B.2.c. of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be made available in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.01–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T13006 is added to read as follows:

§ 165.T13006 Safety Zone; Columbia River, Astoria, OR.

(a) *Location:* The following area is a safety zone: All waters of the Columbia River in the vicinity of Astoria, Oregon, from the Oregon shore to point approximately 450 yards north of the channel, between buoys 37 and 39. More specifically, this area is all waters of the Columbia River bounded by a line commencing at the Oregon shore position 46°11′30″N latitude, 123°50°00″W longitude; thence to position 46°11′50″N latitude, 123°50′00″W longitude; thence to position 46°11′50″N latitude, 123°49′15″W longitude; thence to the Oregon shore at position 46°11′25″N latitude, 123°49′15″W longitude; thence returning along the Oregon shoreline to the point of origin.

(b) *Definitions:* The designated representative of the Captain of The Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Group Astoria, Oregon.

(c) *Regulations:*

(1) In accordance with the general regulations in Section 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) *Effective Dates:* These regulations become effective on July 4, 1997, at 9 p.m. (PDT) and terminate on July 4, 1997, at 11 p.m. (PDT).

Dated: June 12, 1997.

G.M. Webber,

Commander, U.S. Coast Guard, Acting, Portland, Oregon.

[FR Doc. 97–17073 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1–97–040]

RIN 2115–AA97

Safety Zone Regulation: Saint Peter's Fiesta Fireworks, Gloucester, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the vicinity of the Fort Point, Gloucester Harbor, Gloucester, MA on June 29, 1997, for the Saint Peter's Fiesta Fireworks Display. The zone is needed to protect persons viewing the display, spectator vessels, and personnel in the area from the safety hazards associated with the fireworks display itself. Entry into the zone is prohibited unless authorized by the Captain of the Port (COTP) Boston.

EFFECTIVE DATE: This regulation becomes effective on June 29, 1997, from 8 p.m. until 11 p.m.

FOR FURTHER INFORMATION CONTACT: MSTC Daniel Dugery, USCG Marine Safety Office Boston, at (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation, and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent injury and damage to persons and vessels involved.

Background and Purpose

The sponsor, the Saint Peter's Fiesta Committee, submitted a permit application to the Coast Guard for the fireworks display. COTP Boston is implementing this safety zone to protect mariners from the inherent hazards associated with a fireworks display.

The specific event requiring this regulation is the fireworks display itself. The display is scheduled to take place on June 29, 1997 from 9 p.m. until 10 p.m., fired from landside fireworks launchers on Fort Point in position 42°36′28″ N, 070°35′55″ W [Datum: NAD 1983]. The safety zone will be located off Fort Point and will extend three hundred yards in all directions from the firework launchers on shore during the event. This safety zone will preclude all vessels from approaching within three hundred yards of the fireworks launchers during the fireworks display. The zone will be in effect on June 29, 1997, from 8 p.m. until 11 p.m. The zone is needed to protect persons, facilities and vessels in the area from the safety hazards associated with the fireworks display itself. Entry into the zone is prohibited unless authorized by the COTP Boston. The City of Gloucester Harbor Master boat and Coast Guard patrol craft will be on scene to enforce the safety zone. Details of this event will be broadcast in a Safety Marine Information Broadcast.

Good Cause Statement

According to the APA (5 U.S.C. 553), good cause exists when notice or a delayed effective date is impractical, unnecessary, or contrary to the public interest. No significant adverse effect will result to vessel operators as the event will be three hours or less in duration. Fishing vessels and tour boats may experience slight delays in departures or arrivals during the display; however, mariners can time their movements just ahead or just after the fireworks display. In addition, due to the late hour of the event and the extensive advanced advisories that will be made, the Coast Guard does not expect a significant impact on commercial vessel traffic.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the

regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Costs to the shipping industry, if any, will be minor since this regulation will be in one given area for a limited time. Deep draft vessel traffic, small passenger commercial vessels and fishing vessels may experience minor delays in departures or arrivals due to the safety zone. In addition, due to the limited number and duration of the arrivals, departures and harbor transits, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

The Coast Guard must consider the economic impact on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard finds that this rule will not have a significant impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant impact on your business or organization, please submit a comment explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under section 2.B.2.e.(34)(g) of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and an Environmental Analysis Checklist are not included in the docket. An appropriate environmental analysis of the event will be conducted in conjunction with the marine event permitting process.

List of Subjects in 33 CFR Part 165

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

Proposed Regulation

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

1. The authority citation for part 165 continues to read:

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

2. Section 165.T01–040, is added to read as follows:

§ 165.T01–040 Safety Zone; Saint Peter's Fiesta Fireworks, Gloucester, MA.

(a) *Location.* The following area is a safety zone:

From the landside fireworks launchers on Fort Point in position 42°36′28″N, 070°35′55″W [Datum: NAD 1983], three hundred yards in all directions on the waters of Gloucester Harbor. This safety zone will preclude all vessels from approaching within three hundred yards of the fireworks launchers during the fireworks display.

(b) *Effective date.* This rule is effective on June 29, 1997, from 8 p.m. until 11 p.m.

(c) *Regulations.*

(1) The general regulations covering safety zones contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard of the Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 11, 1997.

J.J. O'Brien, Jr.

Commander, U.S. Coast Guard, Acting Captain of the Port, Boston, Massachusetts.

[FR Doc. 97–17082 Filed 6–28–97; 12:07 pm]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–97–008]

RIN 2115–AA97

Safety Zone Regulations; Kennewick Old Fashioned Fourth of July Fireworks Display, Columbia River, Kennewick, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Kennewick Old Fashioned Fourth of July fireworks display. The event will be held on Friday, July 4, 1997, from 9 p.m. (PDT) to 11 p.m. (PDT). The Coast Guard, through this action, intends to protect persons, facilities, and vessels from safety hazards associated with the fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This rule is effective on July 4, 1997, at 9 p.m. (PDT) and terminates on July 4, 1997 at 11 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LT T.G. Allan, c/o Captain of the Port, Portland, 6767 N. Basin Ave., Portland, Oregon 97217–3992, (503) 240–9327.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the area of the fireworks display. Due to the complex planning and coordination involved, the event sponsor, the Kennewick Chamber of Commerce, was unable to provide the Coast Guard with notice of the final details until 30 days prior to the date of the event. Therefore, sufficient time was not available to publish a proposed rule in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures in this case would be impracticable.

Background and Purpose

The event requiring this regulation is the Kennewick Old Fashioned Fourth of July fireworks display to be held on the Columbia River in Kennewick, Washington. The fireworks display is

scheduled to begin on July 4, 1997, at 10 p.m. (PDT). This event may result in a number of vessels congregating near the fireworks launching barge. To promote the safety of both the spectators and participants, a safety zone is being established on the waters of the Columbia River around the fireworks launching barge, and entry into this safety zone is prohibited unless authorized by the Captain of the Port. This action is necessary due to the possibility of debris and unexploded fireworks falling into the Columbia River in the vicinity of the launching barge. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal, state, and local agencies.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the entry into the safety zone will only be restricted for two hours on the day of the event, and that less than a mile of the waterway will be restricted. The entities most likely to be affected by this action are commercial ship, and tug and barge operators on the Columbia River. Most of these entities are aware of the fireworks display and the safety zone, and they can schedule their transits accordingly. If safe to do so, the representative of the Captain of the Port assigned to enforce this safety zone may authorize commercial vessels to pass through the safety zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). For the reasons outlined in the Regulatory Evaluation above, the Coast Guard expects the impact of this final rule to be minimal on all entities. Therefore, the Coat Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this final rule and has concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be made available in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

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

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

2. A temporary § 165.T13007 is added to read as follows:

§ 165.T13007 Safety Zone; Columbia River, Kennewick, WA.

(a) *Location:* The following area is a safety zone: All waters on the Columbia River off of Columbia Park, between Columbia River mile 330.5 and Columbia River 331.5, in the vicinity of Kennewick, Washington.

(b) *Definitions:* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Group Portland, Oregon.

(c) *Regulations:*

(1) In accordance with the general regulations in Section 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) *Effective Date:* These regulations become effective on Friday, July 4, 1997, at 9 p.m. (PDT) and terminate on July 4, 1997, at 11 p.m. (PDT).

Dated: June 12, 1997.

G.M. Webber,

Commander, U.S. Coast Guard, Acting Captain of the Port, Portland, Oregon.

[FR Doc. 97–17080 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–97–010]

RIN 2115–AA97

Safety Zone Regulations; Oak Park 4th of July Fireworks Display, Willamette River, Portland, OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Oaks Park 4th of July fireworks display. The event will be held on Friday, July 4, 1997, from 9:45 p.m. (PDT) to 11 p.m. (PDT). The safety zone will be located on the Willamette River from river mile 15.5 to river mile 16.5, in the vicinity of the Oaks Amusement Park, Portland, Oregon. The Coast Guard, through this action, intends to protect persons, facilities, and vessels from safety hazards associated with the fireworks display. Entry into this safety zone is

prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This rule is effective on July 4, 1997, at 9:45 p.m. (PDT) and terminates on July 4, 1997, at 11 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LT. T.G. Allan, c/o Captain of the Port, Portland, 6767 N. Basin Ave, Portland, Oregon 97217–3992, (503) 240–9327.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the area of the fireworks display. Due to the complex planning and coordination involved, the event sponsor, Oaks Amusement Park, was unable to provide the Coast Guard with notice of the final details until 30 days prior to the date of the event. Therefore, sufficient time was not available to publish a proposed rule in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures in this case would be impracticable.

Background and Purpose

The event requiring this regulation is an Oaks Park 4th of July fireworks display to be held on the Willamette River in Portland, Oregon. The fireworks display is scheduled to begin on July 4, 1997, at 9:45 p.m. (PDT). This event may result in a number of vessels congregating near the fireworks launching barge. To promote the safety of both the spectators and participants, a safety zone is being established on the waters of the Willamette River around the fireworks launching barge, and entry into this safety zone is prohibited unless authorized by the Captain of the Port. This action is necessary due to the possibility of debris and unexploded fireworks falling into the Willamette River in the vicinity of the launching barge. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal, state, and local agencies.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) 44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the entry into the safety zone will only be restricted for one hour on the day of the event, and that less than half a mile of the waterway will be restricted. The entities most likely to be affected by this action are commercial ship, and tug and barge operators on the Willamette River. Most of these entities are aware of the fireworks display and the safety zone, and they can schedule their transits accordingly, If safe to do so, the representative of the Captain of the Port assigned to enforce this safety zone may authorize commercial vessels to pass through the safety zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). For the reasons outlined in the Regulatory Evaluation above, the Coast Guard expects the impact of this final rule to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this final rule and has concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be made available in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

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

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

2. A temporary § 165.T13009 is added to read as follows:

§ 165.T13009 Safety Zone; Willamette River, Portland, OR.

(a) *Location:* The following area is a safety zone: All waters on the Willamette River from river mile 15.5 to river mile 16.5, in the vicinity of the Oaks Amusement Park, Portland, Oregon.

(b) *Definitions:* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Group Portland, Oregon.

(c) *Regulations:*

(1) In accordance with the general regulations in Section 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion

from the area, citation for failure to comply, or both.

(d) *Effective Date:* These regulations become effective on Friday, July 4, 1997, at 9:45 p.m. (PDT) and terminate on July 4, 1997, at 11 p.m. (PDT).

Dated: June 12, 1997.

G.M. Webber,

Commander, U.S. Coast Guard, Acting Captain of the Port, Portland, Oregon.

[FR Doc. 97–17079 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–97–011]

RIN 2115–AA97

Safety Zone Regulations; St. Helens 4th of July Fireworks Display, Columbia River, St. Helens, OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the St. Helens 4th of July fireworks display. The event will be held on Friday, July 4, 1997, from 9:45 p.m. (PDT) to 11 p.m. (PDT). The safety zone will be located on the Columbia River from river mile 85.8 to river mile 86.5, in the vicinity of the Columbia River entrance to the Multnomah Channel, St. Helens, Oregon. The Coast Guard, through this action, intends to protect persons, facilities, and vessels from safety hazards associated with the fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This rule is effective on July 4, 1997, at 9:45 p.m. (PDT) and terminates on July 4, 1997, at 11 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LT T. G. Allan, c/o Captain of the Port, Portland, 6767 N. Basin Ave, Portland, Oregon 97217–3992, (503) 240–9327.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the area of the fireworks display. Due to the complex planning and coordination involved, the event sponsor, the St. Helens Jaycees, was unable to provide the Coast Guard with notice of the final details until 30 days prior to the date of the event. Therefore, sufficient time was not available to publish a proposed rule in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures in this case would be impracticable.

Background and Purpose

The event requiring this regulation is the St. Helens 4th of July fireworks display to be held on the Columbia River in St. Helens, Oregon. The fireworks display is scheduled to begin on July 4, 1997, at 9:45 p.m. (PDT). This event may result in a number of vessels congregating near the fireworks launch area. To promote the safety of both the spectators and participants, a safety zone is being established on the waters of the Columbia River around the fireworks launching area, and entry into this safety zone is prohibited unless authorized by the Captain of the Port. This action is necessary due to the possibility of debris and unexploded fireworks falling into the Columbia River in the vicinity of the launching barge. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal, state, and local agencies.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the entry into the safety zone will only be restricted for one hour on the day of the event, and that less than half a mile of the waterway will be restricted. The entities most likely to be affected by this action are commercial ship, and tug and barge operators on the Columbia River. Most of these entities are aware of the fireworks display and the safety zone, and they can schedule their transits accordingly. If safe to do so, the representative of the Captain of the Port assigned to enforce this safety zone may authorize commercial vessels to pass through the safety zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). For the reasons outlined in the Regulatory Evaluation above, the Coast Guard expects the impact of this final rule to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this final rule and has concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be made available in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

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

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

2. A temporary section 165.T13010 is added to read as follows:

§ 165.T13010 Safety Zone; Columbia River, St. Helens, OR.

(a) *Location:* The following area is a safety zone: All waters on the Columbia River from river mile 85.8 to river mile 86.5, in the vicinity of the Columbia River entrance to the Multnomah Channel, St. Helens, Oregon.

(b) *Definitions:* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Group Portland, Oregon.

(c) *Regulations:*

(1) In accordance with the general regulations in Section 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) *Effective Date:* These regulations become effective on Friday, July 4, 1997, at 9:45 p.m. (PDT) and terminate on July 4, 1997, at 11 p.m. (PDT).

Dated: June 12, 1997.

G.M. Webber,

Commander, U.S. Coast Guard, Acting Captain of the Port, Portland, Oregon.

[FR Doc. 97–17078 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–97–009]

RIN 2115–AA97

Safety Zone Regulations; Oregon Food Bank Blues Festival Fireworks Display, Willamette River, Portland, OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Oregon Bank Blues Festival fireworks display. The event will be held on Friday, July 4, 1997, from 9:45 p.m. (PDT) to 11 p.m. (PDT). The safety zone will be located on the Willamette River between the Hawthorne Bridge (river mile 13.1) and the Marquam Bridge (river mile 13.5), Portland, Oregon. The Coast Guard, through this action, intends to protect persons, facilities, and vessels from safety hazards associated with the fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This rule is effective on July 4, 1997, at 9:45 p.m. (PDT) and terminates on July 4, 1997 at 11 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LT T.G. Allan, c/o Captain of the Port, Portland, 6767 N. Basi Ave, Portland Oregon 97217–3992, (503) 240–9327.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the area of the fireworks display. Due to the complex planning and coordination involved, the event sponsor, Oregon Food Bank Blues Festival and Fuller Productions, were unable to provide the Coast Guard with notice of the final details until 30 days prior to the date of the event. Therefore, sufficient time was not available to publish a proposed rule in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures in this case would be impracticable.

Background and Purpose

The event requiring this regulation is an Oregon Food Bank Blues Festival fireworks display to be held on the Willamette River in Portland, Oregon. The fireworks display is scheduled to begin on July 4, 1997, at 9:45 p.m. (PDT). This event may result in a number of vessels congregating near the fireworks launching barge. To promote the safety of both the spectators and participants, a safety zone is being established on the waters of the Willamette River around the fireworks launching barge, and entry into this safety zone is prohibited unless authorized by the Captain of the Port. This action is necessary due to the possibility of debris and unexploded fireworks falling into the Willamette River in the vicinity of the launching barge. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal, state, and local agencies.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the entry into the safety zone will only be restricted for one hour on the day of the event, and that less than half a mile of the waterway will be restricted. The entities most likely to be affected by this action are commercial ship, and tug and barge operators on the Willamette River. Most of these entities are aware of the fireworks display and the safety zone, and they can schedule their transits accordingly. If safe to do so, the representative of the Captain of the Port assigned to enforce this safety zone may authorize commercial vessels to pass through the safety zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact

on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). For the reasons outlined in the Regulatory Evaluation above, the Coast Guard expects the impact of this final rule to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment Assessment

The Coast Guard has considered the environmental impact of this final rule and has concluded that, under section 2.B.2.c of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be made available in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

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

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

2. A temporary section 165.T13008 is added to read as follows:

§ 165.T13008 Safety Zone; Willamette River, Portland, OR.

(a) *Location:* The following area is a safety zone: All waters on the Willamette River between the Hawthorne Bridge (river mile 13.1) and the Marquam Bridge (river mile 13.5), Portland, Oregon.

(b) *Definitions:* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Group Portland, Oregon.

(c) *Regulations:*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) *Effective Date:* These regulations become effective on Friday,July 4, 1997, at 9:45 p.m. (PDT) and terminate on July 4, 1997, at 11 p.m. (PDT).

Dated: June 12, 1997.

G.M. Webber,

Commander, U.S. Coast Guard, Acting Captain of the Port, Portland, Oregon.

[FR Doc. 97–17077 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Mobile, AL Regulation 97–04]

RIN 2115–AA97

Safety Zone Regulations: Destin Pass, Destin, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a safety zone for Destin Pass between buoys 8 and 9, Destin, FL within a 500-foot radius of the deck barge and attending pushboat participating in the City of Destin fireworks display. The zone is needed to protect personnel and property associated with the City of Destin fireworks display. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation is effective from 6 P.M. to 9:30 P.M. on July 4, 1997.

FOR FURTHER INFORMATION CONTACT: LTJG H. Elena McCullough, (334) 441–5286, 150 North Royal Street, Mobile, AL 36652–2924.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent damage to the vessels involved.

Background and Purpose

The event requiring this regulation will begin at 6:00 P.M. on July 4, 1997. The City of Destin Fireworks Display will occur from one deck barge located between buoys 8 and 9 Destin Pass, Destin, FL. The fireworks display will terminate at 9:30 P.M. on July 4, 1997. This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of part 165.

Regulatory Evaluation

This temporary rule is not a significant regulatory evaluation under Executive Order 12866 and is not significant under the ''Department of Transportation Regulatory Policies and Procedures'' (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 has determined that it does not sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2. of Commandant Instruction M16475.1 (series), this proposal is categorically

excluded from further environmental documentation. A Categorical Exclusion Determination is available by contacting Commander (mps), Eighth Coast Guard District, 501 Magazine Street, New Orleans, LA 70130–3396.

List of Subjects in 33 CFR Part 165

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

Regulation

In consideration of the foregoing, Subpart F of Part 165 of Chapter 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new § 165.T08036 is added to read as follows:

§ 165.T08036 Safety Zone: Destin Pass, Destin, FL.

(a) Location: The following area is a safety zone: Destin Pass between buoys 8 and 9, Destin, FL within a 500-foot radius of the deck barge and attending pushboat participating in the City of Destin fireworks display. The zone is needed to protect personnel and property associated with the City of Destin fireworks display.

(b) Effective date: This section is effective from 6 P.M. to 9:30 P.M. on July 4, 1997.

(c) Regulations: In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: June 6, 1997.

J.J. Kichner,

Captain, U.S. Coast Guard, Captain of the Port Mobile, Alabama.

[FR Doc. 97–17093 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Mobile, AL Regulation 97–14]

RIN 2115–AA97

Safety Zone Regulations: St. Andrew Bay, Panama City Marina, Panama City, Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a safety zone for St. Andrew Bay, Panama City Marina, Panama City, Florida within a 500-foot radius of the deck barge and attending pushboat participating in the Panama City fireworks display. The zone is needed to protect personnel and property associated with the Panama City fireworks display. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation is effective from 8 P.M. to 10 P.M. on July 4, 1997.

FOR FURTHER INFORMATION CONTACT: LT R. A. Smith, (334) 441–5124, 150 North Royal Street, Mobile, AL 36652–2924.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent damage to the vessels involved.

Background and Purpose

The event requiring this regulation will begin at 8:00 P.M. on July 4, 1997. The Panama City Fireworks Display will occur from one deck barge located off Panama City Marina, Panama City, FL. The fireworks display will terminate at 10:00 P.M. on July 4, 1997. This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of Part 165.

Regulatory Evaluation

This temporary rule is not a significant regulatory evaluation under Executive Order 12866 and is not significant under the ''Department of Transportation Regulatory Policies and Procedures'' (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2. of Commandant Instruction M16475.1 (series), this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available by contacting Commander (mps), Eighth Coast Guard District, 501 Magazine Street, New Orleans, LA 70130–3396.

List of Subjects in 33 CFR Part 165

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

Regulation

On consideration of the foregoing, Subpart F of Part 165 of Chapter 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new § 165.T08037 is added to read as follows:

§ 165.T08037 Safety Zone: St. Andrew Bay, Panama City Marina, Panama City Florida.

(a) Location: The following area is a safety zone: Within a 500-foot radius of the deck barge and attending pushboat participating in the Panama City fireworks display. The zone is needed to protect personnel and property associated with the Panama City fireworks display.

(b) Effective date: This section becomes effective from 8 P.M. to 10 P.M. on July 4, 1997.

(c) Regulations: In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: June 6, 1997.

J.J. Kichner,

Captain, U.S. Coast Guard, Captain of the Port, Mobile, Alabama.

[FR Doc. 97–17092 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Mobile, AL Regulation 97–15]

RIN 2115–AA97

Safety Zone Regulations; Pensacola, Pensacola Bay, Gulf of Mexico, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a safety zone off Pensacola's Pit Slip Marina, Pensacola Bay, within a 1000 foot radius around the barge launching fireworks. The zone is needed to protect personnel and property associated with the Fourth of July Independence Day Celebration. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation is effective from 8 pm to 10 pm on July 4, 1997.

FOR FURTHER INFORMATION CONTACT: LT R.A. Smith, (334) 441–5286, 150 North Royal Street, Mobile, AL 36602–2924.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent damage to the vessels involved.

Background and Purpose

The event requiring this regulation will begin at 8 P.M. on July 4, 1997. The fireworks display will occur within a 1000 foot radius around the launch barge off Pensacola's Pit Slip Marina, Pensacola Bay. The fireworks display will terminate at 10 P.M. on July 4, 1997. This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of part 165.

Regulatory Evaluation

This temporary rule is not a significant regulatory evaluation under Executive Order 12866 and is not significant under the ''Department of Transportation Regulatory Policies and Procedures'' (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2. of Commandant Instruction M16475.1 (series), this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available by contacting Commander (mps), Eighth Coast Guard District, 501 Magazine Street, New Orleans, LA 70130–3396.

List of Subjects in 33 CFR Part 165

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

Regulation

In consideration of the foregoing, Subpart F of Part 165 of Chapter 33, Code of Federal Regulations, is amended as follows

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new § 165.T08038 is added to read as follows:

§ 165.T08038 Safety Zone: Pensacola, Pensacola Bay, Gulf of Mexico, FL.

(a) Location. The following area is a safety zone: Pensacola Bay off Pensacola's Pit Slip Marina, within a 1,000 foot radius of the fireworks launch barge. The zone is needed to protect personnel and property associated with the Fourth of July Independence Day Celebration.

(b) Effective date. This section becomes effective at 8:00 P.M. on July 4, 1997. It terminates at 10:00 P.M. on July 4, 1997.

(c) Regulations: In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: June 6, 1997.

J.J. Kichner,

Captain, U.S. Coast Guard, Captain of the Port, Mobile, Alabama.

[FR Doc. 97–17091 Filed 6–30–97; 8:45 am]

BILLING CODE 44910–114–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–97–042]

RIN 2115–AA97

Safety Zone: BT Global Challenge Race, Boston Harbor, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the BT Global Challenge Race in Boston Harbor. The safety zone is in effect on June 29, 1997, from 12:00 p.m. until 2:30 p.m. The safety zone temporarily closes all waters of Boston Harbor in an area between a western boundary line drawn from the northern most pier of Rowes Wharf (42°21′27″ N, 071°02′58″ W) in Boston to the southeast corner of Pier 1 in East Boston (42°21′51″ N, 071°02′32″ W), and an eastern boundary line drawn from the northeast corner of the Boston Fish Pier in South Boston (42°21′13″ N, 071°02′23″ W) to the Cashmans Dry Dock in East Boston (42°21′39″ N, 071°02′01″ W). The safety zone is needed to protect the yachts participating in the BT Global Challenge Race while they set up and during their departure of Boston Harbor.

EFFECTIVE DATE: This rule is effective on June 29, 1997, from 12 p.m. until 2:30 p.m.

FOR FURTHER INFORMATION CONTACT: MSTC Daniel Dugery, Vessels and Waterways Management Division, Coast Guard Marine Safety Office Boston, (617) 223–3002.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation, and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent injury and damage to persons and vessels involved.

Background and Purpose

The BT Global Challenge Race, an around the world race consisting of 14 yachts approximately 67 feet in length. Boston, MA has been designated as one of the port calls for this event. The sponsor, Challenge Business Limited, has requested for Coast Guard assistance when the yachts line up to begin the race, and while they are departing Boston Harbor. Due to the public interest expected in this event, and the natural flow of commercial traffic a safety zone is needed to protect the yachts from the hazards of collision. The safety zone is in effect on June 29, 1997, from 12 p.m. until 2:30 p.m. The safety zone temporarily closes all waters of Boston Harbor within 200 yards of the yachts while they set up for the race and during their departure of Boston Harbor.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Costs to the shipping industry from these regulations, if any, will be minor and have no significant adverse financial effect on vessel operators. Deep draft vessel traffic, fishing vessels, and tour boats may experience minor delays in departures or arrivals due to the safety zone. In addition, due to the limited number and duration of the arrivals, departures and harbor transits, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard finds that this rule will not have a significant impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant impact on your business or organization, please submit a comment explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under section 2.B.2.e. of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

Regulation

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

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

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

2. A temporary 165.T01–042, is added to read as follows:

§ 165.T01–042 Safety Zone: BT Global Challenge Race, Boston Harbor, MA.

(a) *Location.* The following area is a safety zone: All waters of Boston Harbor between a western boundary line drawn from the northern most pier of Rowes Wharf (42°21′27″ N, 071°02′58″ W) in Boston to the southeast corner of Pier 1 in East Boston (42°21′51″ N, 071°02′32″ W) and an eastern boundary line drawn from the northeast corner of the Boston Fish Pier in South Boston (42°21′13″ N, 071°02′23″ W) to the Cashmans Dry Dock in East Boston (42°21′39″ N, 071°02′01″ W) [Datum: NAD 1983]

(b) *Effective Date.* This regulation becomes effective on June 29, 1997, from 12:00 p.m. until 2:30 p.m.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the COTP Boston.

Dated: June 11, 1997.

J.J. O'Brien, Jr.,

Commander, U.S. Coast Guard, Acting Captain of the Port, Boston, Massachusetts.

[FR Doc. 97–17090 Filed 6–26–97; 10:13 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–97–041]

RIN 2115–AA97

Safety Zone: Macy's 1997 Fourth of July Fireworks, East River, New York

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the annual Macy's Fourth of July Fireworks program in New York Harbor. The event will take place on Friday, July 4, 1997, from 7:30 p.m. until 11:30 p.m. on the East River. This safety zone temporarily closes a major portion of the East River to vessel transits.

EFFECTIVE DATE: This rule is effective from 7:30 p.m. until 11:30 p.m. on July 4, 1997.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Dave Gefell, (718) 354–4195, Waterways Management Division, Coast Guard Activities New York, 212 Coast Guard Drive, Fort Wadsworth, Staten Island, New York, 10305.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date conclusive information regarding this event was determined, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since the event is intended for public entertainment and immediate action is needed to protect

the maritime public from the hazards associated with large amounts of fireworks exploding from four separate barge locations in the waters of the East River.

Background and Purpose

Macy's has submitted an Application for Approval of Marine Event to hold a fireworks program on the waters of the East River. This regulation establishes a temporary safety zone in the waters of the East River. The safety zone includes all waters of the East River, shore to shore, north of the Brooklyn Bridge, and south of a line drawn from Lawrence Point at position 40°47′27″ N latitude, 073°54′35″ W longitude, (NAD 1983), to Stony Point at position 40°47′48″ N latitude 073°54′42″ W longitude (NAD 1983), and south of the Harlem River Foot Bridge, New York. This safety zone area also includes all waters of Newtown Creek west of the Pulaski Bascule Bridge. No vessel may enter the safety zone without permission of the Captain of the Port New York. In order to facilitate an orderly viewing of and departure after the event, vessels will be allowed to take position within the zone as follows: vessels less than 20 meters (65.6 feet) in length, carrying persons for the sole purpose of viewing the fireworks, may take position in the northern area of the zone, north of the southern tip of Roosevelt Island, and in the southern area of the zone, south of the Williamsburg Bridge at least 200 yards off the bulkhead on the west bank, and in Newtown Creek, east of the Pulaski Bascule Bridge. Vessels equal to or greater than 20 meters (65.6 feet) in length, carrying persons for the sole purpose of viewing the fireworks display, may take position in an area at least 300 yards off the bulkhead on the west bank and just off the pierhead faces on the east bank of the East River between the Williamsburg Bridge and a line drawn from East 15th Street, Manhattan, to a point due east on the Brooklyn shore north of the entrance to Bushwick Inlet.

Once in position within the zone, all vessels must remain in position until released by the Captain of the Port New York. On scene patrol personnel will monitor the number of designated vessels taking position in the viewing areas of the zone. If it becomes apparent that any additional spectator vessels in a specific viewing area will create a safety hazard, the patrol commander may prevent additional vessels from entering into that viewing area. All vessels must be in their respective viewing areas no later than 7:30 p.m. After the event has concluded, and the fireworks barges have safely relocated outside of the main channel, vessels will be allowed to depart by the separate viewing area as directed by patrol commander.

Vessels not complying with this criteria have a significant potential to create a hazardous condition in this area of the East River, due in great part to the extremely strong currents.

This safety zone covers the minimum area needed and imposes the minimum restrictions necessary to ensure the protection of all vessels and the fireworks handlers aboard the barges.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed safety zone temporarily closes a major portion of the East River to vessel traffic. There is a regular flow of traffic through this area; however, due to the limited duration of the event; the extensive, advance advisories that will be made to allow the maritime community to schedule transits before and after the event; the fact that the event is taking place at a late hour; that the event has been held for twenty years in succession and is therefore anticipated annually, that small businesses may experience an increase in revenue due to the event, the fact that the event sponsor has established and advertised a telephone ''hotline'' at (212) 494–5247 which waterways users may call prior to the event for details of the safety zone, the impact of this regulation is expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. For the reasons set forth in the Regulatory Evaluation section above, the Coast Guard expects this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that the your business or organization qualifies as a small entity and that the proposed rule will have a significant economic impact on your business or organization, please submit a comment (see For Further Information Contact) explaining why you think it qualifies and in what way and to what degree this proposal will economically affect it.

Collection of Information

This rule does not provide for a collection of information requirement under the Paperwork Reduction Act (44 U.S.C. *et seq.*).

Federalism

The Coast Guard has analyzed this temporary rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this regulation and concluded that under section 2.B.2.e.(34) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—[AMENDED]

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

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

2. A temporary section, 165.T01–041 is added to read as follows:

§ 165.T01–041 Safety Zone: Macy's 1997 Fourth of July Fireworks, East River, New York.

(a) *Location.* The safety zone includes all waters of the East River, shore to shore, north of the Brooklyn Bridge, and

south of a line drawn from Lawrence Point (40°47′27″ N latitude, 073°54′35″ W longitude, NAD 1983) to Stony Point (40°47′48″ N latitude, 073°54′42″ W longtitude, NAD 1983), and south of the Harlem River Foot Bridge, New York. This safety zone area also includes all waters of Newtown Creek west of the Pulaski Bascule Bridge.

(b) *Effective period.* This section is effective from 7:30 p.m. until 11:30 p.m. on July 4, 1997.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) No vessels will be allowed to transit the safety zone without permission of the Captain of the Port New York.

(3) Vessels may remain in the safety zone for the purpose of viewing the event in accordance with the following preestablished viewing areas:

(i) Vessels less than 20 meters (65.6 feet) in length, carrying persons for the sole purpose of viewing the fireworks display may take position within the zone north of the southern tip of Roosevelt Island, south of the Williamsburg Bridge and at least 300 yards off the bulkhead on the west bank, and in the waters of Newtown Creek, east of the Pulaski Bascule Bridge.

(ii) Vessels greater than 20 meters (65.6 feet) in length, carrying persons for the sole purpose of viewing the fireworks display may take position within an area at least 300 yards off the bulkhead on the west bank and just off the pierhead faces on the east bank of the East River between the Williamsburg Bridge and a line drawn from the foot of 15th Street, Manhattan, to a point due east on the Brooklyn shore north of the entrance to Bushwick Inlet.

(iii) Vessels must be positioned in their respective viewing areas within the safety zone not later than 7:30 p.m.

(4) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 19, 1997.

Richard C. Vlaun,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 97–17088 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Savannah 97–004]

RIN 2115–AA97

Safety Zone Regulations; Savannah, GA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These regulations are initiated to remove 33 CFR Section 165.T96073. This safety zone regulation was established to protect vessel traffic from the hazards created by the allision of a vessel with the Savannah Light Tower and its subsequent destruction. Since the publishing of the Temporary Final Rule, the damaged container and debris field recovery operations have been completed. Therefore, the safety zone is no longer necessary.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: LCDR Linda Fagan, project officer, Coast Guard Marine Safety Office Savannah, GA at (912) 652–4353.

SUPPLEMENTARY INFORMATION: The Coast Guard finds in accordance with 5 U.S.C. 553, good cause exists for proceeding directly to a final rule and making this rule effective in less than 30 days. The final rule removes a temporary safety zone put in place on December 5, 1996. The potential threat to mariners was eliminated after the debris from the tower was removed. Therefore, publishing an NPRM or delaying the effective date of this final rule is unnecessary and the Coast Guard is proceeding directly to final rule, effective upon publication in the **Federal Register**.

Discussion of Regulation

A temporary final rule was published creating a temporary safety zone in a 1,000 yard radius of the Savannah Light Tower (61 FR 68156; December 27, 1996). The safety zone was necessary to provide for the safety of life on the navigable waters and protect salvage personnel engaged in recovery operations. Since the publishing of the temporary rule, the recovery operations have been completed, and the rule is no longer necessary.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040); February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This final rule cancels a safety zone regulation that was only in place until the debris from the Savannah Island Light was removed.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this action will not have a significant economic impact on a substantial number of small entities, because this rule only cancels a temporary safety zone around the Savannah Island Light tower.

Collection of Information

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

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to section 2.B.2 of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994). Specifically, section 2.B.2.e.(34)(g) does not require a Categorical Exclusion Determination and the preparation of an Environmental Analysis Checklist.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping

requirements, Security measures, Waterways.

In consideration of the foregoing, the Coast Guard amends Subpart C of Part 165 Title 33, Code of Federal Regulations as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 165.5; 49 CFR 1.46

§ 165.T96–073 [Removed]

2. Section 165.T96–073 is removed.

Dated: February 24, 1997.

C.E. Bone,

Commander, U.S. Coast Guard, Captain of the Port.

[FR Doc. 97–17066 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 222

RIN 1810–AA84

Impact Aid Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations governing the Impact Aid Program under title VIII of the Elementary and Secondary Education Act of 1965 (ESEA or Act), as amended by the Improving America's Schools Act of 1994 (IASA). The program, in general, provides assistance for maintenance and operations costs to local educational agencies (LEAs) that are affected by Federal activities. These regulations implement a number of changes from the previous Impact Aid laws, Pub. L. 81–874 and Pub. L. 81–815, which were repealed when title VIII of the ESEA was enacted, and clarify and improve the administration of the program. In addition, these regulations make technical amendments to implement legislative changes made to title VIII of the ESEA by the Impact Aid Technical Amendments of 1996 (Pub. L. 104–195) and the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201).

These regulations cover the following subjects: Application requirements, overpayment forgiveness (section 8012 of the Act), payments for Federal property (section 8002 of the Act), payments for children with severe disabilities (section 8003(g) of the Act), withholding and related procedures for Indian policies and procedures (sections 8004(d)(2) and 8004(e) (8) and (9) of the Act), determinations under section 8009 of the Act, and administrative hearings and judicial review (section 8011 of the Act).

EFFECTIVE DATE: These regulations take effect on July 31, 1997.

FOR FURTHER INFORMATION CONTACT: For further information on this part, please contact Catherine Schagh. Telephone: (202) 260–3858. 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: On October 20, 1994, the President signed into law the IASA (Pub. L. 103–382). The IASA reauthorized the Impact Aid Program as title VIII of the ESEA, and made a number of changes to the program. Under the Impact Aid Program, assistance is provided for maintenance and operations costs to LEAs affected by Federal activities, including the presence of tax-exempt Federal property and an increased student population due to Federal property ownership or activities.

Generally, in implementing the IASA, the Department is issuing regulations only where absolutely necessary, or to provide increased flexibility or reduce burden. As a part of that process, the Secretary published in the **Federal Register** on September 29, 1995, a final Impact Aid regulation removing regulations that were obsolete due to changes made in the statute by the IASA, or that were unnecessary because they simply repeated statutory provisions. The Secretary indicated in those technical regulations that he intended to publish a notice of proposed rulemaking (NRPM) in the future to implement provisions of the new law that were not included in those final regulations, and to make any substantive changes that were identified as needed under the Secretary's reinvention review.

On October 7, 1996, the Secretary published an NPRM to accomplish those objectives (61 FR 52564). These final regulations, which contain the following provisions, are substantially similar to that NPRM:

- In subpart A (General), existing § 222.4 is amended to conform the proof of mailing requirements to those accepted under other Department programs, which do not accept private metered postmarks or mail receipts that are not dated by the U.S. Postal Service, and new §§ 222.12–222.18 are added to implement the authority in section 8012 of the Act for forgiveness of certain Impact Aid overpayments;
- In subpart B (Payments for Federal Property under Section 8002 of the Act), existing § 222.22 is amended to provide clarification about the treatment of revenues from activities conducted on Federal property, and a new § 222.23 is added to implement the new statutory method for valuing Federal property.
- A new subpart F is added (Payments to Local Educational Agencies for Children with Severe Disabilities under Section 8003(g) of the Act—§§ 222.80–222.85) to implement the authority in section 8003(g) for supplemental payments for children with severe disabilities;
- In subpart G (Special Provisions for Local Educational Agencies that Claim Children Residing on Indian Lands), new §§ 222.114–222.122 are added to implement the Secretary's expanded enforcement authority for Indian policies and procedures in sections 8004(d)(2) and 8004(e)(8)–(9) of the Act;
- In subpart J (Impact Aid Administrative Hearings and Judicial Review under Section 8011 of the Act), changes are made to §§ 222.151, 222.152, 222.157, and 222.158, including, in § 222.151, the adoption of a shortened time for filing administrative appeals (30 days from the adverse action, rather than the current 60 days) to expedite the redistribution of recovered overpayments to all applicants;
- In subpart K (Determinations under section 8009 of the Act), § 222.161 is revised to implement new terms used in section 8009 of the Act, § 222.164 is revised regarding notification procedures for a party initiating a proceeding, § 222.164(b)(5) is revised to explain the Secretary's flexible predetermination procedures, and § 222.165 is revised regarding administrative appeals of section 8009 determinations to include, in part, a more expedited hearing process.

In addition, the following technical amendments are made. In subpart C, § 222.36(b) (1) and (2) is amended to conform to legislative changes in section 8003 of the Act made by section 376 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201). Previously, section 8003(a)(3) of the Act provided that, for a school district to be eligible to receive a payment for federally connected children under section 8003(a)(1) (F) or (G) (formerly identified as ''civilian b's''), those children had to number at least 2000 in average daily attendance (ADA) *and* 15 percent of the school district's total

ADA. The children described in subparagraph 8003(a)(1) (F) or (G), respectively, are those children who reside on Federal property but whose parents neither work on Federal property nor are on active duty in the military, or children who do not reside on Federal property but reside with civilian parents employed on Federal property in the same State. Section 222.36(b) (1) and (2) of the existing regulations contains parallel requirements. Effective for fiscal year (FY) 1997, the National Defense Authorization Act for Fiscal Year 1997 modified the threshold eligibility requirement in section 8003(a)(3) to require a school district's section 8003(a)(1) (F) and (G) children to number at least 1000 in ADA *or* 10 percent of the school district's total ADA. A corresponding amendment is made to § 222.36(b) (1) and (2) of these final regulations.

In subpart K, a technical amendment is made to conform § 222.162(a) to legislative changes in section 8009 of the Act made by section 10 of the Impact Aid Technical Amendments Act of 1996 (Pub. L. 104–195). Previously, section 8009 of the Act specified that, to be certified, a State must have a disparity percentage of no more than 25 percent for FYs 1995, 1996, and 1997, and no more than 20 percent for FYs 1998 and 1999. Section 222.162 of the existing regulations contains parallel requirements. The Impact Aid Technical Amendments Act of 1996 modified section 8009 of the Act to continue the 25 percent standard for FYs 1998 and 1999, rather than implement a new 20 percent standard. These final regulations implement this change by revising § 222.162(a) to eliminate the 20 percent requirement for FYs 1998 and 1999 because that requirement is no longer authorized by section 8009 of the Act.

Finally, for consistency purposes, a technical amendment is made to remove from the Impact Aid regulations unnecessary citations to the Secretary's general rulemaking authority (20 U.S.C. 1221e–3 and 20 U.S.C. 1221e–3(a)(1)).

Significant Changes

In addition to minor editorial, clarifying, and technical revisions, the following significant changes from the NPRM are made in these final regulations.

1. *Sections 222.12–222.18.* The regulatory sections that implement the Secretary's authority in section 8012 of the Act to forgive certain Impact Aid overpayments are reorganized in response to public comment to make them shorter and easier to follow. As a consequence of this reorganization, three new sections are added. Substantive changes from the NPRM concerning the overpayment forgiveness provisions are described separately below.

2. *Section 222.16 (§ 222.13(c) in the NPRM).* The requirements for information and documentation to be submitted by LEAs requesting overpayment forgiveness are simplified and changed. LEAs will not be required to submit maximum local real property tax rate data, or data regarding the equalized assessed valuation of real property per pupil (EAVPP). Instead, any LEA requesting forgiveness, not just LEAs whose boundaries are the same as a Federal military installation, will be required to submit its average per pupil expenditure (APPE) data, and the APPE figure for its State (in addition to local real property tax rate data that most LEAs also will submit).

3. *Section 222.17 (§ 222.14 in the NPRM).* The criteria that the Secretary will use to determine what constitutes undue financial hardship and serious harm to an LEA's educational program are simplified, by reducing them to three measures: The total amount of the LEA's eligible overpayments on the date of its forgiveness request; the LEA's local real property tax rate in comparison to the State average local real property tax rate; and the LEA's APPE in comparison to the State APPE. For LEAs whose boundaries are the same as a Federal military installation, and for other LEAs with no or minimal local real property tax revenues in comparison to other LEAs in the State, the Secretary will use only an APPE measure in addition to the amount of the LEA's total eligible overpayments.

4. *Section 222.18 (§ 222.15 in the NPRM).* The portion of the total eligible overpayment that the Secretary may forgive is increased, by raising the carryover amount that is allowed before repayment is required from five percent to 10 percent of the LEA's preceding year's total current expenditures.

Analysis of Comments and Changes

In response to the Secretary's invitation to comment in the NPRM, the Department received eight letters, which were from State and local officials and the National Association for Federally Impacted Schools (NAFIS). Several commenters indicated their support of a number of aspects of the proposed regulations. Most of the letters contained multiple comments and addressed the proposed overpayment forgiveness provisions. An analysis of the comments, and the Secretary's responses to those comments, is presented below.

Clarity of Regulations

Comment: One commenter indicated that the regulatory requirements were not clearly stated because they refer to numeric sections of the law with which most people are unfamiliar, so that applicants are required to reread sections of the law to understand the effect of the regulations. In addition, the commenter stated that the regulations would be more understandable if shorter sections were used and that the numeric and alphabetical subsection labelling is confusing.

Discussion: In keeping with the Administration's regulatory reform initiatives, the Department is committed to reducing the volume of regulations. Thus, for example, the Department often avoids repeating in regulations those provisions of law that are clear in their statutory form. While acknowledging that this policy may require a reader to refer to two documents, rather than one, the Department believes that the benefits of this approach outweigh any disadvantage with respect to the Impact Aid regulations.

Applicants for Federal financial assistance under a particular program are urged to familiarize themselves with the statute governing that program, as well as the regulations. Copies of the current Impact Aid statute are available upon request from the Department's Impact Aid Program office. In addition, a citation to the portion of the Impact Aid law, as published in the United States Code, relating to each regulation follows each section of the program regulations. An applicant needing clarification of a regulatory or statutory requirement is invited to communicate with the departmental representative listed in this preamble under the heading ''For Further Information Contact.''

In preparing regulations and other documents for publication in the **Federal Register**, the Department adheres to requirements prescribed by the Office of the Federal Register. These requirements—applied uniformly to all Federal Departments and Agencies—govern such matters as the lettering and numbering of paragraphs, the order of that lettering and numbering, and indentation of paragraphs. The Department has submitted a copy of this comment to the Office of the Federal Register for the information and use of that Office.

Subject to the **Federal Register** requirements, the Department's policy is to draft regulatory sections that are short, clear, and as readable as possible.

As a part of this policy, on September 29, 1995, the Secretary published comprehensive final regulations for the Impact Aid Program that reorganized and streamlined the existing regulations to be logically organized, clearly stated, and easier to use. These final regulations are designed to fit into that streamlined reorganization. In addition, changes have been made in the overpayment forgiveness provisions of this final regulation (§§ 222.12–222.18) to shorten and simplify those individual regulatory sections.

Changes: The overpayment forgiveness provisions (originally §§ 222.12–222.15 in the NPRM) have been reorganized to shorten individual regulatory sections, resulting in the addition of three new sections (now §§ 222.12–222.18). The regulatory language also has been simplified and condensed where possible.

Subpart A—General

Application Filing Requirements (§ 222.4)

Comment: One commenter believed that not being able to use private metered postmarks for applications will cause unnecessary hardship to districts and discriminate against law-abiding districts for the misuse of a few other districts that, in any event, already are regulated by the U.S. Postal Service. Another commenter agreed with the Department's proposal not to accept private metered postmarks.

Discussion: Changing to a proof of mailing standard that does not accept private metered postmarks or mail receipts that are not dated by the U.S. Postal Service is consistent with the standards of other Department programs. Although the U.S. Postal Service does regulate in this area, the Impact Aid Program has received applications in the past with private postmark dates that were manipulated without detection by the U.S. Postal Service. This regulation does not prohibit districts from using private meter postage for mailing applications. Rather, the purpose of the provision is to ensure that districts are aware that private meter postage alone will not be sufficient proof of mailing should application receipt issues arise after a deadline has passed.

Changes: None.

Comment: One commenter suggested that the Department accept electronic mail as an alternative means of application receipt.

Discussion: As a goal, the Department strongly supports electronic transmission as an alternative means of submitting an application for Federal financial assistance, and has begun investigating appropriate methods and necessary technology support systems to accomplish that objective on a Department-wide basis. As part of this process, the Department is participating in an interagency working group on the issue, and currently uses electronic transmission and receipt for documents in several areas, including small purchase contracts and data transmission for postsecondary education grants. At this time the Department is not able to accept Impact Aid applications that have been transmitted electronically, but continues to move ahead on this matter to prepare for future acceptance of electronic submissions.

Changes: None.

Overpayment Forgiveness Provisions (§§ 222.12–222.15 in the NPRM; § 222.12–222.18 in these final regulations)

General.

Comment: One commenter, an LEA, believed that it was not affected by the overpayment forgiveness provisions because the district was in an equalized State that reduced State aid by an amount equal to 100 percent of the district's Impact Aid.

Discussion: Even if an LEA's State aid were reduced by an amount equal to 100 percent of the LEA's Impact Aid payment, it could benefit from the overpayment forgiveness provisions. This is because, unless its overpayment were forgiven, the LEA would still be responsible for repayment to the Federal Government of any Federal funds received by the district for which the district was not eligible.

Moreover, when making reductions in State aid, States that are certified as equalized States qualified to make reductions in State aid under section 8009(b) of the Act are required to set aside and not consider certain of an LEA's Impact Aid receipts, including funds under section 8003(f) for heavily impacted districts. See section 8009(d)(1)(B) of the Act and 34 CFR 222.161(a)(1)(iii) and 222.163. The most recent data available to the Department from the commenter's State indicate that the State is properly setting aside the appropriate categories and amounts of Impact Aid and that a reduction in State aid equal to less than 100 percent of the commenter's Impact Aid was in fact made. Reductions in excess of the amounts authorized in section 8009(d)(1)(B) of the Act and 34 CFR 222.161(a)(1)(iii) and 222.163 would be unlawful.

Changes: None.

Comment: One commenter stated that the proposed overpayment forgiveness provisions are too strict, and that no repayment should be sought if the overpayment was due to the error of the Department or the State educational agency, particularly if the error concerned local contribution rates (LCRs).

In addition, the commenter believed that overpayments should be forgiven in full if the Department did not discover the error in the same fiscal year in which the affected payment was made. In particular, the commenter believed that the Department should review claims for federally connected children with disabilities promptly to catch any errors made by school districts in their claims of those children.

Discussion: The proposed overpayment forgiveness provisions include flexibility for the Secretary to forgive an overpayment in whole if the Secretary determines on a case-by-case basis that repayment would be manifestly unjust (§§ 222.13(a)(2)(ii) and 222.15(a)(2) in the NPRM; §§ 222.14(c)(2) and 222.18(a)(2) in the final regulations). As indicated in the preamble to the NPRM (61 FR 52566), the Secretary anticipates that this special provision will be used only on the rare occasion when an overpayment was due to an error on the part of the Department that an LEA could not reasonably be expected to identify and report. An example of a rare occasion when this paragraph would apply is a case in which a calculation of an LEA's payment was made by the Department using the wrong LCR and the LEA could not have known that the LCR was too high.

Because payments based upon federally connected children under section 8003 of the Act now are based upon preceding year student count data, the Impact Aid Program normally would have time to discover any errors in those reported student counts before making payments based upon those children. However, because the Department cannot verify the data in every application each year prior to making payments, it is important that applicants carefully read and follow the application instructions to ensure that only eligible federally connected children, including eligible federally connected children with disabilities, are included in their student counts.

Changes: None.

Comment: One commenter stated that the overpayment forgiveness provisions should not be applied retroactively, and that forgiveness requests filed before the effective date of the final regulations should be considered only under the

provisions of the law in effect at the time the request was filed.

Discussion: In reauthorizing the Impact Aid Program, Congress provided authority to the Secretary to forgive overpayments owed by LEAs when it enacted section 8012 of the Act. This unique and limited authority requires, by its very nature, the careful balancing of competing interests of Impact Aid recipients. The competing interests involved in deciding overpayment forgiveness requests specifically noted by the Secretary in the preamble to the NPRM are the interests of the districts applying for forgiveness and the interests of those applicants eligible for redistribution of the overpaid Impact Aid funds. Rather than undertake the difficult balancing of these competing interests solely on the basis of statutory authority that lacks specific measures, and in a hasty and relatively uninformed manner, the Secretary through this rulemaking proceeding sought to obtain information and views from all of the affected parties about how best to implement the new legislation.

The appropriateness of seeking comments on this unprecedented authority is reflected in the facts that the proposed overpayment forgiveness provisions garnered more public comments than the other provisions of the NPRM and that the Secretary has made significant changes as a result of those comments. Deciding overpayment forgiveness requests solely on the basis of the statute without regard to the information and views expressed during the rulemaking proceeding would, in the Secretary's view, result in uninformed and inappropriate decisions being made without the benefit of the knowledge acquired in the rulemaking proceeding.

The Secretary has received a number of overpayment forgiveness requests, both before and after the statutory authority was enacted. For reasons of fairness, the Secretary concludes that it would be inappropriate to subject some overpayment requests to the statutory standard without benefit of implementing regulations, but consider other overpayment requests under the more fully developed standards. Therefore, all of those requests will be decided using the same consistent and uniform measures that are published in these final regulations.

Changes: None.

''Manifestly Unjust'' Provision (§ 222.13(a)(2)(ii) in the NPRM; § 222.14(c)(2) in the final regulations)

Comment: One commenter stated that the manifestly unjust provision is too vague and needs clarification as to the types of Department errors that are covered and how the Department will determine what overpayments qualify under that special provision.

Discussion: The special provision that allows the Secretary to forgive an overpayment if it is determined, on a case-by-case basis, that the repayment would be ''manifestly unjust,'' is designed to allow the Secretary flexibility to forgive overpayments caused by Department error in future unanticipated situations. It would defeat the flexible nature of this provision to speculate about the possible situations that might occur and limit its applicability to those situations. As the Secretary indicated in the preamble to the NPRM, however, the Secretary anticipates applying this provision only on the rare occasion in which an LEA could not reasonably be expected to identify and report the overpayment when it is made.

Changes: None.

Filing Deadlines (§ 222.13(b) in the NPRM; § 222.14 (a) and (b) in the final regulations)

Comment: One commenter stated that the time limit for filing a forgiveness request should be changed from 30 to 60 days because of the slow receipt of mail by rural Indian school districts. The commenter believed that 30 days would not give these districts sufficient time to prepare a reply and submit the required supporting documentation.

Discussion: The time limit for filing a forgiveness request is determined for all school districts from their date of receipt of the overpayment notice, not from the date of mailing of that document. Therefore, differences in the length of time that it takes for various school districts to receive the overpayment notices should not affect the amount of time available to respond with an overpayment forgiveness request. The Secretary believes that 30 days is a reasonable amount of time to allow for a school district to submit a forgiveness request. If that is not sufficient time for the districts also to gather the required supporting documentation, the regulations allow a district to request an extension of time for the submission of that information (§ 222.13(b)(3) in the NPRM; § 222.14(b) in the final regulations).

Changes: None.

Required Information and Documentation (§ 222.13(c) in the NPRM; § 222.16 in the final regulations)

Comment: One commenter stated that per pupil expenditure (PPE) data should be required from all school districts, rather than just from school districts with boundaries that are the same as a Federal military installation (''coterminous'' districts). Another commenter believed that PPE data should be treated similarly for coterminous school districts as for other school districts that have real property taxing authority. To accomplish this result, the commenter believed that PPE data for coterminous districts must exclude certain expenditures such as repair, renovation, and building maintenance to Federal buildings, expenditures for construction of new buildings, school bus purchases, and capital outlay, because a ''taxing LEA'' could fund those expenditures through bonded debt that would not be included in its PPE figure.

Discussion: The Secretary agrees that the PPE figure is a good measure (in addition to others) to use for all school districts in determining whether a district has the fiscal capacity to repay an overpayment. Therefore, as discussed below, changes have been made in the standards that the Secretary will apply to determine whether repayment of an overpayment would cause undue financial hardship and serious harm to a district's educational program. A corresponding change has been made in the data that an LEA is required to submit, to require every LEA requesting forgiveness to submit its average PPE (APPE) data and the APPE figure for its State.

The same definition of APPE for an LEA, which is based upon the definition of ''current expenditures'' as defined in section 8013 of the Act, applies to all school districts, and excludes capital outlay expenditures. Thus, if a coterminous school district has extensive repair or renovation costs, those costs likely would be classified as capital outlay expenditures and excluded from the district's current expenditures (and its APPE), whether or not they are funded through debt service. Likewise, the purchase of replacement equipment, such as school buses, is treated as a capital outlay and excluded from current expenditures and APPE figures if the State treats those purchases as a capital outlay.

Changes: A change is made to require all LEAs requesting overpayment forgiveness to submit APPE data for the preceding year, rather than requiring only coterminous districts to submit those data.

Comment: One commenter stated that the Secretary should not require LEAs to submit information about a State's maximum local real property tax rate or the equalized assessed valuation of real property per pupil (EAVPP), because

that information should not be used to determine whether repayment of an overpayment would cause undue financial hardship and serious harm to an LEA's educational program.

Discussion: The Secretary has decided to use standards other than a State's maximum local real property tax rate and a district's EAVPP in determining whether the district has the fiscal capacity to repay an overpayment, and, as discussed below, will not apply these measures to determine whether repayment of an overpayment would cause undue financial hardship and serious harm to a district's educational program. Accordingly, LEAs will not be required to submit data on these measures.

Changes: A change has been made by removing the requirement that an LEA requesting overpayment forgiveness must submit State maximum local real property tax rate and EAVPP data (§ 222.13(c)(1) (iii) and (v) in the NPRM; § 222.16(a) in the final regulations).

Determination of Undue Financial Hardship and Serious Harm to an LEA's Educational Program (§ 222.14 in the NPRM; § 222.17 in the final regulations)

Comment: Two commenters believed that the Secretary should change the measures used to determine undue financial hardship and serious harm to an LEA's educational program by removing the State maximum local real property tax rate and EAVPP measures, and using instead a State average local real property tax rate measure and a PPE measure. One of those commenters stated that a State maximum tax rate measure was not a good indicator of local effort because an LEA might be levying a tax rate significantly above the State average, but still fail to be at 90 percent of the State maximum. In addition, that commenter indicated that the State maximum measure should not be used because annual changes by the State to that measure could result in arbitrary results, and State limitations on tax increases could prohibit LEAs from being able to raise their tax levies sufficiently to meet the standard. The second commenter also believed that the State maximum measure would unfairly affect Indian districts that did not have a sufficient tax base or number of taxpayers to absorb a large tax increase.

As an alternative, both of these commenters suggested using a State average tax rate measure for all LEAs, instead of for coterminous districts only, because it would be a more consistent standard nationwide and a better measure of local effort. One of these commenters believed that it would be reasonable to consider that an LEA had met the standard if the LEA were levying a local real property tax that was at least 90 percent of the State average local real property tax rate. A third commenter stated, however, that the State average local real property tax rate, although it can be calculated, is not a good measure for ''unequalized'' States such as New York, and that a ''local contribution rate'' measure should be used instead.

Finally, two commenters believed that the EAVPP standard should be eliminated because it is too subject to manipulation, and is not a good measure of an LEA's financial capacity because it ignores other available revenues. If the EAVPP standard were retained, one of the commenters believed that some consideration also should be given to other financial resources of an LEA because some States make adjustments in State aid for LEAs with a low EAVPP.

The commenters suggested as a substitute for EAVPP that, in addition to the tax rate standard, a lower-than-average PPE standard generally should be applied, and that the Secretary also should consider an LEA's ability to raise additional revenues by increasing its local real property tax levy.

For coterminous districts, one commenter agreed with the NPRM provision that the PPE standard would be met if the LEA's APPE was no more than 125 percent of the State APPE. That commenter indicated that the same standard should be extended as well to heavily impacted Indian lands LEAs with little local real property tax revenue capacity. In addition, that commenter suggested that, for those special districts, the Secretary should retain the flexibility to adjust the tax rate percentage, or waive it altogether, if the Secretary believed that the educational program of the district otherwise would suffer.

Discussion: The Secretary agrees with the importance of using uniform and consistent measures that can be applied nationwide, and therefore eliminates the State maximum tax rate measure in these final regulations because only some States have maximum tax rates. The Secretary also agrees with the importance of considering all sources of revenue, and therefore eliminates the EAVPP measure. In addition, the Secretary agrees that good measures of an LEA's fiscal capacity are the LEA's local effort as measured by its local real property tax rate in comparison to the State average, and its per pupil expenditures in comparison to the State average, and therefore generally adopts those measures, combined with a minimum eligible overpayment balance, to determine whether repayment would result in undue financial hardship and serious harm to an LEA's educational program.

The Secretary also agrees, however, that it would be unfair to impose a local effort measure on districts that have no or little ability to raise local real property tax revenues in comparison with other LEAs in their State. Therefore, for all of those districts, the Secretary eliminates in these final regulations the use of a local effort measure, and will use instead the PPE measure that was proposed in the NPRM for coterminous districts (in addition to a minimum eligible overpayment balance). That PPE measure is that the LEA's APPE for the preceding year is no more than 125 percent of the State APPE.

The Secretary does not believe that a local contribution rate measure is an appropriate substitute for a local real property tax rate measure. For States in which tax rates are ''unequalized'' among school districts, the Secretary expects the State to equalize those rates before calculating a State average local real property tax rate in order to remove any distortion of the resulting average.

Finally, the Secretary agrees that it also would be a good measure of an LEA's fiscal capacity to consider the amount of additional revenues that could be raised by the LEA through an increase in taxes. However, that measure is not being adopted in these final regulations because it may not be possible to apply it consistently across States. The Department also believes that its application would impose a significant administrative burden on some LEAs and States, and on the Federal Government.

Changes: The State maximum local real property tax rate and EAVPP measures of fiscal burden are eliminated, and the following three measures adopted for all LEAs except those with no or little local real property tax revenues: (1) The LEA's eligible overpayments on the date of its request must total at least $10,000; (2) the LEA's local real property tax rate for current expenditures for the preceding year must be equal to or above the State average; and (3) the LEA's APPE for the preceding year must be less than the State APPE. The measure for coterminous LEAs is extended to apply as well to other LEAs with no or minimal local real property tax revenues. That standard (in addition to the total overpayment amount equalling or exceeding $10,000) is that the LEA's APPE for the preceding fiscal year does

not exceed 125 percent of the State APPE.

Amount Forgiven (§ 222.15 in the NPRM; § 222.18 in the final regulations)

Comment: The NPRM proposed to determine the amount of the overpayment to be forgiven depending on the amount of an LEA's closing balance the previous year in comparison with its previous year's total current expenditures (TCE). In cases where an LEA's carryover was more than five percent of its previous year's TCE, the NPRM provided that the LEA would repay all or a portion of the overpayment. One commenter stated that, for LEAs with strict State budget limits that are required to use closing balances to fund override expenditures because they have very few taxpayers, the Secretary in determining the overpayment amount to be forgiven should remove from the carryover balance the portion of that balance needed to fund the override expenditures.

Two commenters believed that a five percent carryover was too small, and that the allowed carryover should be increased to 25 percent to allow LEAs a cash reserve to cover three months operating expenses. In addition, one of those commenters indicated that, in determining the amount to be forgiven, the Secretary should adopt a method that takes into consideration an LEA's ability to raise taxes to repay the debt. Under the proposed method suggested by that comment, all eligible LEAs would repay the amount by which their closing balance exceeded 25 percent of the previous year's total current expenditures, and, in addition, all LEAs would repay the lesser of the amount of local revenue that could be raised with (1) a five percent tax increase, or (2) the maximum tax rate increase that legally could have been adopted.

Discussion: As noted in the preamble to the NPRM, the basis for using an LEA's closing balance, as expressed as a percentage of TCE, to demarcate the extent of forgiveness for eligible overpayments was intended to provide LEAs with reasonable minimal amounts to allow for the transition from one fiscal year to the next. In light of this limited purpose, the Secretary proposed the level of five percent of TCE. In response to comments that a sufficient cash reserve should be provided for a longer transitional period, however, the Secretary is increasing the size of the permitted reserve to 10 percent. While the Secretary considers this substantial enlargement of the permitted reserve to be consistent with the stated purpose, a further increase in the allowable carryover reserve to one that might be sufficient for a period of up to three months—one full quarter—would be inappropriate for the limited transitional purpose of this provision.

No special provision has been made in these final regulations for LEAs that use ending balances to fund override expenditures in States with budget limits. As noted, the purpose of this provision is to provide for a transition from one fiscal year to another. Creating an exception allowing larger reserves solely for LEAs that fund subsequent year operations through overrides funded with ending balances would not be consistent with the purpose of the provision, and would be unfair to other LEAs that are not subject to budget limits but nonetheless use their ending balances to fund operations in the ensuing year. In addition, the Secretary believes that the doubling in size of the allowable carryover reserve should help address the concerns of any district that uses ending balances to fund override spending.

Finally, the allowable carryover reserve is considered only in determining the amount of the overpayment that will be forgiven. The Secretary would not expect every district to use all of its closing balance in excess of the allowable cash reserve to satisfy immediately the unforgiven portion of its overpayments. As has been the practice in the past, in appropriate cases, repayment may be made through administrative offset, or a repayment schedule can be negotiated to provide for repayment over time so as not to disrupt the educational services provided by the LEA.

Changes: The allowed carryover amount, in determining how much of the eligible overpayments are forgiven, is increased from five percent to 10 percent of the previous year's total current expenditures.

Subpart F—Payments to Local Educational Agencies for Children With Severe Disabilities Under Section 8003(g) of the Act

Definitions (§ 222.80)

Comment: Two commenters indicated that the regulations should include a definition of the statutory term ''compassionate post assignment,'' and that the definition of the term should be obtained from the Department of Defense. One of those commenters suggested that, absent a definition from the Department of Defense, the Department should consider defining the term based upon the enrollment of military students with disabilities. Specifically, the commenter suggested that the term could be defined as meaning an assignment to any LEA with an enrollment of children with disabilities that exceeds the State average, and where at least 25 percent of those children are military dependents.

Discussion: As stated in the NPRM, the Department has been unable to obtain a standard definition of the term ''compassionate post assignment.'' In the absence of a standard or official definition of the term in Department of Defense statutes, regulations, or other official policy guidance, the Department has determined that it would be inappropriate to develop its own definition of the term. The commenter's suggested definition of the term as any LEA with an above-State average enrollment of children with disabilities, 25 percent of whom are military dependents, may in practical effect exclude some LEAs that do not meet the commenter's standard, but that do meet the section 8003(g) statutory standard of serving two or more severely disabled students who each have a parent in the uniformed services. For this reason, the Department believes that it would be inappropriate to adopt the commenter's suggestion.

Changes: None.

Subpart G—Special Provisions for Local Educational Agencies That Claim Children Residing on Indian Lands

Withholding and Related Procedures for Indian Policies and Procedures (§§ 222.114–222.122)

Comment: One commenter approved of the clarity of the proposed enforcement regulations in this section but asked whether a school district claiming children residing on Indian lands under section 8003(a)(1)(C) of the Act could choose to count the children in another category, thereby waiving the 1.25 payment weight and avoiding the Indian policies and procedures (IPP) requirements under section 8004 of the Act, which are associated with children residing on Indian lands.

Discussion: A school district with a pending IPP enforcement issue that has claimed children residing on Indian lands under section 8003(a)(1)(C) but refused to comply with the IPP requirements cannot avoid the IPP enforcement provisions, including having its funds withheld, by deciding not to claim the children on an amended or future application. However, there is no provision in the Impact Aid statute that requires a school district to claim children residing on Indian lands under section 8003(a)(1)(C), even if the children

would meet the eligibility requirements for the increased payment weight associated with that section.

While a school district may choose to claim the children in another payment category, such as under section 8003(a)(1)(F) of the Act, in order to circumvent or avoid the special provisions relating to school districts claiming children residing on Indian lands, the Secretary does not support or endorse such an action. Reclassifying the children in this way clearly would result in the school district receiving a lesser Impact Aid payment than it otherwise would receive. Most importantly, however, the Secretary believes that the requirements of section 8004 may be beneficial in ensuring the equal participation of children living on Indian lands in a school district's programs and activities and affording parents and Indian tribes an opportunity to present their views on those programs and activities. Therefore, the Secretary encourages school districts to meet the spirit and the purpose of the requirements associated with section 8004, which would also enable them to receive the higher payments for children residing on Indian lands.

Changes: None.

Secretary's Authority To Withhold Payments (§ 222.115)

Comment: Another commenter asked for clarification of the relationship between the proposed language in § 222.115(b) and § 222.113(c).

Discussion: Section 222.115(b) provides that the Assistant Secretary withholds payments to an LEA after an IPP hearing where the LEA rejects the final determination of the Assistant Secretary or the LEA fails to implement the required remedy within the time established and the Assistant Secretary determines that the required remedy will not be undertaken by the LEA even if the LEA is granted a reasonable extension of time. Section 222.113(c) provides that the Assistant Secretary's final determination under § 222.113(a) is the final action for the Department concerning the complaint and is subject to judicial review. When read together, these sections mean that if a school district appeals a final determination, the Assistant Secretary is not precluded from withholding the funds in accordance with the regulations while the appeal is pending.

Changes: None.

Subpart K—Determinations Under Section 8009 of the Act

Treatment of State Aid Under Section 8009 of the Act (§ 222.161)

Comment: One commenter stated that the definition of ''total local tax revenues'' should be clarified by adding the word ''tax'' after the word ''including.''

Discussion: ''Local tax revenues'' as defined in § 222.161(c) clearly includes the proceeds from various types of taxes, and does not include other types of revenues.

Changes: In the definition of ''total local tax revenues,'' the word ''tax'' is added after the word ''including.''

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number assigned to the collections of information in these final regulations is displayed at the end of the affected sections of the regulations.

List of Subjects in 34 CFR Part 222

Education, Education of children with disabilities, Elementary and secondary education, Federally affected areas, Grant programs—education, Indians—education, Public housing, Reports and recordkeeping requirements, School construction.

Dated: June 26, 1997.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.041, Impact Aid)

The Secretary amends part 222 of Title 34 of the Code of Federal Regulations as follows:

PART 222—IMPACT AID PROGRAM

1. The authority citation for Part 222 continues to read as follows:

Authority: 20 U.S.C. 7701–7714, unless otherwise noted.

§§ 222.7, 222.9, 222.10 and 222.11 [Amended]

2. In the authority citation for the following sections, remove ''1221e-3,'':

§ 222.7.
§ 222.9.
§ 222.10.
§ 222.11.

§§ 222.50, 222.94, 222.95, 222.103, 222.104, 222.108–222.113 [Amended]

3. In the authority citation for the following sections, remove ''1221e-3(a)(1),'':

§ 222.50.
§ 222.94.
§ 222.95.
§ 222.103.
§ 222.104.
§ 222.108.
§ 222.109.
§ 222.110.
§ 222.111.
§ 222.112.
§ 222.113.

4. Section 222.4 is revised to read as follows:

§ 222.4 How does the Secretary determine when an application is timely filed?

(a) To be timely filed under § 222.3, an application must be received by the Secretary, or mailed, on or before the applicable filing date.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

(Authority: 20 U.S.C. 7705)

Note to Paragraph (b)(1): The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

§ 222.11 [Amended]

5. In § 222.11, the introductory text is amended by removing ''Except as otherwise provided in section 8012'', and by adding in its place ''Except as otherwise provided in §§ 222.12–222.18,''.

§ 222.13 [Redesignated as § 222.19]

6. Section 222.13 is redesignated as § 222.19, and new §§ 222.12–222.18 are added to read as follows:

§ 222.12 What overpayments are eligible for forgiveness under section 8012 of the Act?

(a) The Secretary considers as eligible for forgiveness under section 8012 of the Act (''eligible overpayment'') any overpayment amount that is more than an LEA was eligible to receive for a particular fiscal year under Public Law 81–874, Public Law 81–815, or the Act (except for the types of overpayments listed in § 222.13), and that—

(1) Remains owing on or after July 31, 1997;

(2) Is the subject of a written request for forgiveness filed by the LEA before July 31, 1997; or

(3) Is the subject of a pending, timely written request for an administrative hearing or reconsideration, and has not previously been reviewed under §§ 222.12–222.18.

(b) The Secretary applies §§ 222.14–222.18 in forgiving, in whole or part, an LEA's obligation to repay an eligible overpayment that resulted from error either by the LEA or the Secretary.

(Authority: 20 U.S.C. 7712)

§ 222.13 What overpayments are not eligible for forgiveness under section 8012 of the Act?

The Secretary does not consider the following overpayments to be eligible for forgiveness under section 8012 of the Act:

(a) Any overpayment under section 7 of Public Law 81–874 or section 16 of Public Law 81–815.

(b) An amount received by an LEA, as determined under section 8003(g) of the Act (payments to LEAs for certain federally connected children with severe disabilities, implemented in subpart F of this part), that exceeds the LEA's maximum basic support payment under section 8003(b) of the Act.

(c) Any overpayment caused by an LEA's failure to expend or account for funds properly in accordance with the following laws and regulations:

(1) Section 8003(d) of the Act (implemented in subpart D of this part) or section 3(d)(2)(C) of Public Law 81–874 for certain federally connected children with disabilities.

(2) Section 8003(g) of the Act.

(Authority: 20 U.S.C. 7712)

§ 222.14 What requirements must a local educational agency meet for an eligible overpayment to be forgiven in whole or part?

The Secretary forgives an eligible overpayment, in whole or part as described in § 222.18, if—

(a) An LEA submits to the Department's Impact Aid Program office a written request for forgiveness by the later of—

(1) Thirty days from the LEA's initial receipt of a written notice of the overpayment; or

(2) September 2, 1997;

(b) The LEA submits to the Department's Impact Aid Program office the information and documentation described in § 222.16 by the deadlines described in paragraph (a) of this section, or other time limit established in writing by the Secretary due to lack of availability of the information and documentation; and

(c) The Secretary determines under § 222.17 that—

(1) In the case either of an LEA's or the Department's error, repayment of the LEA's total eligible overpayments will result in an undue financial hardship on the LEA and seriously harm the LEA's educational program; or

(2) In the case of the Department's error, determined on a case-by-case basis, repayment would be manifestly unjust (''manifestly unjust repayment exception'').

§ 222.15 How are the filing deadlines affected by requests for other forms of relief?

Unless the Secretary (or the Secretary's delegatee) extends the applicable time limit in writing—

(a) A request for forgiveness of an overpayment under § 222.14 does not extend the time within which an applicant must file a request for an administrative hearing under § 222.151; and

(b) A request for an administrative hearing under § 222.151, or for reconsideration under § 222.152, does not extend the time within which an applicant must file a request for forgiveness under § 222.14.

(Authority: 20 U.S.C. 7712)

§ 222.16 What information and documentation must an LEA submit for an eligible overpayment to be considered for forgiveness?

(a) Every LEA requesting forgiveness must submit, within the time limits established under § 222.14(b), the following information and documentation for the fiscal year immediately preceding the date of the forgiveness request (''preceding fiscal year''):

(1) A copy of the LEA's annual financial report to the State.

(2) The LEA's local real property tax rate for current expenditure purposes, as described in § 222.17(b).

(3) The average local real property tax rate of all LEAs in the State.

(4) The average per pupil expenditure (APPE) of the LEA, calculated by dividing the LEA's aggregate current expenditures by the total number of children in average daily attendance for whom the LEA provided a free public education.

(5) The APPE of the State, as defined in section 8013 of the ESEA.

(b) An LEA requesting forgiveness under § 222.14(c)(2) (manifestly unjust repayment exception), or § 222.17(a)(3) (no present or prospective ability to repay), also must submit written information and documentation in specific support of its forgiveness request under those provisions within the time limits established under § 222.14(b).

(Authority: 20 U.S.C. 7712)

§ 222.17 How does the Secretary determine undue financial hardship and serious harm to a local educational agency's educational program?

(a) The Secretary determines that repayment of an eligible overpayment will result in undue financial hardship on an LEA and seriously harm its educational program if the LEA meets the requirements in paragraph (a)(1), (2), or (3) of this section.

(1) An LEA other than an LEA described in paragraphs (a)(2) and (3) of this section meets the requirements of paragraph (a) of this section if—

(i) The LEA's eligible overpayments on the date of its request total at least $10,000;

(ii) The LEA's local real property tax rate for current expenditure purposes, for the preceding fiscal year, is equal to or higher than the State average local real property tax rate for that preceding fiscal year; and

(iii) The LEA's average per pupil expenditure (APPE) (as described in § 222.16(a)(4)) for the preceding fiscal year is lower than the State APPE (as described in § 222.16(a)(5)) for that preceding fiscal year.

(2) The following LEAs qualify under paragraph (a) of this section if they meet the requirements in paragraph (a)(1)(i) of this section and their APPE (as described in § 222.16(a)(4)) for the preceding fiscal year does not exceed 125 percent of the State APPE (as described in § 222.16(a)(5)) for that preceding fiscal year:

(i) An LEA with boundaries that are the same as a Federal military installation.

(ii) Other LEAs with no local real property tax revenues, or with minimal local real property tax revenues per pupil due to substantial amounts of Federal property in the LEA as compared with the average amount of those revenues per pupil for all LEAs in the State.

(3) An LEA qualifies under paragraph (a) of this section if neither the successor nor the predecessor LEA has the present or prospective ability to repay the eligible overpayment.

(b) The Secretary uses the following methods to determine a tax rate for the purposes of paragraph (a)(1)(ii) of this section:

(1) If an LEA is fiscally independent, the Secretary uses actual tax rates if all the real property in the taxing jurisdiction of the LEA is assessed at the same percentage of true value. In the

alternative, the Secretary computes a tax rate for fiscally independent LEAs by using the methods described in §§ 222.67–222.69.

(2) If an LEA is fiscally dependent, the Secretary imputes a tax rate using the method described in § 222.70(b).

(Authority: 20 U.S.C. 7712)

§ 222.18 What amount does the Secretary forgive?

For an LEA that meets the requirements of § 222.14(a) (timely filed forgiveness request) and § 222.14(b) (timely filed information and documentation), the Secretary forgives an eligible overpayment as follows:

(a) *Forgiveness in whole.* The Secretary forgives the eligible overpayment in whole if the Secretary determines that the LEA meets—

(1) The requirements of § 222.17 (undue financial hardship), and the LEA's current expenditure closing balance for the LEA's fiscal year immediately preceding the date of its forgiveness request (''preceding fiscal year'') is ten percent or less of its total current expenditures (TCE) for that year; or

(2) The manifestly unjust repayment exception in § 222.14(c)(2).

(b) *Forgiveness in part.* (1) The Secretary forgives the eligible overpayment in part if the Secretary determines that the LEA meets the requirements of § 222.17 (undue financial hardship), and the LEA's preceding fiscal year's current expenditure closing balance is more than ten percent of its TCE for that year.

(2) For an eligible overpayment that is forgiven in part, the Secretary—

(i) Requires the LEA to repay the amount by which the LEA's preceding fiscal year's current expenditure closing balance exceeded ten percent of its preceding fiscal year's TCE (''calculated repayment amount''); and

(ii) Forgives the difference between the calculated repayment amount and the LEA's total overpayments.

(3) For the purposes of this section, ''current expenditure closing balance'' means an LEA's closing balance before any revocable transfers to non-current expenditure accounts, such as capital outlay or debt service accounts.

EXAMPLE: An LEA that timely requests forgiveness has two overpayments of which portions remain owing on the date of its request—one of $200,000 and one of $300,000. Its preceding fiscal year's closing balance is $250,000 (before a revocable transfer to a capital outlay or debt service account); and 10 percent of its TCE for the preceding fiscal year is $150,000.

The Secretary calculates the amount that the LEA must repay by determining the amount by which the preceding fiscal year's closing balance exceeds 10 percent of the preceding year's TCE. This calculation is made by subtracting 10 percent of the LEA's TCE ($150,000) from the closing balance ($250,000), resulting in a difference of $100,000 that the LEA must repay. The Secretary then totals the eligible overpayment amounts ($200,000 + $300,000), resulting in a total amount of $500,000. The Secretary subtracts the calculated repayment amount ($100,000) from the total of the two overpayment balances ($500,000), resulting in $400,000 that the Secretary forgives.

(Authority: 20 U.S.C. 7712)

7. Section 222.22 is amended by revising paragraphs (c) and (d) to read as follows:

§ 222.22 How does the Secretary treat compensation from Federal activities for purposes of determining eligibility and payments?

* * * * *

(c) If an LEA described in paragraph (a) of this section received revenue described in paragraph (b)(1) of this section during the preceding fiscal year that is less than the maximum payment amount calculated under section 8002(b)(2) for the fiscal year for which the LEA seeks assistance, the Secretary reduces that maximum payment amount by the amount of that revenue received by the LEA.

(d) For purposes of this section, the amount of revenue that an LEA receives during the previous fiscal year from activities conducted on Federal property does not include the following:

(1) Payments received by the agency from the Secretary of Defense to support—

(i) The operation of a domestic dependent elementary or secondary school; or

(ii) The provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

(2) Federal payments-in-lieu-of-taxes (PILOTs or PILTs), including PILTs for Federal entitlement lands authorized by Public Law 97–258, 31 U.S.C. 6901–6906.

* * * * *

8. A new § 222.23 is added to read as follows:

§ 222.23 How does a local official determine the aggregate assessed value of eligible Federal property for the purpose of a local educational agency's section 8002 payment?

(a) The aggregate assessed value of eligible Federal property for the purpose of an LEA's section 8002 payment must be determined, by a local official responsible for assessing the value of real property located in the jurisdiction of the LEA for the purpose of levying a property tax, as follows:

(1) The local official first determines a fair market value (FMV) for the eligible Federal property in each Federal installation or other federally owned property (e.g., Federal forest), based on the highest and best use of taxable properties adjacent to the eligible Federal property.

(2) The local official then determines a section 8002 assessed value for each Federal installation or federally owned property by adjusting the FMV established in paragraph (a)(1) of this section by any percentage, ratio, index, or other factor that the official would use, if the eligible Federal property were taxable, to determine its assessed value for the purpose of generating local real property tax revenues for current expenditures. In making this adjustment, the official may assume that there was a transfer of ownership of the eligible Federal property for the year for which the section 8002 assessed value is being determined.

(3) The local official then calculates the aggregate section 8002 assessed value for all eligible Federal property in the LEA by adding the section 8002 assessed values for each different Federal installation or federally owned property determined in paragraph (a)(2) of this section.

EXAMPLE: Two different Federal properties are located within an LEA—a Federal forest, and a naval facility. Based upon the highest and best use of taxable properties adjacent to the eligible Federal property, the local assessor establishes a FMV for the Federal forest of $1 million (woodland), and a FMV for the naval facility of $3 million (50 percent residential and 50 percent commercial/industrial). Assessed values in that taxing jurisdiction are determined by multiplying the FMV of property by an assessment ratio—the assessment ratio for woodland property is 30 percent of FMV, for residential 60 percent of FMV, and for commercial 75 percent of FMV.

To determine the section 8002 assessed value of the Federal forest, the assessor multiplies the FMV for that property ($1,000,000) by 30 percent (the assessment ratio for woodland property), resulting in a section 8002 assessed value of $300,000.

To determine the section 8002 assessed value for the naval facility, the assessor first must determine the portion of the total FMV attributable to each property type if that portion has not already been established. To make this determination for the residential portion, the assessor could multiply the total FMV ($3,000,000) for the naval facility by 50 percent (the portion of residential property), resulting in a $1.5 million FMV for the residential property. To determine a section 8002 assessed value for this residential portion, the assessor then would multiply the $1.5 million by 60 percent (assessment ratio

for residential property), resulting in $900,000.

Similarly, to determine the portion of the FMV for the naval facility attributable to the commercial/industrial property, the assessor could multiply the total FMV ($3,000,000) by 50 percent (the portion of commercial/industrial property), resulting in $1.5 million. To determine the section 8002 assessed value for this commercial/industrial portion, the official then would multiply the $1.5 million by 75 percent (the assessment ratio for commercial/industrial property), resulting in $1,025,000. The assessor then must add the section 8002 assessed value figures for the residential portion ($900,000) and for the commercial/industrial portion ($1,025,000), resulting in a total section 8002 assessed value for the entire naval facility of $1,925,000.

Finally, the assessor determines the aggregate section 8002 assessed value for the LEA by adding the section 8002 assessed value for the Federal forest ($300,000), and the section 8002 assessed value for the naval facility ($1,925,000), resulting in an aggregate assessed value of $2,325,000.

(b) For the purpose of this section, the terms listed below have the following meanings:

(1) *Adjacent* means next to or close to the eligible Federal property. In most cases, this will be the closest taxable parcels.

(2)(i) *Highest and best use* of a parcel of adjacent property means the FMV of that parcel determined based upon a ''highest and best use'' standard in accordance with State or local law or guidelines if available. To the extent that State or local law or guidelines are not available, ''highest and best use'' generally will be a reasonable fair market value based upon the current use of those properties. However, the local official may also consider the most developed and profitable use for which the adjacent taxable property is physically adaptable *and* for which there is a need or demand for that use in the near future.

(ii) A local official may not base the ''highest and best use'' value of adjacent taxable property upon potential uses that are speculative or remote.

(iii) If the taxable properties adjacent to the eligible Federal property have different highest and best uses, these different uses must enter into the local official's determination of the FMV of the eligible Federal property under paragraph (a)(1) of this section.

EXAMPLE: If a portion of a Federal installation to be valued has road or highway frontage with adjacent properties that are used for residential and commercial purposes, but the rest of the Federal installation is rural and vacant with adjacent properties that are agricultural, the local official must take into consideration the various uses of the adjacent properties (residential, commercial, and agricultural) in determining the FMV of the Federal property under paragraph (a)(1) of this section.

(Authority: 20 U.S.C. 7702)

9. Section 222.36 is amended by revising paragraph (b) (1) and (2) to read as follows:

§ 222.36 What minimum number of federally connected children must a local educational agency have to receive a payment on behalf of those children under section 8003 (b) and (e)?

* * * * *

(b) * * *

(1) 1,000 in ADA; or

(2) 10 percent of the total number of children in ADA.

* * * * *

10. Subpart F (Payments to Local Educational Agencies for Children with Severe Disabilities under Section 8003(g) of the Act), consisting of §§ 222.80 through 222.85, is added to read as follows:

Subpart F—Payments to Local Educational Agencies for Children With Severe Disabilities Under Section 8003(g) of the Act

Sec.

222.80 What definitions apply to this subpart?
222.81 What requirements must a local educational agency meet to be eligible for a payment under section 8003(g) of the Act?
222.82 How does the Secretary calculate the total amount of funds available for payments under section 8003(g)?
222.83 How does an eligible local educational agency apply for a payment under section 8003(g)?
222.84 How does the Secretary calculate payments under section 8003(g) for eligible local educational agencies?
222.85 How may a local educational agency use funds that it receives under section 8003(g)?

Subpart F—Payments to Local Educational Agencies for Children With Severe Disabilities Under Section 8003(g) of the Act

§ 222.80 What definitions apply to this subpart?

(a) The definitions in §§ 222.2 and 222.50 apply to this subpart.

(b) In addition, the following term applies to this subpart:

Children with severe disabilities means children with disabilities who because of the intensity of their physical, mental, or emotional problems need highly specialized education, social, psychological, and medical services in order to maximize their full potential for useful and meaningful participation in society and for self-fulfillment. The term includes those children with disabilities with severe emotional disturbance (including schizophrenia), autism, severe and profound mental retardation, and those who have two or more serious disabilities such as deaf-blindness, mental retardation and blindness, and cerebral-palsy and deafness.

(Authority: 20 U.S.C. 1400 *et seq.*, 7703(g))

§ 222.81 What requirements must a local educational agency meet to be eligible for a payment under section 8003(g) of the Act?

An LEA is eligible for a payment under section 8003(g) of the Act if it—

(a) Is eligible for and receives a payment under section 8003(d) of the Act for children identified in paragraph (b) of this section and meets the requirements of §§ 222.52 and 222.83(b) and (c); and

(b) Incurs costs of providing a free appropriate public education to at least two children with severe disabilities whose educational program is being provided by an entity outside the schools of the LEA, and who each have a parent on active duty in the uniformed services.

(Authority: 20 U.S.C. 1400 *et seq.*, 7703(a), (d), (g))

§ 222.82 How does the Secretary calculate the total amount of funds available for payments under section 8003(g)?

(a) In any fiscal year in which Federal funds other than funds available under the Act are provided to an LEA to meet the purposes of the Act, the Secretary—

(1) Calculates the sum of the amount of other Federal funds provided to an LEA to meet the purposes of the Act and the amount of the payment that the LEA received for that fiscal year under section 8003(b) of the Act; and

(2) Determines whether the sum calculated under paragraph (a)(1) of this section exceeds the maximum basic support payment for which the LEA is eligible under section 8003(b), and, if so, subtracts from the amount of any payment received under section 8003(b), any amount in excess of the maximum basic support payment for which the LEA is eligible.

(b) The sum of all excess amounts determined in paragraph (a)(2) of this section is available for payments under section 8003(g) to eligible LEAs.

(Authority: 20 U.S.C. 7703(b), (g))

§ 222.83 How does an eligible local educational agency apply for a payment under section 8003(g)?

(a) In fiscal years in which funds are available for payments under section 8003(g) of the Act, the Secretary provides notice to all potentially eligible LEAs that funds will be available.

(b) An LEA applies for a payment under section 8003(g) by submitting to

the Secretary documentation detailing the total costs to the LEA of providing a free appropriate public education to the children identified in § 222.81, during the LEA's preceding fiscal year, including the following:

(1) For the costs of the outside entity providing the educational program for those children, copies of all invoices, vouchers, tuition contracts, and other similar documents showing the signature of an official or authorized employee of the outside entity; and

(2) For any additional costs (such as transportation) of the LEA related to providing an educational program for those children in an outside entity, copies of invoices, check receipts, contracts, and other similar documents showing the signature of an official or authorized employee of the LEA.

(c) An LEA applying for a payment must submit to the Secretary the information required under paragraph (b) of this section within 60 days of the date of the notice that funds will be available.

(Approved by the Office of Management and Budget under control number 1810–0036)
(Authority: 20 U.S.C. 7703(g)(2))

§ 222.84 How does the Secretary calculate payments under section 8003(g) for eligible local educational agencies?

For any fiscal year in which the Secretary has determined, under § 222.82, that funds are available for payments under section 8003(g) of the Act, the Secretary calculates payments to eligible LEAs under section 8003(g) as follows:

(a) For each eligible LEA, the Secretary subtracts an amount equal to that portion of the payment the LEA received under section 8003(d) of the Act for that fiscal year, attributable to children described in § 222.81, from the LEA's total costs of providing a free appropriate public education to those children, as submitted to the Secretary pursuant to § 222.83(b). The remainder is the amount that the LEA is eligible to receive under section 8003(g).

(b) If the total of the amounts for all eligible LEAs determined in paragraph (a) of this section is equal to or less than the amount of funds available for payment as determined in § 222.82, the Secretary provides each eligible LEA with the entire amount that it is eligible to receive, as determined in paragraph (a) of this section.

(c) If the total of the amounts for all eligible LEAs determined in paragraph (a) of this section exceeds the amount of funds available for payment as determined in § 222.82, the Secretary ratably reduces payments under section 8003(g) to eligible LEAs.

(d) If the total of the amounts for all eligible LEAs determined in paragraph (a) of this section is less than the amount of funds available for payment as determined in § 222.82, the Secretary pays the remaining amount to LEAs under section 8003(d). An LEA that receives such a payment shall use the funds for expenditures in accordance with the requirements of section 8003(d) and subpart D of this part.

(Authority: 20 U.S.C. 7703 (d) and (g))

§ 222.85 How may a local educational agency use funds that it receives under section 8003(g)?

An LEA that receives a payment under section 8003(g) of the Act shall use the funds for reimbursement of costs reported in the application that it submitted to the Secretary under § 222.83(b).

(Authority: 20 U.S.C. 7703(g)(2))

9. Section 222.95 is amended by revising the paragraph (g) introductory text, and adding an OMB control number before the authority citation, to read as follows:

§ 222.95 How are Indian policies and procedures reviewed to ensure compliance with the requirements in section 8004(a) of the Act?

* * * * *

(g) An LEA that amends its IPPs shall, within 30 days, send a copy of the amended IPPs to—

* * * * *

(Approved by the Office of Management and Budget under control number 1810–0036)

12. New §§ 222.114 through 222.122 are added to subpart G of this part, with a heading preceding them, to read as follows:

Withholding and Related Procedures for Indian Policies and Procedures

222.114 How does the Assistant Secretary implement the provisions of this subpart?
Sec. 222.115 When does the Assistant Secretary withhold payments from a local educational agency under this subpart?
222.116 How are withholding procedures initiated under this subpart?
222.117 What procedures are followed after the Assistant Secretary issues a notice of intent to withhold payments?
222.118 How are withholding hearings conducted in this subpart?
222.119 What is the effect of withholding under this subpart?
222.120 When is a local educational agency exempt from withholding of payments?
222.121 How does the affected Indian tribe or tribes request that payments to a local educational agency not be withheld?
222.122 What procedures are followed if it is determined that the local educational agency's funds will not be withheld under this subpart?
222.123–222.129 [Reserved]

Withholding and Related Procedures for Indian Policies and Procedures

§ 222.114 How does the Assistant Secretary implement the provisions of this subpart?

The Assistant Secretary implements section 8004 of the Act and this subpart through such actions as the Assistant Secretary determines to be appropriate, including the withholding of funds in accordance with §§ 222.115–222.122, after affording the affected LEA, parents, and Indian tribe or tribes an opportunity to present their views.

(Authority: 20 U.S.C. 7704 (d)(2), (e) (8)–(9))

§ 222.115 When does the Assistant Secretary withhold payments from a local educational agency under this subpart?

Except as provided in § 222.120, the Assistant Secretary withholds payments to an LEA if—

(a) The Assistant Secretary determines it is necessary to enforce the requirements of section 8004 of the Act or this subpart; or

(b) After a hearing has been conducted under section 8004(e) of the Act and §§ 222.102–222.113 (IPP hearing)—

(1) The LEA rejects the final determination of the Assistant Secretary; or

(2) The LEA fails to implement the required remedy within the time established and the Assistant Secretary determines that the required remedy will not be undertaken by the LEA even if the LEA is granted a reasonable extension of time.

(Authority: 20 U.S.C. 7704 (a), (b), (d)(2), (e)(8)–(9))

§ 222.116 How are withholding procedures initiated under this subpart?

(a) If the Assistant Secretary decides to withhold an LEA's funds, the Assistant Secretary issues a written notice of intent to withhold the LEA's payments.

(b) In the written notice, the Assistant Secretary—

(1) Describes how the LEA failed to comply with the requirements at issue; and

(2)(i) Advises an LEA that has participated in an IPP hearing that it may request, in accordance with § 222.117(c), that its payments not be withheld; or

(ii) Advises an LEA that has not participated in an IPP hearing that it may request a withholding hearing in accordance with § 222.117(d).

(c) The Assistant Secretary sends a copy of the written notice of intent to withhold payments to the LEA and the affected Indian tribe or tribes by certified mail with return receipt requested.

(Authority: 20 U.S.C. 7704 (a), (b), (d)(2), and (e) (8)–(9))

§ 222.117 What procedures are followed after the Assistant Secretary issues a notice of intent to withhold payments?

(a) The withholding of payments authorized by section 8004 of the Act is conducted in accordance with section 8004 (d)(2) or (e) (8)–(9) of the Act and the regulations in this subpart.

(b) An LEA that receives a notice of intent to withhold payments from the Assistant Secretary is not entitled to an Impact Aid hearing under the provisions of section 8011 of the Act and subpart J of this part.

(c) After an IPP hearing. (1) An LEA that rejects or fails to implement the final determination of the Assistant Secretary after an IPP hearing has 10 days from the date of the LEA's receipt of the written notice of intent to withhold funds to provide the Assistant Secretary with a written explanation and documentation in support of the reasons why its payments should not be withheld. The Assistant Secretary provides the affected Indian tribe or tribes with an opportunity to respond to the LEA's submission.

(2) If after reviewing an LEA's written explanation and supporting documentation, and any response from the Indian tribe or tribes, the Assistant Secretary determines to withhold an LEA's payments, the Assistant Secretary notifies the LEA and the affected Indian tribe or tribes of the withholding determination in writing by certified mail with return receipt requested prior to withholding the payments.

(3) In the withholding determination, the Assistant Secretary states the facts supporting the determination that the LEA failed to comply with the legal requirements at issue, and why the provisions of § 222.120 (provisions governing circumstances when an LEA is exempt from the withholding of payments) are inapplicable. This determination is the final decision of the Department.

(d) An LEA that has not participated in an IPP hearing.

(1) An LEA that has not participated in an IPP hearing has 30 days from the date of its receipt of the Assistant Secretary's notice of intent to withhold funds to file a written request for a withholding hearing with the Assistant Secretary. The written request for a withholding hearing must—

(i) Identify the issues of law and facts in dispute; and

(ii) State the LEA's position, together with the pertinent facts and reasons supporting that position.

(2) If the LEA's request for a withholding hearing is accepted, the Assistant Secretary sends written notification of acceptance to the LEA and the affected Indian tribe or tribes and forwards to the hearing examiner a copy of the Assistant Secretary's written notice, the LEA's request for a withholding hearing, and any other relevant documents.

(3) If the LEA's request for a withholding hearing is rejected, the Assistant Secretary notifies the LEA in writing that its request for a hearing has been rejected and provides the LEA with the reasons for the rejection.

(4) The Assistant Secretary rejects requests for withholding hearings that are not filed in accordance with the time for filing requirements described in paragraph (d)(1) of this section. An LEA that files a timely request for a withholding hearing, but fails to meet the other filing requirements set forth in paragraph (d)(1) of this section, has 30 days from the date of receipt of the Assistant Secretary's notification of rejection to submit an acceptable amended request for a withholding hearing.

(e) If an LEA fails to file a written explanation in accordance with paragraph (c) of this section, or a request for a withholding hearing or an amended request for a withholding hearing in accordance with paragraph (d) of this section, the Secretary proceeds to take appropriate administrative action to withhold funds without further notification to the LEA.

(Authority: 20 U.S.C. 7704 (a), (b), (d)(2), and (e) (8)–(9))

§ 222.118 How are withholding hearings conducted in this subpart?

(a) *Appointment of hearing examiner.* Upon receipt of a request for a withholding hearing that meets the requirements of § 222.117(d), the Assistant Secretary requests the appointment of a hearing examiner.

(b) *Time and place of the hearing.* Withholding hearings under this subpart are held at the offices of the Department in Washington, DC, at a time fixed by the hearing examiner, unless the hearing examiner selects another place based upon the convenience of the parties.

(c) *Proceeding.* (1) The parties to the withholding hearing are the Assistant Secretary and the affected LEA. An affected Indian tribe is not a party, but, at the discretion of the hearing examiner, may participate in the hearing and present its views on the issues relevant to the withholding determination.

(2) The parties may introduce all relevant evidence on the issues stated in the LEA's request for withholding hearing or other issues determined by the hearing examiner during the proceeding. The Assistant Secretary's notice of intent to withhold, the LEA's request for a withholding hearing, and all amendments and exhibits to those documents, must be made part of the hearing record.

(3) Technical rules of evidence, including the Federal Rules of Evidence, do not apply to hearings conducted under this subpart, but the hearing examiner may apply rules designed to assure production of the most credible evidence available, including allowing the cross-examination of witnesses.

(4) Each party may examine all documents and other evidence offered or accepted for the record, and may have the opportunity to refute facts and arguments advanced on either side of the issues.

(5) A transcript must be made of the oral evidence unless the parties agree otherwise.

(6) Each party may be represented by counsel.

(7) The hearing examiner is bound by all applicable statutes and regulations and may neither waive them nor rule them invalid.

(d) *Filing requirements.* (1) All written submissions must be filed with the hearing examiner by hand-delivery, mail, or facsimile transmission. The Secretary discourages the use of facsimile transmission for documents longer than five pages.

(2) If agreed upon by the parties, a party may serve a document upon the other party by facsimile transmission.

(3) The filing date for a written submission under this subpart is the date the document is—

(i) Hand-delivered;

(ii) Mailed; or

(iii) Sent by facsimile transmission.

(4) A party filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was timely received by the hearing examiner.

(5) Any party filing a document by facsimile transmission must file a follow-up hard copy by hand-delivery or mail within a reasonable period of time.

(e) *Procedural rules.* (1) If the hearing examiner determines that no dispute exists as to a material fact or that the resolution of any disputes as to material facts would not be materially assisted by

oral testimony, the hearing examiner shall afford each party an opportunity to present its case—

(i) In whole or in part in writing; or

(ii) In an informal conference after affording each party sufficient notice of the issues to be considered.

(2) With respect to withholding hearings involving a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the hearing examiner shall afford to each party—

(i) Sufficient notice of the issues to be considered at the hearing;

(ii) An opportunity to present witnesses on the party's behalf; and

(iii) An opportunity to cross-examine other witnesses either orally or through written interrogatories.

(f) *Decision of the hearing examiner.* (1) The hearing examiner—

(i) Makes written findings and an initial withholding decision based upon the hearing record; and

(ii) Forwards to the Secretary, and mails to each party and to the affected Indian tribe or tribes, a copy of the written findings and initial withholding decision.

(2) A hearing examiner's initial withholding decision constitutes the Secretary's final withholding decision without any further proceedings unless—

(i) Either party to the withholding hearing, within 30 days of the date of its receipt of the initial withholding decision, requests the Secretary to review the decision and that request is granted; or

(ii) The Secretary otherwise determines, within the time limits stated in paragraph (g)(2)(ii) of this section, to review the initial withholding decision.

(3) When an initial withholding decision becomes the Secretary's final decision without any further proceedings, the Department notifies the parties and the affected Indian tribe or tribes of the finality of the decision.

(g) *Administrative appeal of an initial decision.* (1)(i) Any party may request the Secretary to review an initial withholding decision.

(ii) A party must file this request for review within 30 days of the party's receipt of the initial withholding decision.

(2) The Secretary may—

(i) Grant or deny a timely request for review of an initial withholding decision; or

(ii) Otherwise determine to review the decision, so long as that determination is made within 45 days of the date of receipt of the initial decision by the Secretary.

(3) The Secretary mails to each party and the affected Indian tribe or tribes, by certified mail with return receipt requested, written notice of—

(i) The Secretary's action granting or denying a request for review of an initial decision; or

(ii) The Secretary's determination to review an initial decision.

(h) *Secretary's review of an initial withholding decision.* (1) When the Secretary reviews an initial withholding decision, the Secretary notifies each party and the affected Indian tribe or tribes in writing, by certified mail with return receipt requested, that it may file a written statement or comments; and

(2) Mails to each party and to the affected Indian tribe or tribes, by certified mail with return receipt requested, written notice of the Secretary's final withholding decision.

(Authority: 20 U.S.C. 7704)

§ 222.119 What is the effect of withholding under this subpart?

(a) The withholding provisions in this subpart apply to all payments that an LEA is otherwise eligible to receive under section 8003 of the Act for any fiscal year.

(b) The Assistant Secretary withholds funds after completion of any administrative proceedings under §§ 222.116–222.118 until the LEA documents either compliance or exemption from compliance with the requirements in section 8004 of the Act and this subpart.

(Authority: 20 U.S.C. 7704 (a), (b), (d)(2), (e)(8)–(9))

§ 222.120 When is a local educational agency exempt from withholding of payments?

Except as provided in paragraph (d)(2) of this section, the Assistant Secretary does not withhold payments to an LEA under the following circumstances:

(a) The LEA documents that it has received a written statement from the affected Indian tribe or tribes that the LEA need not comply with section 8004 (a) and (b) of the Act, because the affected Indian tribe or tribes is satisfied with the provision of educational services by the LEA to the children claimed on the LEA's application for assistance under section 8003 of the Act.

(b) The Assistant Secretary receives from the affected Indian tribe or tribes a written request that meets the requirements of § 222.121 not to withhold payments from an LEA.

(c) The Assistant Secretary, on the basis of documentation provided by the LEA, determines that withholding payments during the course of the school year would substantially disrupt the educational programs of the LEA.

(d)(1) The affected Indian tribe or tribes elects to have educational services provided by the Bureau of Indian Affairs under section 1101(d) of the Education Amendments of 1978.

(2) For an LEA described in paragraph (d)(1) of this section, the Secretary recalculates the section 8003 payment that the LEA is otherwise eligible to receive to reflect the number of students who remain in attendance at the LEA.

(Authority: 20 U.S.C. 7703(a), 7704(c), (d)(2) and (e)(8))

§ 222.121 How does the affected Indian tribe or tribes request that payments to a local educational agency not be withheld?

(a) The affected Indian tribe or tribes may submit to the Assistant Secretary a formal request not to withhold payments from an LEA.

(b) The formal request must be in writing and signed by the tribal chairman or authorized designee.

(Authority: 20 U.S.C. 7704 (d)(2) and (e)(8))

§ 222.122 What procedures are followed if it is determined that the local educational agency's funds will not be withheld under this subpart?

If the Secretary determines that an LEA's payments will not be withheld under this subpart, the Assistant Secretary notifies the LEA and the affected Indian tribe or tribes, in writing, by certified mail with return receipt requested, of the reasons why the payments will not be withheld.

(Authority: 20 U.S.C. 7704 (d)–(e))

§ 222.150 [Amended]

13. In § 222.150, paragraph (b)(1) is amended by removing ''§§ 222.90–222.114'', and adding in its place ''§§ 222.90–222.122''.

14. Section 222.151 is amended by revising the title and paragraph (b)(1) to read as follows:

§ 222.151 When is an administrative hearing provided to a local educational agency?

* * * * *

(b) * * *

(1) The applicant files a written request for an administrative hearing within 30 days of its receipt of written notice of the adverse action; and

* * * * *

15. Section 222.152 is amended by revising paragraphs (b) and (c) to read as follows:

§ 222.152 When may a local educational agency request reconsideration of a determination?

* * * * *

(b) The Secretary's (or the Secretary's delegatee's) consideration of a request for reconsideration is not prejudiced by a pending request for an administrative hearing on the same matter, or the fact that a matter has been scheduled for a hearing. The Secretary (or the Secretary's delegatee) may, but is not required to, postpone the administrative hearing due to a request for reconsideration.

(c) The Secretary (or the Secretary's delegatee) may reconsider any determination under the Act or Pub. L. 81–874 concerning a particular party unless the determination has been the subject of an administrative hearing under this part with respect to that party.

(Authority: 20 U.S.C. 7711(a))

16. Section 222.154 is amended by revising paragraph (e) to read as follows:

§ 222.154 How must written submissions under this subpart be filed?

* * * * *

(e) Any party filing a document by facsimile transmission must file a follow-up hard copy by hand-delivery or mail within a reasonable period of time.

(Authority: 20 U.S.C. 7711(a))

§ 222.156 [Amended]

17. In § 222.156, paragraph (g) is amended by removing ''hearing examiner'', and adding in its place ''ALJ''.

18. Section 222.157 is amended by revising the heading and paragraphs (a) and (b)(1) to read as follows:

§ 222.157 What procedures apply for issuing or appealing an administrative law judge's decision?

(a) *Decision.* (1) The ALJ—

(i) Makes written findings and an initial decision based upon the hearing record; and

(ii) Forwards to the Secretary, and mails to each party, a copy of the written findings and initial decision.

(2) An ALJ's initial decision constitutes the Secretary's final decision without any further proceedings unless—

(i) A party, within the time limits stated in paragraph (b)(1)(ii) of this section, requests the Secretary to review the decision and that request is granted; or

(ii) The Secretary otherwise determines, within the time limits stated in paragraph (b)(2)(ii) of this section, to review the initial decision.

(3) When an initial decision becomes the Secretary's final decision without any further proceedings, the Department's Office of Hearings and Appeals notifies the parties of the finality of the decision.

(b) *Administrative appeal of an initial decision.* (1)(i) Any party may request the Secretary to review an initial decision.

(ii) A party must file such a request for review within 30 days of the party's receipt of the initial decision.

* * * * *

19. In § 222.158, the heading, introductory text, and paragraph (b), are revised to read as follows:

§ 222.158 What procedures apply to the Secretary's review of an initial decision?

When the Secretary reviews an initial decision, the Secretary—

(a) * * *

(b) Mails to each party written notice of the Secretary's final decision.

(Authority: 20 U.S.C. 7711(a))

20. In § 222.161, paragraph (c) is amended by removing the paragraph designations before each definition, reordering the definitions in alphabetical order, and adding in alphabetical order the following new definitions of ''Local tax revenues,'' ''Local tax revenues covered under a State equalization program,'' and ''Total local tax revenues'':

§ 222.161 How is State aid treated under section 8009 of the Act?

* * * * *

(c) *Definitions.* The following definitions apply to this subpart:

* * * * *

Local tax revenues means compulsory charges levied by an LEA or by an intermediate school district or other local governmental entity on behalf of an LEA for current expenditures for educational services. ''Local tax revenues'' include the proceeds of ad valorem taxes, sales and use taxes, income taxes and other taxes. Where a State funding formula requires a local contribution equivalent to a specified mill tax levy on taxable real or personal property or both, ''local tax revenues'' include any revenues recognized by the State as satisfying that local contribution requirement.

Local tax revenues covered under a State equalization program means ''local tax revenues'' as defined in paragraph (c) of this section contributed to or taken into consideration in a State aid program subject to a determination under this subpart, but excluding all revenues from State and Federal sources.

* * * * *

Total local tax revenues means all ''local tax revenues'' as defined in paragraph (c) of this section, including tax revenues for education programs for children needing special services, vocational education, transportation, and the like during the period in question but excluding all revenues from State and Federal sources.

* * * * *

21. In § 222.162, paragraph (a) is revised to read as follows:

§ 222.162 What disparity standard must a State meet in order to be certified and how are disparities in current expenditures or revenues per pupil measured?

(a) *Percentage disparity limitation.* The Secretary considers that a State aid program equalizes expenditures if the disparity in the amount of current expenditures or revenues per pupil for free public education among LEAs in the State is no more than 25 percent. In determining the disparity percentage, the Secretary disregards LEAs with per pupil expenditures or revenues above the 95th or below the 5th percentile of those expenditures or revenues in the State. The method for calculating the percentage of disparity in a State is in the appendix to this subpart.

* * * * *

21. In § 222.164, paragraphs (a)(2) and (b) are revised, and an OMB control number is added before the authority citation, to read as follows:

§ 222.164 What procedures does the Secretary follow in making a determination under section 8009?

(a) * * *

(2) Whenever a proceeding under this subpart is initiated, the party initiating the proceeding shall give adequate notice to the State and all LEAs in the State and provide them with a complete copy of the submission initiating the proceeding. In addition, the party initiating the proceeding shall notify the State and all LEAs in the State of their right to request from the Secretary, within 30 days of the initiation of a proceeding, the opportunity to present their views to the Secretary before the Secretary makes a determination.

(b) *Submission.* (1) A submission by a State or LEA under this section must be made in the manner requested by the Secretary and must contain the information and assurances as may be required by the Secretary in order to reach a determination under section 8009 and this subpart.

(2)(i) A State in a submission shall—

(A) Demonstrate how its State aid program comports with § 222.162; and

(B) Demonstrate for each LEA receiving funds under the Act that the proportion of those funds that will be taken into consideration comports with § 222.163.

(ii) The submission must be received by the Secretary no later than 120 calendar days before the beginning of the State's fiscal year for the year of the determination, and must include (except as provided in § 222.161(c)(2)) final second preceding fiscal year disparity data enabling the Secretary to determine whether the standard in § 222.162 has been met. The submission is considered timely if received by the Secretary on or before the filing deadline or if it bears a U.S. Postal Service postmark dated on or before the filing deadline.

(3) An LEA in a submission must demonstrate whether the State aid program comports with section 8009.

(4) Whenever a proceeding is initiated under this subpart, the Secretary may request from a State the data deemed necessary to make a determination. A failure on the part of a State to comply with that request within a reasonable period of time results in a summary determination by the Secretary that the State aid program of that State does not comport with the regulations in this subpart.

(5) Before making a determination under section 8009, the Secretary affords the State, and all LEAs in the State, an opportunity to present their views as follows:

(i) Upon receipt of a timely request for a predetermination hearing, the Secretary notifies all LEAs and the State of the time and place of the predetermination hearing.

(ii) Predetermination hearings are informal and any LEA and the State may participate whether or not they requested the predetermination hearing.

(iii) At the conclusion of the predetermination hearing, the Secretary holds the record open for 15 days for the submission of post-hearing comments. The Secretary may extend the period for post-hearing comments for good cause for up to an additional 15 days.

(iv) Instead of a predetermination hearing, if the party or parties requesting the predetermination hearing agree, they may present their views to the Secretary exclusively in writing. In such a case, the Secretary notifies all LEAs and the State that this alternative procedure is being followed and that they have up to 30 days from the date of the notice in which to submit their views in writing. Any LEA or the State may submit its views in writing within the specified time, regardless of whether it requested the opportunity to present its views.

* * * * *

(Approved by the Office of Management and Budget under control number 1810–0036)

(Authority: 20 U.S.C. 7709)

22. In § 222.165, paragraphs (e), (f), and (h) are revised to read as follows:

§ 222.165 What procedures does the Secretary follow after making a determination under section 8009?

* * * * *

(e) *Proceedings.* (1) The Secretary refers the matter in controversy to an administrative law judge (ALJ) appointed under 5 U.S.C. 3105.

(2) The ALJ is bound by all applicable statutes and regulations and may neither waive them nor rule them invalid.

(f) *Filing requirements.* (1) Any written submission under this section must be filed by hand-delivery, mail, or facsimile transmission. The Secretary discourages the use of facsimile transmission for documents longer than five pages.

(2) If agreed upon by the parties, service of a document may be made upon the other party by facsimile transmission.

(3) The filing date for a written submission under this section is the date the document is—

(i) Hand-delivered;

(ii) Mailed; or

(iii) Sent by facsimile transmission.

(4) A party filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was received by the Department.

(5) Any party filing a document by facsimile transmission must file a follow-up hard copy by hand-delivery or mail within a reasonable period of time.

(g) * * *

(h) *Decisions.* (1) The ALJ—

(i) Makes written findings and an initial decision based upon the hearing record; and

(ii) Forwards to the Secretary, and mails to each party, a copy of the written findings and initial decision.

(2) Appeals to the Secretary and the finality of initial decisions under section 8009 are governed by §§ 222.157(b), 222.158, and 222.159 of subpart J of this part.

(Authority: 20 U.S.C. 7709)

[FR Doc. 97–17208 Filed 6–30–97; 8:45 am]

BILLING CODE 4000–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201, 202, 203

Copyright Rules and Regulations: Copyright, Freedom of Information Act

AGENCY: Copyright Office, Library of Congress.

ACTION: Technical amendments.

SUMMARY: The Copyright Office is making non-substantive housekeeping amendments to its regulations to update them and to correct minor errors.

EFFECTIVE DATE: June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Assistant General Counsel, or Patricia L. Sinn, Senior Attorney, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: The Copyright Office periodically reviews its regulations as published in the Code of Federal Regulations (CFR) to correct minor errors perceived in the published text. The Office has identified minor errors in the currently published rules. The following sections are amended to correct changed address references: §§ 201.1(a), 201.1(b), 201.1(c), 201.1(d), 201.2(b)(5), 201.5(c)(2), and 202.3(b)(2). Typographical errors are corrected in §§ 202.20(c)(2)(vii)(A)(2) and 202.20(c)(2)(vii)(D)(1). An update in citation to the copyright statute and authority for issuing regulations to implement the Freedom of Information Act is made to § 203.2(a).

List of Subjects

37 CFR Part 201

Copyright, General Provisions.

37 CFR Part 202

Copyright, Registration.

37 CFR Part 203

Freedom of Information Act.

Final Rule

Accordingly, 37 CFR Chapter II is corrected by making the following corrections and amendments.

PART 201—GENERAL PROVISIONS

1. The authority citation for Part 201 continues to read as follows:

Authority: 17 U.S.C. 702, 17 U.S.C. 1003.

§ 201.1 [Amended]

2. Section 201.1(a) is amended by removing ''Washington, DC 20559.'' and adding ''Copyright Office, 101 Independence Avenue, S.E., Washington, DC 20559–6000.'' after ''Library of Congress.''

3. Section 201.1(b) is amended by removing ''Copyright Office, Library of Congress, Washington, DC 20557.'' and adding in its place ''Library of Congress, Copyright Office, 101 Independence Avenue, S.E., Washington, DC 20559–6000.''

4. Section 201.1(c) is amended by removing ''Copyright Office, Library of Congress, Washington, DC 20559.'' and adding in its place ''Library of Congress, Copyright Office, 101 Independence Avenue, S.E., Washington, DC 20559–6000.''

5. Section 201.1(d) is amended by removing ''Copyright Office, Library of Congress, Washington DC 20559.'' and adding in its place ''Library of Congress, Copyright Office, 101 Independence Avenue, S.E., Washington, DC 20559–6000.''

§ 201.2 [Amended]

6. Section 201.2(b)(5) is amended by removing ''the General Counsel of the Copyright Office, Department DS, Washington, DC 20540.'' and adding '':Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024.''

§ 201.5 [Amended]

7. Section 201.5(c)(2) is amended by removing ''United States Copyright Office, Library of Congress, Washington, DC 20559.'' and adding in its place ''Library of Congress, Copyright Office, 101 Independence Avenue, S.E., Washington, DC 20559–6000.''

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

8. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 202.3 [Amended]

9. Section 202.3(b)(2) is amended by removing '' United States Copyright Office, Library of Congress, Washington, DC 20559.'' and adding in its place ''Library of Congress, Copyright Office, 101 Independence Avenue, S.E., Washington, DC 20559–6000.''

§ 202.20 [Amended]

10. Section 202.20(c)(2)(vii)(A)(2) is amended by removing ''or for programs consisting of or less than 25 pages or equivalent units, source code with the trade secret portions blocked-out, provided that the blocked-out portions are proportionately less than the material remaining, and the remaining portion reveals an appreciable amount of orginal computer code.'' and by adding in its place ''or for programs consiting of, or less than, 50 pages or equivalent units, entire source code with the trade secret portions blocked-out, provided that the blocked-out portions are proportionately less than the material remaining, and the remaining portion reveals an appreciable amount of original computer code.''

11. Section 202.20(c)(2)(vii)(D)(*1*) is amended by adding the word ''pages'' after the numeral ''25''.

PART 203—FREEDOM OF INFORMATION ACT: POLICIES AND PROCEDURES

12. The authority citation for part 203 continues to read as follows:

Authority: 17 U.S.C. 702; and 5 U.S.C. 552(a)(1).

§ 203.2 [Amended]

13. Section 203.2(a) is amended by removing ''17 U.S.C. 101–710.'' and adding in its place: ''17 U.S.C. 101–1101.''

Dated: June 26, 1997.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 97–17238 Filed 6–30–97; 8:45 am]

BILLING CODE 1410–30–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AI66

Veterans' Benefits Improvements Act of 1996

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) adjudication regulations concerning: The clothing allowance based on certain service-connected disabilities; the dates of the Vietnam era; the payment of benefits to a surviving spouse for the month in which the veteran dies; the period for which accrued benefits are payable; and burial allowance eligibility. The intended effect of this amendment is to bring VA regulations into conformance with statutory revisions contained in the Veterans' Benefits Improvements Act of 1996.

DATES: *Effective Date:* October 9, 1996, except for amendments to §§ 3.2(f) and 3.307(a)(6), which are effective January 1, 1997.

Applicability: The amendments to 38 CFR 3.20 apply to the deaths of compensation and pension recipients that occur after December 31, 1996. The Amendment to 38 CFR 3.1000 applies to claims for accrued benefits based on deaths that occurred before October 9, 1996, and that were not finally decided before then, as well as to claims based on deaths that occurred after then.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7230.

SUPPLEMENTARY INFORMATION: Under the provisions of 38 U.S.C. 1162, VA pays a clothing allowance to each veteran who, because of a service-connected disability, either wears or uses a prosthetic or orthopedic appliance which tends to wear out or tear the veteran's clothing, or uses a medication prescribed for a skin condition due to a service-connected disability and which causes irreparable damage to the veteran's outer clothing. Although 38 U.S.C. 5313 limits the amount of compensation or dependency and indemnity compensation that is payable to any person who is incarcerated in a Federal, State, or local penal institution for a period in excess of 60 days for conviction of a felony, there was no such restriction on payment of the clothing allowance.

Section 502 of the Veterans' Benefits Improvements Act of 1996, Public Law 104–275, amended 38 U.S.C. Chap. 53 to reduce the amount of the clothing allowance payable under 38 U.S.C. 1162 to veterans who are incarcerated in a Federal, State, or local penal institution for a period in excess of 60 days and who are furnished clothing without charge by the institution. Under this amendment, VA is required to reduce the amount of the clothing allowance by an amount equal to 1/365 of the amount of the allowance otherwise payable for each day on which the veteran was incarcerated during the 12-month period preceding the date on which payment of the clothing allowance would be due. VA is amending 38 CFR 3.810 to reflect this statutory change.

The Vietnam era was defined as the period August 5, 1964, through May 7, 1975, inclusive (See 38 CFR 3.2(f)). Section 505 of Public Law 104–275 amended 38 U.S.C. 101(29) to expand the Vietnam era to the period beginning on February 28, 1961, and ending on May 7, 1975, but only for veterans who served in the Republic of Vietnam during that period. Public Law 104–275 also amended 38 U.S.C. 1116(a) to expand the period during which veterans must have served in Vietnam to be entitled to the application of certain presumptions relating to exposure to certain herbicide agents and the service connection of associated diseases to the period beginning January 9, 1962, and ending on May 7, 1975. VA is amending 38 CFR 3.2(f) and 3.307(a)(6) to reflect these statutory changes, which are effective January 1, 1997.

Under the provisions of 38 U.S.C. 5310, a veteran's surviving spouse who

is entitled to death benefits for the month of the veteran's death gets an amount not less than the amount which the veteran would have received for that month but for his or her death. Section 506 of Pub. L. 104–275 revised 38 U.S.C. 5310 to allow a surviving spouse who is not entitled to death benefits for the month of the veteran's death to receive a benefit in an amount equal to the amount which the veteran would have received for that month but for his or her death. It further provided that a compensation or pension payment issued to a veteran for the month of death shall be treated as being payable to a surviving spouse who is entitled to this new benefit and that if the payment is negotiated or deposited it will be considered as the benefit due the surviving spouse. However, if the payment is less than the amount the veteran would have received for the month of death, the statute requires that the unpaid amount be treated as an accrued benefit (See 38 U.S.C. 5121 and 38 CFR 3.1000). The changes made by section 506 of Public Law 104–275 apply to deaths occurring after December 31, 1996. VA is amending 38 CFR 3.20 to reflect these statutory changes.

Under the provisions of 38 U.S.C. 5121, when an individual eligible for VA periodic monetary benefits dies, the amount of benefits due but unpaid at death may be paid either to certain survivors or as a reimbursement to the person who bore the expense of the individual's last illness and burial. The amount of accrued benefits payable was limited to the amount due for a period not to exceed one year prior to the date of death. Section 507 of Public Law 104–275 revised this to the amount due for a period not to exceed two years prior to the date of death. VA is amending 38 CFR 3.1000(a) to reflect this statutory change.

Under the provisions of 38 U.S.C. 2303, VA pays burial benefits on behalf of a veteran who dies in a VA facility to which he or she was admitted for hospital, nursing home, or domiciliary care, or who dies in an institution at which he or she was receiving hospital or nursing home care at the expense of the United States at the time of death. Section 212 of Public Law 104–275 amended 38 U.S.C. 2303 to provide burial benefits for certain veterans who die in State nursing homes. VA is amending 38 CFR 3.1600(c) to reflect this statutory change, to correct an obsolete reference to 38 U.S.C. 1701(4), and to include within the scope of the term ''hospitalized by VA'' contract hospital care under 38 U.S.C. 1703. These amendments merely conform the regulations to the governing statutory provisions.

VA is issuing a final rule to make the above described amendments. Because these amendments merely reflect statutory changes, publication as a proposal for public comment is unnecessary.

Because no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: April 28, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.2, paragraph (f) is revised to read as follows:

§ 3.2 Periods of war.

* * * * *

(f) *Vietnam era.* The period beginning on February 28, 1961, and ending on May 7, 1975, inclusive, in the case of a veteran who served in the Republic of Vietnam during that period. The period beginning on August 5, 1964, and ending on May 7, 1975, inclusive, in all other cases.

(Authority: 38 U.S.C. 101(29))

* * * * *

3. In § 3.20, paragraph (c) is added to read as follows:

§ 3.20 Surviving spouse's benefit for month of veteran's death.

* * * * *

(c)(1) Where a veteran receiving compensation or pension dies after December 31, 1996, the surviving spouse, if not entitled to death compensation, dependency and indemnity compensation, or death pension for the month of death, shall be entitled to a benefit for that month in an amount equal to the amount of compensation or pension the veteran would have received for that month but for his or her death.

(2) A payment issued to a deceased veteran as compensation or pension for the month in which death occurred shall be treated as payable to that veteran's surviving spouse, if the surviving spouse is not entitled to death compensation, dependency and indemnity compensation or death pension for that month and, if negotiated or deposited, shall be considered to be the benefit to which the surviving spouse is entitled under paragraph (c)(1) of this section. However, if such payment is in an amount less than the amount of the benefit under paragraph (c)(1) of this section, the unpaid difference shall be treated in the same manner as an accrued benefit under § 3.1000 of this part.

(Authority: 38 U.S.C. 5310(b))

§ 3.307 [Amended]

4. In § 3.307, paragraphs (a)(6)(i) and (a)(6)(iii) are amended by removing ''during the Vietnam era'' wherever it appears, and adding, in its place, ''during the period beginning on January 9, 1962, and ending on May 7, 1975'', and by adding an authority citation at the end of paragraph (a)(6)(i) and by revising the authority citation to paragraph (a)(6)(iii) to read as follows:

§ 3.307 Presumptive service connection for chronic, tropical or prisoner-of-war related disease, or disease associated with exposure to certain herbicide agents; wartime and service on or after January 1, 1947.

(a) * * *

(6) * * *

(i) * * *

(Authority: 38 U.S.C. 1116(a)(4))

* * * * *

(iii) * * *

(Authority: 38 U.S.C. 501(a) and 1116(a)(3))

* * * * *

§ 3.810 [Amended]

5. In § 3.810, paragraph (a), the first sentence, is amended by removing ''A'' and adding, in its place, ''Except as provided in paragraph (d) of this section a''; and paragraph (d) is added after the authority citation following paragraph (c) to read as follows:

§ 3.810 Clothing allowance.

* * * * *

(d) If a veteran is incarcerated in a Federal, State, or local penal institution for a period of more than 60 days and is furnished clothing without charge by the institution, VA shall reduce the amount of the annual clothing allowance by 1/365th of the amount otherwise payable for each day the veteran was incarcerated during the 12-month period preceding the anniversary date for which entitlement is established. No reduction shall be made for the first 60 days of incarceration.

(Authority: 38 U.S.C. 5313A)

§ 3.1000 [Amended]

6. In § 3.1000, the introductory text of paragraph (a) is amended by removing ''1 year'' and adding, in its place, ''2 years'', and by adding an authority citation to read as follows:

§ 3.1000 Under 38 U.S.C. 5121.

(a) * * *

(Authority: 38 U.S.C. 5121(a)

* * * * *

§ 3.1600 [Amended]

7. In § 3.1600, paragraph (c), the second sentence is amended by removing ''(as defined in 38 U.S.C. 1701(4))'' and adding, in its place, ''(as described in 38 U.S.C. 1701(3))''; by removing ''1711(a), or'' and adding, in its place, ''1711(a); admission (transfer) to a non-VA facility (as described in 38 U.S.C. 1701(4)) for hospital care under the authority of 38 U.S.C. 1703;'' and by removing ''United States.'' and adding, in its place, ''United States; or admission (transfer) to a State nursing home for nursing home care with respect to which payment is authorized under the authority of 38 U.S.C. 1741.''.

[FR Doc. 97–17226 Filed 6–30–97; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AH97

Veterans Education: Submission of School Catalogs to State Approving Agencies

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the educational assistance and educational benefits regulations of the Department of Veterans Affairs (VA). The current regulations provide that schools must submit a catalog or bulletin to the State Approving Agency (SAA) when seeking approval for courses for training under VA-administered education programs. Public Law 102–568 removed this requirement for elementary and secondary schools. Accordingly, VA is amending the regulations to state that accredited schools, other than elementary and secondary schools, as part of the approval process must submit catalogs to the State agencies that approve courses for training under VA-administered education programs.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service (225), Veterans Benefits Administration, 202–273–7187.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on January 8, 1997 (62 FR 1075), VA proposed to amend the ''Administration of Educational Assistance'' regulations which are set forth in 38 CFR 21.4001 *et seq.* It was proposed to amend the regulations so that accredited schools, other than elementary or secondary schools, as part of the approval process must submit catalogs to the State approving agencies. Comments were sought under the Paperwork Reduction Act concerning the collection of information in the proposed § 21.4253(d)(1).

Interested persons were given 60 days to submit comments. No comments were received. Accordingly, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule.

The amendments made by this final rule relieve restrictions. Therefore, under the provisions of 5 U.S.C. 553(d), there is a basis for making this final rule effective immediately.

Paperwork Reduction Act

Information collection and recordkeeping requirements in this final rule (concerning 38 CFR 21.4253(d)(1)) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and have been assigned OMB control number 2900–0568. The provisions of § 21.4253(d)(1) restate a statutory requirement which provides that before a State Approving Agency (SAA) may approve a course of an accredited educational institution (other than an elementary or secondary school) for training under VA-administered educational assistance programs, the educational institution must submit to the SAA certified copies of its catalog or bulletin containing certain information.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The valid OMB control number assigned to the collection of information in this final rule is displayed at the end of the affected section of the regulations.

Regulatory Flexibility Act

The Secretary of Veterans Affairs certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Although it is possible that a small entity could be subject to this rulemaking, all schools prepare a catalog or bulletin that would meet the requirements of this rulemaking. Consequently, there will be no significant economic impact on small entities from this rulemaking.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the programs affected by this final rule are 64.117, 64.120, and 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 2, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 21, subpart D, is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

1. The authority citation for part 21, subpart D, continues to read as follows:

Authority: 10 U.S.C. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

2. In § 21.4253, paragraph (d)(1) is revised to read as follows:

§ 21.4253 Accredited courses.

* * * * *

(d) * * *

(1) The institution (other than an elementary or secondary school) has submitted to the State approving agency copies of its catalog or bulletin which are certified as true and correct in content and policy by an authorized representative, and the publication shall:

(i) State with specificity the requirements of the institution with respect to graduation;

(ii) Include institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, a description of the probationary period, if any, allowed by the institution, conditions of reentrance for those students dismissed for unsatisfactory progress, and a statement regarding progress records kept by the institution and furnished the student);

(iii) Include institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct; and

(iv) Include any attendance standards of the institution if the institution has and enforces such standards.

(Authority: 38 U.S.C. 3675(a), 3676(b))

* * * * *

(Paperwork requirements in § 21.4253(d)(1) were approved by the Office of Management and Budget under control number 2900–0568.)

[FR Doc. 97–17217 Filed 6–30–97; 8:45 am]

BILLING CODE 8320–01–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket Nos. RM97–3, MC96–2, MC96–3 and MC97–1; Order No. 1185]

Amendments to Domestic Mail Classification Schedule

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This final rule sets forth the changes to the Domestic Mail Classification Schedule (DMCS) and the accompanying rate changes as a result of the Governors' Decisions on the Recommended Decisions of the Postal Rate Commission in Docket Nos. MC96–2, MC96–3 and MC97–1. The Commission's Recommended Decision in Docket No. MC96–2 (issued July 19, 1996) and its Further Opinion and Recommended Decision in Docket No. MC96–2 (issued May 14, 1997) changed the classification provisions for Nonprofit Standard Mail, Nonprofit Enhanced Carrier Route Standard Mail, Nonprofit Periodicals, Within County Periodicals and Classroom Publications. The Commission's Decision in Docket No. MC96–3 (issued April 2, 1997) changed the classification provisions for selected Special Services. An Experimental Nonletter-Size Business Reply Mail Category, to begin June 8, 1997 and expire June 8, 1999, was established with the Governors' Decision accepting the Commission's Recommended Decision in Docket No. MC97–1. For this reason Appendix A to Subpart C has been revised to reflect those changes.

DATES: This rule is effective July 1, 1997.

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

SUPPLEMENTARY INFORMATION: On April 4, 1996, the Postal Service, pursuant to its authority under 39 U.S.C. 3621, *et seq.*, filed a request with the Postal Rate Commission for a recommended decision on classification reform proposals for some types of preferred rate mail. The Commission designated this filing as Docket No. MC96–2, Classification Reform II (Nonprofit Mail) and on April 11, 1996, the Commission published a notice in the **Federal Register** (61 FR 16129–16146) outlining the Postal Service request and allowing interested parties an opportunity to intervene.

The Commission issued its recommended decision on the Postal Service request on July 19, 1996. The recommended decision followed closely the settlement agreement signed by 13 participants and the Postal Service, with the exception of the proposal for Classroom Periodicals. In Order No. 1125, issued simultaneously with the Recommended Decision, the Commission directed the Postal Service to provide further data and information on the proposed changes in Classroom Periodicals.

On August 5, 1996, the Governors issued a decision accepting the Recommended Decision of the Postal Rate Commission, and by Resolution No. 96–4 established October 6, 1996 as the effective date for implementation. Decision of the Governors of the United States Postal Service on Recommended Decision of the Postal Rate Commission on Nonprofit Standard Mail, Nonprofit Enhanced Carrier Route Standard Mail, Nonprofit Periodicals, and Within County Periodicals, Docket No. MC96–2, August 5, 1996.

In response to Order No. 1125, the Postal Service filed additional testimony. On May 14, 1997, the Commission issued its Further Opinion and Recommended Decision on Classroom Publications. On June 5, 1997, the Governors' issued a decision accepting the Commission's Recommended Decision, and by Resolution No. 97–9, established October 5, 1997 as the effective date for implementation.

The Request of the United States Postal Service for a Recommended Decision on Special Service Changes was filed on June 7, 1996. It proposed changes in provisions of the Domestic Mail Classification Schedule and fees for selected special services. The Postal Service proposed changes in the terms of service or fees for post office boxes (including caller service), certified mail, return receipt, insurance and registered mail service. The proposal established a new special service for postal cards, and renamed postal cards ''Stamped Cards''. The proposal also eliminated special delivery service. The Commission published a notice in the **Federal Register** (61 FR 31968–31979) outlining the Postal Service Request and allowing interested parties an opportunity to intervene. The Commission issued its Recommended Decision on April 2, 1997.

On May 6, 1997, the Governors issued a decision accepting the Recommended Decision of the Postal Rate Commission and by Resolution 97–7 established June 8, 1997 as the effective date for implementation. Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Special Services Fees and Classifications, Docket No. MC96–3, May 6, 1997.

The proceedings in Docket No. MC97–1 were initiated to consider a Request of the United States Postal Service, filed on December 13, 1996, for establishment, on an experimental basis, of new mail classifications and fees for nonletter-size Business Reply Mail. The Postal Service proposed to conduct this experiment over a two-year period with a limited number of participants. This experimental filing was made under sections 67 through 67d of the Commission's rules of practice, 39 CFR 3001.67 through 3001.67d. The Commission gave notice of the Postal Service's Request in Order No. 1148

which was published in the **Federal Register** (61 FR 67860–67862).

On April 2, 1997, the Commission issued a Recommended Decision in this docket establishing the experimental classification for a period of two years. On May 6, 1997, the Governors issued a decision accepting the Commission's decision and by Resolution 97–8, established June 8, 1997 as the effective date for this experiment. These provisions will expire on June 8, 1999. (Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on the Experimental Nonletter-Size Business Reply Mail Categories and Fees, Docket No. MC97–1.)

The amendments to the DMCS which are published in this order reflect the Governors' decisions on August 5, 1996, May 6, 1997, and June 5, 1997. These revisions are published as a final rule, since procedural safeguards and ample opportunity for opposition have already been afforded to all interested parties.

Regulatory Flexibility Act

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

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Confidential business information, Freedom of information, Postal Service, Sunshine Act.

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

PART 3001—RULES OF PRACTICE AND PROCEDURE

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

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

Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

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

a. Place sections 1000–6030 in correct numerical order following section 484 and preceding Classification Schedule SS–1—Address Correction Service.

b. Remove the terms ''special delivery'' and ''SS–17'' wherever they appear.

c. In section 260 in the table, remove entry h. and redesignate entries i. and j. as h. and i.; in Classification Schedule SS–4, section 4.030 in the table, remove entry b., and redesignate entry c. as b.; in Classification Schedule SS–6, section 6.060 in the table, remove entry c., and redesignate entry d. as c.; in Classification Schedule SS–13, section 13.070 in the table, remove entry e., and redesignate entry f. as e., and in Classification Schedule SS–14, section 14.060 in the table, remove entry d., and redesignate entry e. as d.

d. In sections 222, 222.31, 222.32, 222.41, 270, Classification Schedule SS–11, section 11.0221, and the First-Class Mail Rate Schedule 222 heading, remove the word ''Postal'' or ''postal'' and add, in its place, the words ''Stamped Cards'', wherever it appears. In Section 222.11, remove the word ''Postal'' in the heading and replace it with the word ''Stamped''; and revise the sentence to read ''A Stamped Card is a card with postage imprinted or impressed on it and supplied by the Postal Service for the transmission of messages.'' In section 222.13, in the first sentence, remove the word ''postal'' wherever it appears and replace it with ''Stamped Cards''; in the second sentence, remove the word ''postal'' and replace it with ''Stamped Card''. In section 222.2, remove the word ''postal'' the first time it appears and replace it with ''Stamped Card''.

e. Amend the Table of Contents by:

1. Revising the entry for Section 180 to read ''Refunds''.

2. Revising the entry for Section 181 to read ''Procedure''.

3. Revising the entry for Section 182 to read ''Availability''.

4. Removing the entries for Section 183, 184, 460 and Classification Schedule SS–17.

f. In section 110 add the following sentence at the end of the paragraph: ''Insurance is either included in Express Mail postage or is available for an additional charge, depending on the value and nature of the item sent by Express Mail.''

g. Amend the table in section 160 by adding, under the heading ''Service'' the words ''d. Express Mail Insurance'', and under the heading ''Schedule'', the words ''SS–9''.

h. Sections 180 through 182 are revised to read as set forth below; and sections 183 and 184 are removed.

i. In section 260 in the table, in entry h. under the heading ''Service'' revise the parenthetical phrase to read ''(limited to merchandise sent by Priority Mail)''.

j. Sections 320 through 423 are revised to read as set forth below.

k. Section 460 is removed.

l. Section 1009 is added to read as set forth below.

m. In the second sentence of section 3080, remove the words ''and insured'' and add the words ''general insurance, and Express Mail Insurance'' in their place.

n. Classification Schedule SS–2—Business Reply Mail is revised to read as set forth below.

o. In Classification Schedule SS–3, section 3.010, remove the word ''his'' and the article ''a'' the third time it appears, and add the words ''the customer's'' before the words ''box number''.

p. In Classification Schedule SS–3, section 3.022, remove the '','' and the word ''rented'', and add the word ''used'' in its place.

q. Revise Classification Schedule SS–9 to read as set forth below.

r. In Classification Schedule SS–10, section 10.010, remove the word ''his''.

s. In Classification Schedule SS–10, section 10.021, revise the first sentence to read ''A post office box holder may ask the Postal Service to deliver to the post office box all mail properly addressed to the holder.''

t. In Classification Schedule SS–10, section 10.031, remove the words ''periods of rental and'', and add ''administered as follows'' after the words ''boxes are''. In the table in section 10.031, revise the first column heading to read ''Period of box use''.

u. In Classification Schedule SS–10, section 10.032, remove the words ''boxes rented'' and add, in their place, the words ''post office box fees paid''.

v. In Classification Schedule SS–13, section 13.070 in the table, entries c. and d., remove the amount ''$25'' and add the amount ''$50'' in its place.

w. In Classification Schedule SS–14, revise section 14.021 to read as set forth below.

x. In Classification Schedule SS–14, section 14.026, after the word ''which'', add the words ''insurance is provided, or for articles valued $100 or less on which''; and add a '','' after the word ''elected''.

y. In Classification Schedule SS–14, section 14.070, after the word ''mail'', remove the words ''and related optional indemnity purchase''.

z. In Classification Schedule SS–16, section 16.020 in the table, in entry f., remove the words ''First Class'' and add, in their place, the words ''Priority Mail''; in entry g., revise the parenthetical phrase to read ''(limited to merchandise sent by Single Piece, Parcel Post, Bound Printed Matter, Special, and Library Subclasses)''.

aa. In Classification Schedule SS–16, section 16.021, after the words ''mailing

or'' add the following '', when purchased in conjunction with certified, COD, insured (if for more than $50), registered, or Express Mail,''.

bb. Amend Classification Schedule SS–16, by revising section 16.0211 as set forth below.

cc. Classification Schedule SS–17 is removed.

dd. In Classification Schedule SS–18, section 18.021 remove the words ''(or special delivery)''.

ee. Classification Schedule 19A is added to read as set forth below.

ff. Standard Mail Rate Schedule 321.4 is removed.

gg. Rate Schedules 321.4A, 321.4B and 321.5 are added to read as set forth below.

hh. Rate Schedules 423.2, 423.3 and 423.4 are revised to read as set forth below.

ii. In the table which appears after Rate Schedule 423.4, Rate Schedules SS–2—Business Reply Mail, SS–5—Certified Mail, SS–9—Insured Mail, SS–10—Post Office Boxes and Caller Service, SS–14—Registered Mail and SS–16—Return Receipts are revised to read as set forth below.

jj. Rate Schedule SS–17—Special Delivery is removed.

kk. In Rate Schedule SS–19—Stamped Envelopes add the following parenthetical phrase ''(in addition to postage)'', under the word ''Fee''.

ll. Rate Schedule SS–19A—Stamped Cards is added to read as set forth below.

Appendix A to Subpart C—Postal Service Rates and Charges

* * * * *

180 REFUNDS

181 Procedure

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

182 Availability

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

a. Strikes or work stoppage;

b. Delay or cancellation of flights; or

c. Governmental action beyond the control of Postal Service or air carriers.

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

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

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

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

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

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

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

* * * * *

320 DESCRIPTION OF SUBCLASSES

321 Subclasses Limited to Mail Weighing Less than 16 Ounces

321.1 Single Piece Subclass

321.11 Definition. The Single Piece subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under sections 321.2, 321.3, 321.4, 321.5 or 323.

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

321.13 Keys and Identification Devices Rate Category. The keys and identification devices rate category applies to keys, identification cards, identification tags, or similar identification devices mailed without cover, and which bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return to such address and a statement guaranteeing the payment of postage due on delivery.

321.14 Nonstandard Size Surcharge. Single Piece subclass mail, other than that mailed under section 321.13, is subject to a surcharge if it is nonstandard size mail, as defined in section 333.

321.2 Regular Subclass

321.21 General. The Regular subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under sections 321.1, 321.3, 321.4, 321.5 or 323.

321.22 Presort Rate Categories

321.221 General. The presort rate categories apply to Regular subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

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

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

321.222 Basic Rate Categories. The basic rate categories apply to presort rate category mail not mailed under section 321.223.

321.223 Three- and Five-Digit Rate Categories. The three- and five-digit rate categories apply to presort rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as prescribed by the Postal Service.

321.23 Automation Rate Categories

321.231 General. The automation rate categories apply to Regular subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

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

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

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

321.232 Basic Barcoded Rate Category. The basic barcoded rate category applies to letter-size automation rate category mail not mailed under section 321.233 or 321.234.

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

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

321.235 Basic Barcoded Flats Rate Category. The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 321.236.

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

321.24 Destination Entry Discount. The destination entry discounts apply to Regular subclass mail prepared as prescribed by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), or sectional center facility (SCF), at which it is entered, as defined by the Postal Service.

321.3 Enhanced Carrier Route Subclass

321.31 Definition. The Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321.1, 321.2, 321.4, 321.5 or 323, and that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

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

c. Is presorted to carrier routes as prescribed by the Postal Service;

d. Is sequenced as prescribed by the Postal Service; and

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

321.32 Basic Rate Category. The basic rate category applies to Enhanced Carrier Route subclass mail not mailed under section 321.33, 321.34 or 321.35.

321.33 Basic Pre-Barcoded Rate Category. The basic pre-barcoded rate category applies to letter-size Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including ''correction'' digits), as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

321.34 High Density Rate Category. The high density rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements prescribed by the Postal Service.

321.35 Saturation Rate Category. The saturation rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements prescribed by the Postal Service.

321.36 Destination Entry Discounts. Destination entry discounts apply to Enhanced Carrier Route subclass mail prepared as prescribed by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

321.4 Nonprofit Subclass

321.41 General. The Nonprofit subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321.1, 321.2, 321.3, 321.5 or 323, and that is mailed by authorized nonprofit organizations or associations of the following types:

a. Religious, as defined in section 1009,

b. Educational, as defined in section 1009,

c. Scientific, as defined in section 1009,

d. Philanthropic, as defined in section 1009,

e. Agricultural, as defined in section 1009,

f. Labor, as defined in section 1009,

g. Veterans', as defined in section 1009,

h. Fraternal, as defined in section 1009,

i. Qualified political committees,

j. State or local voting registration officials when making a mailing required or authorized by the National Voter Registration Act of 1993.

321.411 Qualified Political Committees. The term ''qualified political committee'' means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee:

a. The term ''national committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

b. The term ''State committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.

321.412 Limitation on Authorization. An organization authorized to mail at the nonprofit Standard rates for qualified nonprofit organizations may mail only its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at special Standard rates to any other person, organization or association.

321.42 Presort Rate Categories

321.421 General. The presort rate categories apply to Nonprofit subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

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

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

321.422 Basic Rate Categories. The basic rate categories apply to presort rate category mail not mailed under section 321.423.

321.423 Three-and Five-Digit Rate Categories. The three-and five-digit rate categories apply to presort rate category mail presorted to single or multiple three-and five-digit ZIP Code destinations as prescribed by the Postal Service.

321.43 Automation Rate Categories

321.431 General. The automation rate categories apply to Nonprofit subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

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

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

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

321.432 Basic Barcoded Rate Category. The basic barcoded rate category applies to letter-size automation rate category mail not mailed under section 321.433 or 321.434.

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

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

321.435 Basic Barcoded Flats Rate Category. The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 321.436.

321.436 Three- and Five-Digit Barcoded Flats Rate Category. The three-

and five-digit barcoded flats rate category applies to flat-size automation rate category mail presorted to single or multiple three-and five-digit ZIP Code destinations as prescribed by the Postal Service.

321.44 Destination Entry Discounts. Destination entry discounts apply to Nonprofit subclass mail prepared as prescribed by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility) or sectional center facility (SCF) at which it is entered, as defined by the Postal Service.

321.5 Nonprofit Enhanced Carrier Route Subclass

321.51 Definition. The Nonprofit Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321.1, 321.2, 321.3, 321.4 or 323, that is mailed by authorized nonprofit organizations or associations (as defined in section 321.41) under the terms and limitations stated in section 321.412, and that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

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

c. Is presorted to carrier routes as prescribed by the Postal Service;

d. Is sequenced as prescribed by the Postal Service; and

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

321.52 Basic Rate Category. The basic rate category applies to Nonprofit Enhanced Carrier Route subclass mail not mailed under section 321.53, 321.54 or 321.55.

321.53 Basic Pre-Barcoded Rate Category. The basic pre-barcoded rate category applies to letter-size Nonprofit Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including ''correction'' digits), as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

321.54 High Density Rate Category. The high density rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements prescribed by the Postal Service.

321.55 Saturation Rate Category. The saturation rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements prescribed by the Postal Service.

321.56 Destination Entry Discounts. Destination entry discounts apply to Nonprofit Enhanced Carrier Route subclass mail prepared as prescribed by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

322 Subclasses Limited to Mail Weighing 16 Ounces or More

322.1 Parcel Post Subclass

322.11 Definition. The Parcel Post subclass consists of Standard Mail weighing 16 ounces or more that is not mailed under sections 322.3, 323.1, or 323.2.

322.12 Basic Rate Category. The basic rate category applies to all Parcel Post subclass mail not mailed under sections 322.13 or 322.14.

322.13 [Reserved] **

**Revised language describing the bulk parcel post rate category was not accepted in Docket No. MC95–1. The following description, last amended in Docket No. R84–1, remains in effect.

400.0202 Bulk

Bulk parcel post mail is fourth-class parcel post mail consisting of properly prepared and separated single mailings of at least 300 pieces or 2000 pounds. Pieces weighing less than 15 pounds and measuring over 84 inches in length and girth combined are not mailable as bulk parcel post. Provision for mailing nonidentical pieces is set forth in section 400.046.

322.14 Destination BMC Rate Category. Parcel Post subclass mail is eligible for destination BMC rates if it is included in a mailing of at least 50 pieces deposited at the destination BMC, auxiliary service facility, or other equivalent facility, as prescribed by the Postal Service.

322.15 Intra-BMC Discount. Basic rate category Parcel Post subclass mail is eligible for the intra-BMC discount if it originates and destinates within the same BMC or auxiliary service facility service area, Alaska, Hawaii or Puerto Rico.

322.16 Nonmachinable Surcharge. Basic rate category Parcel Post subclass mail that does not meet machinability criteria prescribed by the Postal Service is subject to a nonmachinable surcharge.

322.17 Pickup Service. Pickup service is available for Parcel Post subclass mail under terms and conditions prescribed by the Postal Service.

322.2 [Reserved]

322.3 Bound Printed Matter Subclass

322.31 Definition. The Bound Printed Matter subclass consists of Standard Mail weighing at least 16 ounces, but not more than 10 pounds, which:

a. Consists of advertising, promotional, directory, or editorial material, or any combination thereof;

b. Is securely bound by permanent fastenings including, but not limited to, staples, spiral bindings, glue, and stitching; loose leaf binders and similar fastenings are not considered permanent;

c. Consists of sheets of which at least 90 percent are imprinted with letters, characters, figures or images or any combination of these, by any process other than handwriting or typewriting;

d. Does not have the nature of personal correspondence;

e. Is not stationery, such as pads of blank printed forms.

322.32 Single Piece Rate Category. The single piece rate category applies to Bound Printed Matter subclass mail which is not mailed under section 322.33 or 322.34.

322.33 Bulk Rate Category. The bulk rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces, prepared and presorted as prescribed by the Postal Service.

322.34 Carrier Route Presort Rate Category. The carrier route rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces of carrier route presorted mail, prepared and presorted as prescribed by the Postal Service.

323 Subclasses With No 16-Ounce Limitation

323.1 Special Subclass

323.11 Definition. The Special subclass consists of Standard Mail of the following types:

a. Books, including books issued to supplement other books, of at least eight printed pages, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books. Not more than three of the announcements may contain as part of their format a single order form, which may also serve as a post card. The order forms permitted in this subsection are in addition to and not in lieu of order forms which may be enclosed by virtue of any other provision;

b. 16 millimeter or narrower width films which must be positive prints in final form for viewing, and catalogs of such films, of 24 pages or more, at least 22 of which are printed, except when sent to or from commercial theaters;

c. Printed music, whether in bound form or in sheet form;

d. Printed objective test materials and accessories thereto used by or in behalf of educational institutions in the testing of ability, aptitude, achievement, interests and other mental and personal qualities with or without answers, test scores or identifying information recorded thereon in writing or by mark;

e. Sound recordings, including incidental announcements of recordings and guides or scripts prepared solely for use with such recordings. Not more than three of the announcements permitted in this subsection may contain as part of their format a single order form, which may also serve as a post card. The order forms permitted in this subsection are in addition to and not in lieu of order forms which may be enclosed by virtue of any other provision;

f. Playscripts and manuscripts for books, periodicals and music;

g. Printed educational reference charts, permanently processed for preservation;

h. Printed educational reference charts, including but not limited to;

i. Mathematical tables;

ii. Botanical tables;

iii. Zoological tables; and

iv. Maps produced primarily for educational reference purposes;

i. Looseleaf pages and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students; and

j. Computer-readable media containing prerecorded information and guides or scripts prepared solely for use with such media.

323.12 Single Piece Rate Category. The single piece rate category applies to Special subclass mail not mailed under section 323.13 or 323.14.

323.13 Level A Presort Rate Category. The Level A presort rate category applies to mailings of at least 500 pieces of Special subclass mail, prepared and presorted to five-digit destination ZIP Codes as prescribed by the Postal Service.

323.14 Level B Presort Rate Category. The Level B presort rate category applies to mailing of at least 500 pieces of Special subclass mail, prepared and presorted to destination Bulk Mail Centers as prescribed by the Postal Service.

323.2 Library Subclass

323.21 Definition

323.211 General. The Library subclass consists of Standard Mail of the following types, separated or presorted as prescribed by the Postal Service:

a. Matter designated in subsection 323.213, loaned or exchanged (including cooperative processing by libraries) between:

i. Schools or colleges, or universities;

ii. Public libraries, museums and herbaria, nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations, or between such organizations and their members, readers or borrowers.

b. Matter designated in subsection 323.214, mailed to or from schools, colleges, universities, public libraries, museums and herbaria and to or from nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations; or

c. Matter designated in subsection 323.215, mailed from a publisher or a distributor to a school, college, university or public library.

323.212 Definition of Nonprofit Organizations and Associations. Nonprofit organizations or associations are defined in section 1009.

323.213 Library subclass mail under section 323.211a. Matter eligible for mailing as Library subclass mail under section 323.211a consists of:

a. Books consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations and containing no advertising other than incidental announcements of books;

b. Printed music, whether in bound form or in sheet form;

c. Bound volumes of academic theses in typewritten or other duplicated form;

d. Periodicals, whether bound or unbound;

e. Sound recordings;

f. Other library materials in printed, duplicated or photographic form or in the form of unpublished manuscripts; and

g. Museum materials, specimens, collections, teaching aids, printed matter and interpretative materials intended to inform and to further the educational work and interest of museums and herbaria.

323.214 Library subclass mail under section 323.211b. Matter eligible for mailing as Library subclass mail under section 323.211b consists of:

a. 16-millimeter or narrower width films; filmstrips; transparencies; slides; microfilms; all of which must be positive prints in final form for viewing;

b. Sound recordings;

c. Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria;

d. Scientific or mathematical kits, instruments or other devices;

e. Catalogs of the materials in section 323.214 a through d and guides or scripts prepared solely for use with such materials.

323.215 Library subclass mail under section 323.211c. Matter eligible for mailing as Library subclass mail under section 323.211c consists of books, including books to supplement other books, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books.

323.22 Basic Rate Category. The basic rate category applies to all Library subclass mail.

330 PHYSICAL LIMITATIONS

331 Size

Standard Mail may not exceed 108 inches in length and girth combined. Additional size limitations apply to individual Standard Mail subclasses. The maximum size for mail presorted to carrier route in the Enhanced Carrier Route and Nonprofit Enhanced Carrier Route subclasses is 14 inches in length, 11.75 inches in width, and 0.75 inch in thickness. For merchandise samples mailed with detached address cards, the carrier route maximum dimensions apply to the detached address cards and not to the samples.

332 Weight

Standard Mail may not weigh more than 70 pounds. Additional weight limitations apply to individual Standard Mail subclasses.

333 Nonstandard Size Mail

Single Piece subclass mail weighing one ounce or less is nonstandard size if:

a. Its aspect ratio does not fall between 1 to 1.3 and 1 to 2.5 inclusive; or

b. It exceeds any of the following dimensions:

i. 11.5 inches in length;

i. 6.125 inches in width; or

iii. 0.25 inch in thickness.

340 POSTAGE AND PREPARATION

341 Postage

Postage must be paid as set forth in section 3000. When the postage computed at a Single Piece, Regular,

Enhanced Carrier Route, Nonprofit or Nonprofit Enhanced Carrier Route Standard rate is higher than the rate prescribed in any of the Standard subclasses listed in 322 or 323 for which the piece also qualifies (or would qualify, except for weight), the piece is eligible for the applicable lower rate. All mail mailed at a bulk or presort rate must have postage paid in a manner not requiring cancellation.

342 Preparation

All pieces in a Standard mailing must be separately addressed. All pieces in a Standard mailing must be identified as prescribed by the Postal Service, and must contain the ZIP Code of the addressee when prescribed by the Postal Service. All Standard mailings must be prepared and presented as prescribed by the Postal Service. Two or more Standard mailings may be commingled and mailed only when specific methods approved by the Postal Service for ascertaining and verifying postage are followed.

343 Non-Identical Pieces

Pieces not identical in size and weight may be mailed at a bulk or presort rate as part of the same mailing only when specific methods approved by the Postal Service for ascertaining and verifying postage are followed.

344 Attachments and Enclosures

344.1 Single Piece, Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321)

344.11 General. First-Class Mail may be attached to or enclosed in Standard books, catalogs, and merchandise entered under section 321. The piece must be marked as prescribed by the Postal Service. Except as provided in section 344.12, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class rate for which it qualifies.

344.12 Incidental First-Class Attachments and Enclosures. First-Class Mail, as defined in section 210 b through d, may be attached to or enclosed with Standard merchandise entered under section 321, including books but excluding merchandise samples, with postage paid on the combined piece at the applicable Standard rate, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

344.2 Parcel Post, Bound Printed Matter, Special, and Library Subclasses (sections 322 and 323)

344.21 General. First-Class Mail or Standard Mail from any of the subclasses listed in section 321 (Single Piece, Regular, Enhanced Carrier Route, Nonprofit or Nonprofit Enhanced Carrier Route) may be attached to or enclosed in Standard Mail mailed under sections 322 and 323. The piece must be marked as prescribed by the Postal Service. Except as provided in sections 344.22 and 344.23, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class or section 321 Standard rate for which it qualifies (unless the rate applicable to the host piece is higher), or, if a combined piece with a section 321 Standard Mail attachment or enclosure weighs 16 ounces or more, the piece is subject to the Parcel Post rate for which it qualifies.

344.22 Specifically Authorized Attachments and Enclosures. Standard Mail mailed under sections 322 and 323 may contain enclosures and attachments as prescribed by the Postal Service and as described in section 323.11 a and e, with postage paid on the combined piece at the Standard rate applicable to the host piece.

344.23 Incidental First-Class Attachments and Enclosures. First-Class Mail that meets one or more of the definitions in section 210 b through d, may be attached to or enclosed with Standard Mail mailed under section 322 or 323, with postage paid on the combined piece at the Standard rate applicable to the host piece, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

350 DEPOSIT AND DELIVERY

351 Deposit

Standard Mail must be deposited at places and times designated by the Postal Service.

352 Service

Standard Mail may receive deferred service.

353 Forwarding and Return

353.1 Single Piece, Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321)

Undeliverable-as-addressed Standard Mail mailed under section 321 will be returned on request of the mailer, or forwarded and returned on request of the mailer. Undeliverable-as-addressed combined First-Class and Standard pieces will be returned as prescribed by the Postal Service. The Single Piece Standard rate is charged for each piece receiving return only service. Charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. The charge for those returned pieces is the appropriate Single Piece Standard rate for the piece plus that rate multiplied by a factor equal to the number of section 321 Standard pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

353.2 Parcel Post, Bound Printed Matter, Special, and Library Subclasses (sections 322 and 323)

Undeliverable-as-addressed Standard Mail mailed under sections 322 and 323 will be forwarded on request of the addressee, returned on request of the mailer, or forwarded and returned on request of the mailer. Pieces which combine Standard Mail from one of the subclasses described in 322 and 323 with First-Class Mail or Standard Mail from one of the subclasses described in 321 will be forwarded if undeliverable-as-addressed, and returned if undeliverable, as prescribed by the Postal Service. When Standard Mail mailed under sections 322 and 323 is forwarded or returned from one post office to another, additional charges will be based on the appropriate Single Piece Standard rate.

360 ANCILLARY SERVICES

361 All Subclasses

All Standard Mail will receive the following services upon payment of the appropriate fees:

Service	Schedule
a. Address correction	SS–1
b. Certificates of mailing indicating that a specified number of pieces have been mailed.	SS–4

Certificates of mailing are not available for Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route subclass mail when postage is paid by permit imprint.

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

Single Piece, Parcel Post, Bound Printed Matter, Special, and Library subclass mail will receive the following additional services upon payment of the appropriate fees:

Service	Schedule
a. Certificates of mailing	SS–4
b. COD	SS–6
c. Insured mail	SS–9
d. Special handling	SS–18
e. Return receipt (merchandise only).	SS–16
f. Merchandise return	SS–20

Insurance, special handling, and COD services may not be used selectively for individual pieces in a multi-piece Parcel Post subclass mailing unless specific methods approved by the Postal Service for ascertaining and verifying postage are followed.

370 RATES AND FEES

The rates and fees for Standard Mail are set forth as follows:

	Schedule
a. Single Piece subclass	321.1
b. Regular subclass	321.2
c. Enhanced Carrier Route subclass.	321.3
d. Nonprofit subclass	321.4
e. Nonprofit Enhanced Carrier Route subclass.	321.5
f. Parcel Post subclass:	
Basic	322.1A
Destination BMC	322.1B
g. Bound Printed Matter subclass:	
Single Piece	322.3A
Bulk and Carrier Route	322.3B
h Special subclass	323.1
i. Library subclass	323.2
j. Fees	1000

380 AUTHORIZATIONS AND LICENSES

381 Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses

A mailing fee as set forth in Rate Schedule 1000 must be paid once each year by mailers of Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route subclass mail.

382 Special Subclass

A presort mailing fee as set forth in Rate Schedule 1000 must be paid once each year at each office of mailing by or for any person who mails presorted Special subclass mail. Any person who engages a business concern or other individuals to mail presorted Special subclass mail must pay the fee.

383 Parcel Post Subclass

A mailing fee as set forth in Rate Schedule 1000 must be paid once each year by mailers of Destination BMC rate category mail in the Parcel Post subclass.

Periodicals Classification Schedule

410 DEFINITION

411 General Requirements

411.1 Definition. A publication may qualify for mailing under the Periodicals Classification Schedule if it meets all of the requirements in sections 411.2 through 411.5 and the requirements for one of the qualification categories in sections 412 through 415. Eligibility for specific Periodicals rates is prescribed in section 420.

411.2 Periodicals. Periodicals class mail is mailable matter consisting of newspapers and other periodical publications. The term ''periodical publications'' includes, but is not limited to:

a. Any catalog or other course listing including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education.

b. Any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

411.3 Issuance

411.31 Regular Issuance. Periodicals class mail must be regularly issued at stated intervals at least four times a year, bear a date of issue, and be numbered consecutively.

411.32 Separate Publication. For purposes of determining Periodicals rate eligibility, an ''issue'' of a newspaper or other periodical shall be deemed to be a separate publication when the following conditions exist:

a. The issue is published at a regular frequency more often than once a month either on (1) the same day as another regular issue of the same publication; or (2) on a day different from regular issues of the same publication, and

b. More than 10 percent of the total number of copies of the issue is distributed on a regular basis to recipients who do not subscribe to it or request it, and

c. The number of copies of the issue distributed to nonsubscribers or nonrequesters is more than twice the number of copies of any other issue distributed to nonsubscribers or nonrequesters on that same day, or, if no other issue that day, any other issue distributed during the same period. ''During the same period'' shall be defined as the periods of time ensuing between the distribution of each of the issues whose eligibility is being examined. Such separate publications must independently meet the qualifications for Periodicals eligibility.

411.4 Office of Publication. Periodicals class mail must have a known office of publication. A known office of publication is a public office where business of the publication is transacted during the usual business hours. The office must be maintained where the publication is authorized original entry.

411.5 Printed Sheets. Periodicals class mail must be formed of printed sheets. It may not be reproduced by stencil, mimeograph, or hectograph processes, or reproduced in imitation of typewriting. Reproduction by any other printing process is permissible. Any style of type may be used.

412 General Publications

412.1 Definition. To qualify as a General Publication, Periodicals class mail must meet the requirements in section 411 and in sections 412.2 through 412.4.

412.2 Dissemination of Information. A General Publication must be originated and published for the purpose of disseminating information of a public character, or devoted to literature, the sciences, art, or some special industry.

412.3 Paid Circulation

412.31 Total Distribution. A General Publication must be designed primarily for paid circulation. At least 50 percent or more of the copies of the publication must be distributed to persons who have paid above a nominal rate.

412.32 List of Subscribers. A General Publication must be distributed to a legitimate list of persons who have subscribed by paying or promising to pay at a rate above nominal for copies to be received during a stated time. Copies mailed to persons who are not on a legitimate list of subscribers are nonsubscriber copies.

412.33 Nominal Rates. As used in section 412.31, nominal rate means:

a. A token subscription price that is so low that it cannot be considered a material consideration;

b. A reduction to the subscriber, under a premium offer or any other arrangements, of more than 50 percent of the amount charged at the basic annual rate for a subscriber to receive one copy of each issue published during the subscription period. The value of a premium is considered to be its actual cost to the publishers, the recognized retail value, or the represented value, whichever is highest.

412.34 Nonsubscriber Copies

412.341 Up to Ten Percent. Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to subscribers during the calendar year are mailable at the rates that apply to subscriber copies provided that the nonsubscriber copies would have been eligible for those rates if mailed to subscribers.

412.342 Over Ten Percent. Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to subscribers during the calendar year which are presorted and commingled with subscriber copies are charged the applicable rates for Regular Periodicals. The 10 percent limitation for a publication is based on the total number of all copies of that publication mailed to subscribers during the calendar year.

412.35 Advertiser's Proof Copies. One complete copy of each issue of a General Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to subscriber copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as subscriber copies.

412.36 Expired Subscriptions. For six months after a subscription has expired, copies of a General Publication may be mailed to a former subscriber at the rates that apply to copies mailed to subscribers, if the publisher has attempted during that six months to obtain payment, or a promise to pay, for renewal. These copies do not count as subscriber copies.

412.4 Advertising Purposes

A General Publication may not be designed primarily for advertising purposes. A publication is ''designed primarily for advertising purposes'' if it:

a. Has advertising in excess of 75 percent in more than one-half of its issues during any 12-month period;

b. Is owned or controlled by individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it;

c. Consists principally of advertising and editorial write-ups of the advertisers;

d. Consists principally of advertising and has only a token list of subscribers, the circulation being mainly free;

e. Has only a token list of subscribers and prints advertisements free for advertisers who pay for copies to be sent to a list of persons furnished by the advertisers; or

f. Is published under a license from individuals or institutions and features other businesses of the licensor.

413 Requester Publications

413.1 Definition. A publication which is circulated free or mainly free may qualify for Periodicals class as a Requester Publication if it meets the requirements in sections 411, and 413.2 through 413.4.

413.2 Minimum Pages. It must contain at least 24 pages.

413.3 Advertising Purposes

413.31 Advertising Percentage. It must devote at least 25 percent of its pages to nonadvertising and not more than 75 percent to advertisements.

413.32 Ownership and Control. It must not be owned or controlled by one or more individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it.

413.4 Circulated to Requesters

413.41 List of Requesters. It must have a legitimate list of persons who request the publication, and 50 percent or more of the copies of the publication must be distributed to persons making such requests. Subscription copies paid for or promised to be paid for, including those at or below a nominal rate may be included in the determination of whether the 50 percent request requirement is met. Persons will not be deemed to have requested the publication if their request is induced by a premium offer or by receipt of material consideration, provided that mere receipt of the publication is not material consideration.

413.42 Nonrequester Copies

413.421 Up to Ten Percent. Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to requesters during the calendar year are mailable at the rates that apply to requester copies provided that the nonrequester copies would have been eligible for those rates if mailed to requesters.

413.422 Over Ten Percent. Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to requesters during the calendar year which are presorted and commingled with requester copies are charged the applicable rates for Regular Periodicals. The 10 percent limitation for a publication is based on the total number of all copies of that publication mailed to requesters during the calendar year.

413.43 Advertiser's Proof Copies. One complete copy of each issue of a Requester Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to requester copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as requester copies.

414 Publications of Institutions and Societies

414.1 Publisher's Own Advertising. Except as provided in section 414.2, a publication which meets the requirements of sections 411 and 412.4, and which contains no advertising other than that of the publisher, qualifies for Periodicals class as a publication of an institution or society if it is:

a. Published by a regularly incorporated institution of learning;

b. Published by a regularly established state institution of learning supported in whole or in part by public taxation;

c. A bulletin issued by a state board of health or a state industrial development agency;

d. A bulletin issued by a state conservation or fish and game agency or department;

e. A bulletin issued by a state board or department of public charities and corrections;

f. Published by a public or nonprofit private elementary or secondary institution of learning or its administrative or governing body;

g. Program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof, or by a nonprofit educational radio or television station;

h. Published by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than 1,000 persons;

i. Published by or under the auspices of a trade(s) union;

j. Published by a strictly professional, literary, historical, or scientific society; or,

k. Published by a church or church organization.

414.2 General Advertising. A publication published by an institution or society identified in sections 414.1 h

through k, may contain advertising of other persons, institutions, or concerns, if the following additional conditions are met:

a. The publication is originated and published to further the objectives and purposes of the society;

b. Circulation is limited to:

i. Copies mailed to members who pay either as a part of their dues or assessment or otherwise, not less than 50 percent of the regular subscription price;

ii. Other actual subscribers; and

iii. Exchange copies.

c. The circulation of nonsubscriber copies, including sample and complimentary copies, does not exceed 10 percent of the total number of copies referred to in 414.2b.

415 Publications of State Departments of Agriculture

A publication which is issued by a state department of agriculture and which meets the requirements of sections 411 qualifies for Periodicals class as a publication of a state department of agriculture if it contains no advertising and is published for the purpose of furthering the objects of the department.

416 Foreign Publications

Foreign newspapers and other periodicals of the same general character as domestic publications entered as Periodicals class mail may be accepted on application of the publishers thereof or their agents, for transmission through the mail at the same rates as if published in the United States. This section does not authorize the transmission through the mail of a publication which violates a copyright granted by the United States.

420 DESCRIPTION OF SUBCLASSES

421 Regular Subclass

421.1 Definition. The Regular subclass consists of Periodicals class mail that is not mailed under section 423 and that:

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

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

421.2 Regular Pound Rates

An unzoned pound rate applies to the nonadvertising portion of Regular subclass mail. A zoned pound rate applies to the advertising portion and may be reduced by applicable destination entry discounts. The pound rate postage is the sum of the nonadvertising portion charge and the advertising portion charge.

421.3 Regular Piece Rates

421.31 Basic Rate Category. The basic rate category applies to all Regular subclass mail not mailed under section 421.32 or 421.33.

421.32 Three-Digit City and Five-Digit Rate Category. The rates for this category apply to Regular subclass mail presorted to three-digit cities and five-digit ZIP Code destinations as prescribed by the Postal Service.

421.33 Carrier Route Rate Category. The carrier route rate category applies to Regular subclass mail presorted to carrier routes as prescribed by the Postal Service.

421.4 Regular Subclass Discounts

421.41 Barcoded Letter Discounts. Barcoded letter discounts apply to letter size Regular subclass mail mailed under sections 421.31 and 421.32 which bears a barcode representing not more than 11 digits (not including ''correction'' digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

421.42 Barcoded Flats Discounts. Barcoded flats discounts apply to flat size Regular subclass mail mailed under sections 421.31 and 421.32 which bear a barcode representing not more than 11 digits (not including ''correction'' digits) as prescribed by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

421.43 High Density Discount. The high density discount applies to Regular subclass mail mailed under section 421.33, presented in walk sequence order, and meeting the high density and preparation requirements prescribed by the Postal Service.

421.44 Saturation Discount. The saturation discount applies to Regular subclass mail mailed under section 421.33, presented in walk-sequence order, and meeting the saturation and preparation requirements prescribed by the Postal Service.

421.45 Destination Entry Discounts. Destination entry discounts apply to Regular subclass mail which is destined for delivery within the service area of the destination sectional center facility (SCF) or the destination delivery unit (DDU) in which it is entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail.

421.46 Nonadvertising Discount. The nonadvertising discount applies to all Regular subclass mail and is determined by multiplying the proportion of nonadvertising content by the discount factor set forth in Rate Schedule 421 and subtracting that amount from the applicable piece rate.

422 [Reserved]

423 Preferred Rate Periodicals

423.1 Definition. Periodicals class mail, other than publications qualifying as Requester Publications, may qualify for Preferred Rate Periodicals rates if it meets the applicable requirements for those rates in sections 423.2 through 423.5.

423.2 Within County Subclass

423.21 Definition. Within County mail consists of Preferred Rate Periodicals class mail mailed in, and addressed for delivery within the county where published and originally entered, from either the office of original entry or additional entry. In addition, a Within County publication must meet one of the following conditions:

a. The total paid circulation of the issue is less than 10,000 copies; or

b. The number of paid copies of the issue distributed within the county of publication is at least one more than one-half of the total paid circulation of such issue.

423.22 Entry in an Incorporated City. For the purpose of determining eligibility for Within County mail, when a publication has original entry at an independent incorporated city which is situated entirely within a county or which is contiguous to one or more counties in the same state, such incorporated city shall be considered to be within the county with which it is principally contiguous. Where more than one county is involved, the publisher will select the principal county.

423.3 Nonprofit Subclass

Nonprofit mail is Preferred Rate Periodicals class mail entered by authorized nonprofit organizations or associations of the following types:

a. Religious, as defined in section 1009,

b. Educational, as defined in section 1009,

c. Scientific, as defined in section 1009,

d. Philanthropic, as defined in section 1009,

e. Agricultural, as defined in section 1009,

f. Labor, as defined in section 1009,

g. Veterans', as defined in section 1009,

h. Fraternal, as defined in section 1009, and

i. Associations of rural electric cooperatives,

j. One publication, which contains no advertising (except advertising of the publisher) published by the official highway or development agency of a state,

k. Program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof or by a nonprofit educational radio or television station.

l. One conservation publication published by an agency of a state which is responsible for management and conservation of the fish or wildlife resources of such state.

423.4 Classroom Subclass

Classroom mail is Preferred Rate Periodicals class mail which consists of religious, educational, or scientific publications designed specifically for use in school classrooms or religious instruction classes.

423.5 Science of Agriculture

Science of Agriculture mail consists of Preferred Rate Periodicals class mail devoted to the science of agriculture if the total number of copies of the publication furnished during any 12-month period to subscribers residing in rural areas amounts to at least 70 percent of the total number of copies distributed by any means for any purpose.

423.6 Preferred Rate Pound Rates

For Preferred Rate Periodicals entered under sections 423.3, 423.4 and 423.5, and unzoned pound rate applies to the nonadvertising portion. A zoned pound rate applies to the advertising portion and may be reduced by applicable destination entry discounts. The pound rate postage is the sum of the nonadvertising portion charge and the advertising portion charge. For Preferred Rate Periodicals entered under section 423.2, one pound rate applies to the pieces presorted to carrier route to be delivered within the delivery area of the originating post office, and another pound rate applies to all other pieces.

423.7 Preferred Rate Piece Rates

423.71 Basic Rate Category. The basic rate category applies to all Preferred Rate Periodicals not mailed under section 423.72 or 423.73.

423.72 Three-digit City and Five-Digit Rate Category. The rates for this category apply to Preferred Rate Periodicals entered under sections 423.3, 423,4, or 423.5 that are presorted to three-digit cities and five-digit ZIP code destinations as prescribed by the Postal Service.

423.73 Carrier Route Rate Category. The carrier route rate category applies to Preferred Rate Periodicals presorted to carrier routes as prescribed by the Postal Service.

423.8 Preferred Rate Discounts

423.81 Barcoded Letter Discounts. Barcoded letter discounts apply to letter size Preferred Rate Periodicals mailed under sections 423.71 and 423.72 which bear a barcode representing not more than 11 digits (not including ''correction'' digits) as prescribed by the Postal Service, and which meet the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

423.82 Barcoded Flats Discounts. Barcoded flats discounts apply to flat size Preferred Rate Periodicals mailed under sections 423.71 and 423.72 which bear a barcode representing not more than 11 digits (not including ''correction'' digits) as prescribed by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.

423.83 High Density Discount. The high density discount applies to Preferred Rate Periodicals mailed under section 423.73, presented in walk sequence order, and meeting the high density and preparation requirements prescribed by the Postal Service.

423.84 Saturation Discount. The saturation discount applies to Preferred Rate Periodicals mailed under section 423.73, presented in walk sequence order, and meeting the saturation and preparation requirements prescribed by the Postal Service.

423.85 Destination Entry Discounts. Destination entry discounts apply to Preferred Rate Periodicals which are destined for delivery within the service area of the destination sectional center facility (SCF) or the destination delivery unit (DDU) in which they are entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail; the SCF discount is not available for mail entered under section 423.2.

423.86 Nonadvertising Discount. The nonadvertising discount applies to Preferred Rate Periodicals entered under sections 423.3, 423.4, 423.5 and is determined by multiplying the proportion of nonadvertising content by the discount factor set forth in Rate Schedules 421. 423.3 or 423.4 and subtracting that amount from the applicable piece rate.

* * * * *

1009 Nonprofit Organizations and Associations

Nonprofit organizations or associations are organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to each type of organization or association, except veterans' and fraternal. The standard of primary purpose requires that each type of organization or association be both organized and operated for the primary purpose. The following are the types of organizations or associations which may qualify as authorized nonprofit organizations or associations.

a. Religious. A nonprofit organization whose primary purpose is one of the following:

i. To conduct religious worship;

ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;

iii. To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational. A nonprofit organization whose primary purpose is one of the following:

i. The instruction or training of the individual for the purpose of improving or developing his capabilities;

ii. The instruction of the public on subjects beneficial to the community.

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. Scientific. A nonprofit organization whose primary purpose is one of the following:

i. To conduct research in the applied, pure or natural sciences;

ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations which are organized for:

i. Relief of the poor and distressed or of the underprivileged;

ii. Advancement of religion;

iii. Advancement of education or science;

iv. Erection or maintenance of public buildings, monuments, or works;

v. Lessening of the burdens of government;

vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or:

(A) To lessen neighborhood tensions;

(B) To eliminate prejudice and discrimination;

(C) To defend human and civil rights secured by law; or

(D) To combat community deterioration and juvenile delinquency.

e. Agricultural. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agriculture pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

g. Veterans'. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal. A nonprofit organization which meets all of the following criteria:

i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;

ii. Is organized under a lodge or chapter system with a representative form of government;

iii. Follows a ritualistic format; and

iv. Is comprised of members who are elected to membership by vote of the members.

* * * * *

CLASSIFICATION SCHEDULE SS–2—BUSINESS REPLY MAIL

2.01 Definitions

2.010 Business reply mail is a service whereby business reply cards, envelopes, cartons and labels may be distributed by or for a business reply distributor for use by mailers for sending First-Class Mail without prepayment of postage to an address chosen by the distributor. A distributor is the holder of a business reply license.

2.011 A business reply mail piece is nonletter-size for purposes of Classification Schedule SS–2 if it meets addressing and other preparation requirements, but does not meet the machinability requirements prescribed by the Postal Service for mechanized or automated letter sortation.

This provision expires June 8, 1999.

2.02 Description of Service

2.020 The distributor guarantees payment on delivery of postage and fees for all returned business reply mail. Any distributor of business reply cards, envelopes, cartons and labels under any one license for return to several addresses guarantees to pay postage and fees on any returns refused by any such addressee.

2.03 Requirements of the Mailer

2.030 Business reply cards, envelopes, cartons and labels must be readdressed and bear business reply markings.

2.031 Handwriting, typewriting or handstamping are not acceptable methods of preaddressing or marking business reply cards, envelopes, cartons, or labels.

2.04 Fees

2.040 The fees for business reply mail are set forth in Rate Schedule SS–2.

2.041 To qualify as an active business reply mail advance deposit trust account, the account must be used solely for business reply mail and contain sufficient postage and fees due for returned business reply mail.

2.042 An accounting fee as set forth in Rate Schedule SS–2 must be paid each year for each advance deposit business reply account at each facility where the mail is to be returned.

2.043 Experimental Reverse Manifest Fees

2.0431 A set-up/qualification fee as set forth in Rate Schedule SS–2 must be paid by each business reply mail advance deposit trust account holder at each destination postal facility at which it applies to receive nonletter-size business reply mail for which the postage and fees will be accounted for through a reverse manifest method approved by the Postal Service for ascertaining and verifying postage.

A distributor must pay this fee for each business reply mail advance deposit trust account for which participation in the nonletter-size business reply mail experiment is requested.

This provision expires June 8, 1999.

2.0432 A nonletter-size reverse manifest monthly fee as set forth in Rate Schedule SS–2 must be paid each month during which the distributor's reverse manifest account is active.

This fee applies to the (no more than) 10 advance deposit account holders which are selected by the Postal Service to participate in the reverse manifest nonletter-size business reply mail experiment and which utilize reverse manifest accounting methods approved by the Postal Service for ascertaining and verifying postage and fees.

This provision expires June 8, 1999.

2.044 Experimental Weight Averaging Fees

2.0441 A set-up/qualification fee as set forth in Rate Schedule SS–2 must be paid by each business reply mail advance deposit trust account holder at each destination postal facility at which it applies to receive nonletter-size business reply mail for which the postage and fees will be accounted for through a weight averaging method approved by the Postal Service for ascertaining and verifying postage.

A distributor must pay this fee for each business reply mail advance deposit trust account for which participation in the nonletter-size business reply mail experiment is requested.

This provision expires June 8, 1999.

2.0442 A nonletter-size weight averaging monthly fee as set forth in Rate Schedule SS–2 must be paid each month during which the distributor's weight averaging account is active.

This fee applies to the (no more than) 10 advance deposit account holders which are selected by the Postal Service to participate in the weight averaging nonletter-size business reply mail experiment.

This provision expires June 8, 1999.

2.05 Authorizations and Licenses

2.050 In order to distribute business reply cards, envelopes, cartons or labels, the distributor must obtain a license or licenses from the Postal Service and pay the appropriate fee as set forth in Rate Schedule SS–2.

2.0501 Except as provided in section 2.0502, the license to distribute business

reply cards, envelopes, cartons, or labels must be obtained at each office from which the mail is offered for delivery.

2.0502 If the business reply mail is to be distributed from a central office to be returned to branches or dealers in other cities, one license obtained from the post office where the central office is located may be used to cover all business reply mail.

2.051 The license to mail business reply mail may be canceled for failure to pay business reply postage and fees when due, and for distributing business reply cards or envelopes which do not conform to prescribed form, style or size.

2.052 Authorization to pay experimental nonletter-size business reply mail fees as set forth in Rate Schedule SS–2 may be canceled for failure of a business reply mail advance deposit trust account holder to meet the standards prescribed by the Postal Service for the applicable reverse manifest or weight averaging accounting method.

This provision expires June 8, 1999.

* * * * *

CLASSIFICATION SCHEDULE SS–9—INSURED MAIL

Part a—Express Mail Insurance

9a.01 Definition

9a.010 Express Mail Insurance is a service that provides the mailer with indemnity for loss of, rifling of, or damage to items sent by Express Mail.

9a.02 Description of Service

9a.020 Express Mail Insurance is available only for Express Mail.

9a.021 Insurance coverage is provided, for no additional charge, up to $500 per piece for document reconstruction, up to $5,000 per occurrence regardless of the number of claimants. Insurance coverage is also provided, for no additional charge, up to $500 per piece for merchandise. Insurance coverage for merchandise valued at more than $500 is available for an additional fee, as set forth in Rate Schedule SS–9. The maximum liability for merchandise is $5,000 per piece. For negotiable items, currency, or bullion, the maximum liability is $15.

9a.022 Indemnity claims for Express Mail must be filed within a specified period of time from the date the article was mailed.

9a.023 Indemnity will be paid under terms and conditions prescribed by the Postal Service.

9a.024 Among other limitations prescribed by the Postal Service, indemnity will not be paid by the Postal Service for loss, damage or rifling:

a. Of nonmailable matter;

b. Due to improper packaging;

c. Due to seizure by any agency of government; or,

d. Due to war, insurrection or civil disturbances.

9a.03 Fees

9a.030 The fees for Express Mail Insurance service are set forth in Rate Schedule SS–9.

Part b—General Insurance

9b.01 Definition

9b.010 General Insurance is a service that provides the mailer with indemnity for loss of, rifling of, or damage to mailed items.

9b.02 Description of Service

9b.020 The maximum liability of the Postal Service under this part is $5000.

9b.021 General Insurance is available for mail sent under the following classification schedules:

a. First-Class Mail, if containing matter which may be mailed as Standard Mail

b. Single Piece, Parcel Post, Bound Printed Matter, Special, and Library Standard Mail

9b.022 This service is not available for matter offered for sale, addressed to prospective purchasers who have not ordered or authorized their sending. If such matter is received in the mail, payment will not be made for loss, rifling, or damage.

9b.023 The mailer is issued a receipt for each item mailed. For items insured for more than $50, a receipt of delivery is obtained by the Postal Service.

9b.024 For items insured for more than $50, a notice of arrival is left at the mailing address when the first attempt at delivery is unsuccessful.

9b.025 A claim for complete loss may be filed by the mailer only. A claim for damage or for partial loss may be filed by either the mailer or addressee.

9b.026 A claim for damage or loss on a parcel sent merchandise return (SS–20) may only be filed by the purchaser of the insurance.

9b.027 Indemnity claims must be filed within a specified period of time from the date the article was mailed.

9b.028 Additional copies of the original mailing receipt may be obtained by the mailer, upon payment of the applicable fee set forth in Rate Schedule SS–9.

9b.03 Deposit of Mail

9b.030 Mail insured under this part must be deposited in a manner specified by the Postal Service.

9b.04 Forwarding and Return

9b.040 By insuring an item, the mailer guarantees forwarding and return postage unless instructions on the piece mailed indicate that it not be forwarded or returned.

9b.041 Mail undeliverable as addressed sent under this part will be returned to the sender as specified by the sender or by the Postal Service.

9b.05 Other Services

9b.050 The following services, if applicable to the class of mail, may be obtained in conjunction with mail sent under this part upon payment of the applicable fees:

Classification	Schedule
a. Parcel Airlift	SS–13
b. Restricted delivery (for items insured for more than $50).	SS–15
c. Return receipt (for items insured for more than $50).	SS–16
d. Special handling	SS–18
e. Merchandise return (shippers only).	SS–20

9b.06 Fees

9b.060 The fees for General Insurance are set forth in Rate Schedule SS–9.

* * * * *

CLASSIFICATION SCHEDULE SS–14—REGISTERED MAIL

14.021 Registered mail service provides insurance up to a maximum of $25,000, depending upon the actual value at the time of mailing, except that insurance is optional for articles valued $100 or less.

* * * * *

CLASSIFICATION SCHEDULE SS–16—RETURN RECEIPTS

16.0211 Mailers requesting return receipt service at the time of mailing will be provided, as appropriate, the signature of the addressee or addressee's agent, the date delivered, and the address of delivery, if different from the address on the mailpiece.

* * * * *

CLASSIFICATION SCHEDULE SS–19A—STAMPED CARDS

* * * * *

19A.01 Definition

19A.010 Stamped Cards. Stamped Cards are cards with postage imprinted or impressed on them and supplied by the Postal Service for the transmission of messages.

19A.011 Double Stamped Cards. Double Stamped Cards consist of two attached cards, one of which may be

detached by the receiver and returned by mail as a single Stamped Card.

19A.020 Description of Service. Stamped Cards are available for First-Class Mail.

19A.030 Fees. The fees for Stamped Cards are set forth in Rate Schedule SS–19A.

* * * * *

STANDARD MAIL RATE SCHEDULE 321.4A—NONPROFIT SUBCLASS PRESORT CATEGORIES [1]

[Full Rates]

	Rate (cents)
Letter Size:	
Piece Rate:	
Basic	.....
3/5-Digit	.....
Destination Entry Discount per Piece:	
BMC	.....
SCF	.....
Non-Letter Size:	
Piece Rate:	
Minimum per Piece: [2]	.....
Basic	.....
3/5-Digit	.....
Destination Entry Discount per Piece:	
BMC	.....
SCF	.....
Pound Rate: [2]	
Plus per Piece Rate:	
Basic	.....
3/5-Digit	.....
Destination Entry Discount per Pound:	
BMC	.....
SCF	.....

Schedule 321.4A Notes

[1] A fee of $85.00 must be paid once each 12-month period for each bulk mailing permit.

[2] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 321.4B—NONPROFIT SUBCLASS AUTOMATION CATEGORIES [1]

[Full Rates]

	Rate (cents)
Letter Size	
Piece Rate:	
Basic Letter [3]	.....
3-Digit Letter [4]	.....
5-Digit Letter [5]	.....
Destination Entry Discount per Piece:	
BMC	.....
SCF	.....
Flat Size: [6]	
Piece Rate:	
Minimum per Piece: [7]	
Basic Flat [8]	.....
3/5-Digit [9]	.....

STANDARD MAIL RATE SCHEDULE 321.4B—NONPROFIT SUBCLASS AUTOMATION CATEGORIES [1]—Continued

[Full Rates]

	Rate (cents)
Destination Entry Discount per Piece:	
BMC	.....
SCF	.....
Pound Rate: [7]	
Plus per Piece Rate	
Basic Flat	.....
3/5-Digit Flat	.....
Destination Entry Discount per Pound:	
BMC	.....
SCF	.....

Schedule 321.4B Notes

[1] A fee of $85.00 must be paid once each 12-month period for each bulk mailing permit.

[2] For letter-size automation pieces meeting applicable Postal Service regulations.

[3] Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.

[4] Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as prescribed by the Postal Service.

[5] Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as prescribed by the Postal Service.

[6] For flat-size automation mail meeting applicable Postal Service regulations.

[7] Mailer pays minimum piece rate or pound rate, whichever is higher.

[8] Rate applies to flat-size automation mail not mailed at 3/5-digit rate.

[9] Rate applies to flat-size automation mail presorted to single or multiple three-and five-digit ZIP Code destinations as specified by the Postal Service.

STANDARD MAIL RATE SCHEDULE 321.5—NONPROFIT ENHANCED CARRIER ROUTE SUBCLASS [1]

[Full Rates]

	Rate (cents)
Letter Size:	
Piece Rate:	
Basic	.....
Basic Automated Letter [2]	.....
High Density	.....
Saturation	.....
Destination Entry Discount per Piece:	
BMC	.....
SCF	.....
DDU [3]	.....
Non-Letter Size:	
Piece Rate:	
Minimum per Piece: [4]	
Basic	.....
High Density	.....
Saturation	.....
Destination Entry Discount per Piece:	
BMC	.....

STANDARD MAIL RATE SCHEDULE 321.5—NONPROFIT ENHANCED CARRIER ROUTE SUBCLASS [1]—Continued

[Full Rates]

	Rate (cents)
SCF	.....
DDU [3]	.....
Pound Rate: [4]	
Plus per Piece Rate:	
Basic	.....
High Density	.....
Saturation	.....
Destination Entry Discount per Pound:	
BMC	.....
SCF	.....
DDU [3]	.....

Schedule 321.5 Notes

[1] A fee of $ must be paid each 12-month period for each bulk mailing permit.

[2] Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.

[3] Applies only to enhanced carrier route mail.

[4] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

* * * * *

PERIODICALS RATE SCHEDULE 423.2—WITHIN COUNTY

[Full Rates]

	Rate (cents)
Per Pound:	
General	.....
Delivery Office [1]	.....
Per Piece:	
Required Presort	.....
Carrier Route	.....
Presort	.....
Per Piece Discounts:	
Delivery Office [2]	.....
High Density (formerly 125 piece) [3]	.....
Saturation	.....
Automation Discounts for Automation Compatible Mail [4] From Required:	
3-Digit Pre-barcoded Letter size	.....
5-Digit Pre-barcoded Letter size	.....
3/5-Digit Pre-barcoded Flats	.....

Schedule 423.2 Notes

[1] Applicable only to the pound charge of carrier route (including high density and saturation) presorted pieces to be delivered within the delivery area of the originating post office

[2] Applicable only to carrier presorted pieces to be delivered within the delivery area of the originating post office.

[3] Applicable to high density mail, deducted from carrier route presort rate.

[4] For automation compatible pieces meeting applicable Postal Service regulations.

RATE SCHEDULE 423.3—PUBLICATIONS OF AUTHORIZED NONPROFIT ORGANIZATIONS [10]

[Full Rates]

	Postage rate unit	Rate [1] (cents)
Per Pound:		
Nonadvertising portion ..	Pound	.....
Advertising portion: [9]		
Delivery Office [2]	Pound	.....
SCF [3]	Pound	.....
1&2	Pound	.....
3	Pound	.....
4	Pound	.....
5	Pound	.....
6	Pound	.....
7	Pound	.....
8	Pound	.....
Per Piece: Less Nonadvertising Factor of cents. [4]		
Required Preparation [5]	Piece	.....
Presorted to 3-digit city/5-digit.	Piece	.....
Presorted to Carrier Route.	Piece	.....
Discounts:		
Prepared to Delivery Office [2].	Piece	.....
High Density (formerly 125-Piece) [6].	Piece	.....
Saturation [7]	Piece	.....
Automation Discounts for Automation Compatible Mail [8]		
From Required:		
Pre-barcoded Letter size.	Piece	.....
Pre-barcoded Flats ...	Piece	.....
From 3/5 Digit:		
3-Digit Pre-barcoded Letter size.	Piece	.....
5-Digit Pre-barcoded Letter size.	Piece	.....
Pre-barcoded Flats ...	Piece	.....

Schedule 423.3 Notes

[1] Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

[2] Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.

[3] Applies to mail delivered within the SCF area of the originating SCF office.

[4] For postage calculation, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.

[5] Mail presorted to 3-digit (other than 3-digit city), SCF, states, or mixed states.

[6] Applicable to high density mail, deducted from carrier route presort rate.

[7] Applicable to saturation mail, deducted from carrier route presort rate.

[8] For automation compatible mail meeting applicable Postal Service regulations.

[9] Not applicable to publications containing 10 percent or less advertising content.

[10] If qualified, nonprofit publications may use Within-County rates for applicable portions of a mailing.

PERIODICALS RATE SCHEDULE 423.4—CLASSROOM PUBLICATIONS [10]

[Full Rates]

	Postage rate unit	Rate [1] (cents)
Per Pound:		
Nonadvertising Portion	Pound	.....
Advertising Portion: [9]		
Delivery Office [2]	Pound	.....
SCF [3]	Pound	.....
1&2	Pound	.....
3	Pound	.....
4	Pound	.....
5	Pound	.....
6	Pound	.....
7	Pound	.....
8	Pound	.....
Per Piece: Less Nonadvertising Factor of cents: [4]		
Required Preparation [5]	Piece	.....
Presorted to 3-digit city/5-digit.	Piece	.....
Presorted to Carrier Route.	Piece	.....
Discounts:		
Prepared to Delivery Office. [2].	Piece	.....
Prepared to SCF	Piece	.....

PERIODICALS RATE SCHEDULE 423.4—CLASSROOM PUBLICATIONS [10]—Continued

[Full Rates]

	Postage rate unit	Rate [1] (cents)
High Density (formerly 125-piece).	Piece	.....
Saturation [7]	Piece	.....
Automation Discounts for Automation Compatible Mail: [8]		
From Required:		
Pre-barcoded Letter size.	Piece	.....
Pre-barcoded Flats	Piece	.....
From 3/5-Digit:		
3-Digit Pre-barcoded Letter size.	Piece	.....
5-Digit Pre-barcoded Letter size.	Piece	.....
Pre-barcoded Flats	Piece	.....

Schedule 423.4 Notes

[1] Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

[2] Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.

[3] Applies to mail delivered within the SCF area of the originating SCF office.

[4] For postage calculation, multiply the portion of nonadvertising content by this factor and subtract from the applicable piece rate.

[5] Mail presorted to 3-digit (other than 3-digit city), SCF, states, or mixed states.

[6] Applicable to high density mail, deducted from carrier route presort rate.

[7] Applicable to saturation mail, deducted from carrier route presort rate.

[8] For automation compatible mail meeting applicable Postal Service regulations.

[9] Not applicable to publications containing 10 percent or less advertising content.

[10] If qualified, Classroom Mail may use Within County rates for applicable portions of a mailing.

* * * * *

Special services	Description	Fee [1]
*	*	*
Schedule SS–2—Business Reply Mail.	Active business reply advance deposit account:	
	Per piece:	
	Pre-barcoded	
	Nonletter-size, using reverse manifest (experimental)	
	Nonletter-size, using weight averaging (experimental)	
	Other	
	Payment of postage due charges if active business reply mail advance deposit account not used:	
	Per piece	
	Annual License and Accounting Fees:	
	Accounting Fee for Advance Deposit Account	
	Permit fee (with or without Advance Deposit Account)	
	Monthly Fees for customers using a reverse manifest or weight averaging for nonletter-size business reply	
	Nonletter-size, using reverse manifest (experimental)	

Special services	Description	Fee [1]
	Nonletter-size, using weight averaging (experimental)	
	Set-up/Qualification fee for customers using a reverse manifest or weight averaging for nonletter-size business reply	
	Nonletter-size, using reverse manifest (experimental)	
	Nonletter-size, using weight averaging (experimental)	
	[1] Experimental per piece, monthly, and set-up/qualification fees are applicable only to participants selected by the Postal Service for the nonletter-size business reply mail experiment. The experimental fees expire June 8, 1997.[1]	
*	* * * * *	* *
Schedule SS–5—Certified Mail.	Service (per mailpiece)	(in addition to postage).
*	* * * * *	* *
Schedule SS–9—Insured Mail Part a—Express Mail Insurance.	Document Reconstruction Coverage	(in addition to postage) no charge.
	$0.01 to $500	
	Merchandise Declared Value Fee	no charge for each $100 (or fraction thereof) over $500 in value.
	$ 0.01 to $ 500	
	500.01 to 5000	
Part b—General Insurance.	Declared Value Fee	(in addition to postage).
	$ 0.01 to $ 50	plus for each $100 (or fraction thereof) over $100 in declared value.
	50.01 to $ 100	
	100.01 to $5000	
Schedule SS–10—Post Office Boxes and Caller Service	I. Semi-annual Box Fees [1]	Fee Group A, B, C, D and E [3]
	1. Semi-annual Box Fees[1]	Fee Group—A, B, C, D, E[3]
	Box Size [2]	
	1	
	2	
	3	
	4	
	5	
	II. Semi-annual Caller Service Fees	Fee Group A, B, C, D
	III. Annual Call Number Reservation Fee (all applicable fee groups)	

[1] A customer ineligible for carrier delivery may obtain a post office box at no charge, subject to administrative decisions regarding customer's proximity to post office.

[2] Box Size 1=under 296 cubic inches; 2=296–499 cubic inches; 3=500–999 cubic inches; 4=1000–1999 cubic inches; 5=2000 cubic inches and over.

[3] Group E post office box customers subject to these fees are those eligible for carrier delivery.

* * * * *

	Declared Value of Article [1]	Fees [2] (in addition to postage)	Handling charge
Schedule SS–14—Registered Mail.	$0.00 to $100	(without insurance)	None.
	0.00 to 100	(with insurance)	
	100.01 to 500		
	500.01 to 1,000		
	1,000.01 to 2,000		
	2,000.01 to 3,000		
	3,000.01 to 4,000		
	4,000.01 to 5,000		
	5,000.01 to 6,000		
	6,000.01 to 7,000		
	7,000.01 to 8,000		
	8,000.01 to 9,000		
	9,000.01 to 10,000		
	10,000.01 to 11,000		
	11,000.01 to 12,000		
	12,000.01 to 13,000		
	13,000.01 to 14,000		
	14,000.01 to 15,000		
	15,000.01 to 16,000		
	16,000.01 to 17,000		
	17,000.01 to 18,000		
	18,000.01 to 19,000		
	19,000.01 to 20,000		
	20,000.01 to 21,000		
	21,000.01 to 22,000		
	22,000.01 to 23,000		
	23,000.01 to 24,000		
	24,000.01 to 25,000		
	25,000.01 to $1 million	plus	cents for each $1,000 (or fraction thereof) over $25,000.
	Over $1 million to $15 million	plus	cents for each $1,000 (or fraction thereof) over $1 million.
	Over $15 million	plus	Amount determined by the Postal Service based on weight, space and value.

[1] Articles with a declared value of more than $25,000 can be registered, but compensation for loss or damage is limited to $25,000.
[2] Fees for articles with declared values of more than $100 include insurance.

* * * * *

	Description	Fee (in addition to postage)
*	* * * * * *	
Schedule SS–16—Return Receipts.	Receipts Issued at Time of Mailing [1]	
	Items other than merchandise	
	Merchandise (without another special service)	
	Receipt Issued after Mailing [2]	
*	* * * * * *	
Schedule SS–19A—Stamped Cards.	Stamped Card	(in addition to postage).
	Double Stamped Card	

[1] This receipt shows the signature of the person to whom the mailpiece was delivered, the date of delivery and the delivery address, if such address is different from the address on the mailpiece.
[2] This receipt shows to whom the mailpiece was delivered and the date of delivery.

Issued by the Commission on June 25, 1997.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 97–17068 Filed 6–30–97; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5838–7]

Approval and Promulgation of Air Quality Implementation Plans; Revised Format of 40 CFR Part 52 for Materials Being Incorporated by Reference for Mississippi and South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format of 40 CFR part 52 for materials submitted by Mississippi and South Carolina that are incorporated by reference (IBR) into their respective State implementation plans (SIPs). The regulations affected by this format change have all been previously submitted by the respective State agency and approved by EPA. This format revision will primarily affect the ''Identification of plan'' sections of CFR part 52, as well as the format of the SIP materials that will be available for public inspection at the Office of the Federal Register (OFR), the Air and Radiation Docket and Information Center located in Waterside Mall, Washington, D.C., and the Regional Office. The sections of 40 CFR part 52 pertaining to provisions promulgated by EPA or State-submitted materials not subject to IBR review remain unchanged.

DATES: This action is effective July 1, 1997.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, GA 30303;

Office of Air and Radiation, Docket and Information Center (Air Docket), EPA, 401 M Street, SW, Room M1500, Washington, DC 20460; and

Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Schutt, Regional SIP Coordinator at the above Region 4 address or at (404) 562–9033.

SUPPLEMENTARY INFORMATION:

Background

Each State is required to have a SIP which contains the control measures and strategies which will be used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as emission inventories, monitoring network, attainment demonstrations, and enforcement mechanisms. The control measures and strategies must be formally adopted by each State after the public has had an opportunity to comment on them. They are then submitted to EPA as SIP revisions on which EPA must formally act.

Once these control measures are approved by EPA after notice and comment, they are incorporated into the SIP and are identified in Part 52 (Approval and Promulgation of Implementation Plans), Title 40 of the Code of Federal Regulations (40 CFR part 52). The actual State regulations which are approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are ''incorporated by reference,'' which means that the citation of a given State regulation with a specific effective date has been approved by EPA. This format allows both EPA and the public to know which measures are contained in a given SIP and insures that the State is enforcing the regulations. It also allows EPA and the public to take enforcement action, should a State not enforce its SIP-approved regulations.

The SIP is a living document which can be revised by the State as necessary to address the unique air pollution problems in the State. Therefore, EPA from time to time must take action on SIP revisions which may contain new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and OFR. EPA began the process of developing (1) a revised SIP document for each State that would be incorporated by reference under the provisions of 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR, and (3) a revised format of the ''Identification of plan'' sections for each applicable subpart to reflect these revised IBR procedures. The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997, **Federal Register** document.

Content of Revised IBR Document

The new SIP compilations contain the Federally-approved portion of regulations and source specific permits submitted by each State agency. These regulations and source specific permits have all been approved by EPA through previous rule making actions in the **Federal Register**. The compilations are stored in 3-ring binders and will be updated, primarily on an annual basis.

Each compilation contains two parts. Part 1 contains the regulations and Part 2 contains the source specific permits that have been approved as part of the SIP. Each part has a table of contents identifying each regulation or each source specific permit. The table of contents in the compilation corresponds to the table of contents published in 40 CFR part 52 for these States. The Regional EPA Offices have the primary responsibility for ensuring accuracy and updating the compilations. The Region 4 EPA Office developed and will maintain the compilations for Mississippi and South Carolina. A copy of the full text of each State's current compilation will also be maintained at the Office of the Federal Register and EPA's Air Docket and Information Center.

EPA is beginning, with this document, the phasing in of SIP compilations for individual States, and expects to complete the conversion of the revised ''Identification of plan'' format and IBR documentation for all States by May 1999. This revised format is consistent with the SIP compilation requirements of section 110(h)(1) of the Clean Air Act.

Revised Format of the ''Identification of Plan'' Sections in Each Subpart

In order to better serve the public, EPA is revising the organization of the ''Identification of plan'' section and including additional information which will make it clearer as to what provisions constitute the enforceable elements of the SIP.

The revised Identification of plan section will contain five subsections: (a) Purpose and scope, (b) Incorporation by reference, (c) EPA approved regulations, (d) EPA approved source specific permits, and (e) EPA approved nonregulatory provisions such as transportation control measures, statutory provisions, control strategies, monitoring networks, etc.

Enforceability and Legal Effect

All revisions to the applicable SIP become federally enforceable as of the effective date of the revisions to paragraph (c), (d) or (e) of the applicable

identification of plan found in each subpart of 40 CFR part 52. To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP processing system, EPA is retaining the original Identification of Plan section, previously appearing in the CFR as the first or second section of part 52 for each State subpart. After an initial two year period, EPA will review its experience with the new system and enforceability of previously approved SIP measures, and will decide whether or not to retain the Identification of plan appendices for some further period.

Notice of Administrative Change

Today's rule constitutes a ''housekeeping'' exercise to ensure that all revisions to State programs that have occurred are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs.

Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations.

Administrative Requirements

A. Executive Order 12866

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 E.O. 12866 review.

B. Regulatory Flexibility Act

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 populations of less than 50,000.

The regulations affected by this format change to 40 CFR part 52 have all been previously submitted by the respective State agency and approved by EPA. Therefore, the Regional Administrator certifies that there is no significant impact on any small entities affected.

C. 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 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 approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Mississippi and South Carolina SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 30, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart Z—Mississippi

2. Section 52.1270 is redesignated as § 52.1281 and the heading and paragraph (a) are revised to read as follows:

§ 52.1281 Original identification of plan section.

(a) This section identifies the original ''Air Implementation Plan for the State of Mississippi'' and all revisions submitted by Mississippi that were federally approved prior to July 1, 1997.

* * * * *

3. A new § 52.1270 is added to read as follows:

§ 52.1270 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State implementation plan for Mississippi

under section 110 of the Clean Air Act, 42 U.S.C. 7401–7671q and 40 CFR part 51 to meet national ambient air quality standards.

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to July 1, 1997 was approved for incorporation by reference by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after July 1, 1997, will be incorporated by reference in the next update to the SIP compilation. (2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of July 1, 1997.

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street, SW., Atlanta, GA 30303; the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.; or at the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC. 20460.

(c) EPA approved regulations.

EPA Approved Mississippi Regulations

State citation	Title/subject	State effective date	EPA approval date	Comments
APC–S–1	Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants			
Section 1	General	01/09/94	02/12/96 61 FR 5295	
Section 2	Definitions	01/09/94	02/12/96 61 FR 5295	
Section 3	Specific Criteria for Sources of Particulate Matter.	01/09/94	02/12/96 61 FR 5295	
Section 4	Specific Criteria for Sources of Sulfur Compounds.	01/09/94	02/12/96 61 FR 5295	
Section 5	Specific Criteria for Sources of Chemical Emissions.	01/09/94	02/12/96 61 FR 5295	
Section 6	New Sources	01/09/94	02/12/96 61 FR 5295	Subsection 2 Other Limitations and Subsection 3 NSPS have not been Federally approved.
Section 7	Exceptions	02/04/72	05/31/72 37 FR 10875	
Section 9	Stack Height Considerations	05/01/86	09/23/87 51 FR 35704	
Section 10	Provisions for Upsets, Startups, and Shutdowns.	01/09/94	02/12/96 61 FR 5295	
Section 11	Severability	01/09/94	02/12/96 61 FR 5295	
APC–S–2	Mississippi commission On Environmental Quality Permit Regulations for the Construction and/or Operation of Air Equipment			
Section I	General Requirements	01/09/94	05/02/95 60 FR 21442	
Section II	General Standards Applicable to All Permits.	01/09/94	05/02/95 60 FR 21442	
Section III	Standards for Granting a State Permit to Operate An Existing Source.	01/09/94	05/02/95 60 FR 21442	
Section IV	Application for Permit to Construct and State Permit to Operate New Facility.	01/09/94	05/02/95 60 FR 21442	
Section V	Public Participation and Public Availability of Information.	01/09/94	05/02/95 60 FR 21442	
Section VI	Application Review	01/09/94	05/02/95 60 FR 21442	
Section VII	Compliance Testing	01/09/94	05/02/95 60 FR 21442	
Section VIII	Emissions Evaluation Report	01/09/94	05/02/95 60 FR 21442	
Section IX	Procedures for Renewal of State Permit to Operate.	01/09/94	05/02/95 60 FR 21442	
Section X	Standards for Renewal of State Permit to Operate.	01/09/94	05/02/95 60 FR 21442	
Section XI	Reporting and Record Keeping	01/09/94	05/02/95 60 FR 21442	
Section XII	Emission Reduction Schedule	01/09/94	05/02/95 60 FR 21442	
Section XIII	Exclusions, Variances, and General Permits.	01/09/94	05/02/95 60 FR 21442	
Section XIV	Permit Transfer	01/09/94	05/02/95 60 FR 21442	
Section XV	Severability	01/09/94	05/02/95 60 FR 21442	
APC–S–3	Regulations for Prevention of Air Pollution Emergency Episodes			

EPA Approved Mississippi Regulations—Continued

State citation	Title/subject	State effective date	EPA approval date	Comments
Section 1	General	02/04/72	05/31/72 37 FR 10875	
Section 2	Definitions	02/04/72	05/31/72 37 FR 10875	
Section 3	Episode Criteria	06/03/88	11/13/89 54 FR 47211	
Section 4	Emission Control Action Programs	02/04/72	05/31/72 37 FR 10875	
Section 5	Emergency Orders	06/03/88	11/13/89 54 FR 47211	
APC–S–5	Regulations for the Prevention of Significant Deterioration of Air Quality			
All		01/09/94	05/05/95 60 FR 22287	

(d) EPA-approved State Source specific requirements.

EPA-APPROVED MISSISSIPPI SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit number	State effective date	EPA approval date	Comments
None.				

(e) (reserved).

Subpart PP—South Carolina

4. Section 52.2120 is redesignated as § 52.2134 and the heading and paragraph (a) are revised to read as follows

§ 52.2134 Original identification of plan section.

(a) This section identifies the original ''South Carolina Air Quality Implementation Plan'' and all revisions submitted by South Carolina that were federally approved prior to July 1, 1997.

* * * * *

5. A new § 52.2120 is added to read as follows:

§ 52.2120 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State implementation plan (SIP) for South Carolina under section 110 of the Clean Air Act, 42 U.S.C. 7401–7671q and 40 CFR part 51 to meet national ambient air quality standards.

(b) *Incorporation by reference.*

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to July 1, 1997 was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after July 1, 1997, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of July 1, 1997.

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street, SW., Atlanta, GA 30303; the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.; or at the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC. 20460.

(c) EPA approved regulations.

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	Federal register notice
Regulation No. 62.1	Definitions, Permits Requirements, and Emissions Inventory			
Section I	Definitions	04/29/88	10/03/89	54 FR 40662.
Section II	Permit Requirements	09/18/90	02/04/92	57 FR 4158.
Section III	Emissions Inventory	03/16/89	07/02/90	55 FR 27226.
Regulation No. 62.2	Prohibition of Open Burning	06/05/85	10/03/89	54 FR 40660.
Regulation No. 62.3	Air Pollution Episodes			
Section I	Episode Criteria	04/29/88	10/03/89	54 FR 40662.
Section II	Emissions Reduction Requirements	04/29/88	10/03/89	54 FR 40662.
Regulation No. 62.4	Hazardous Air Pollution Conditions	12/20/78	01/29/80	45 FR 6572.
Regulation No. 62.5	Air Pollution Control Standards			

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA—Continued

State citation	Title/subject	State effective date	EPA approval date	Federal register notice
Standard No. 1 Emissions from Fuel Burning Operations				
Section I	Visible Emissions	03/16/89	07/02/90	55 FR 27226.
Section II	Particulate Emissions	04/29/88	10/03/89	54 FR 40662.
Section III	Sulfur Dioxide Emissions	03/03/83	10/29/84	49 FR 43469.
Section IV	Opacity Monitoring Requirements	03/16/89	07/02/90	55 FR 27226.
Section V	Exemptions	06/05/85	10/03/89	54 FR 40660
Section VI	Periodic Testing	04/29/88	10/03/89	54 FR 40662.
Section VII	Source Test Requirements	06/05/85	10/03/89	54 FR 40660.
Standard No. 2 Ambient Air Quality Standards				
		03/16/89	07/02/90	55 FR 27227.
Standard No. 3 Emissions from Incinerators				
		01/07/81	09/03/82	47 FR 38885.
Standard No. 4 Emissions from Process Industries				
Section I	General	03/24/86	02/17/87	52 FR 4772.
Section II	Sulfuric Acid Manufacturing	03/24/86	02/17/87	52 FR 4772.
Section III	Kraft Pulp and Paper Manufacturing	04/29/88	10/03/89	54 FR 40662.
Section IV	Portland Cement Manufacturing	03/24/86	02/17/87	52 FR 4772.
Section V	Cotton Gins	03/24/86	02/17/87	52 FR 4772.
Section VI	Hot Mix Asphalt Plants	06/05/85	10/03/89	54 FR 40660.
Section VII	Metal Refining	03/24/86	02/17/87	52 FR 4772.
Section VIII	Other Manufacturing	04/29/88	10/03/89	54 FR 40662.
Section IX	Visible Emissions	03/16/89	07/02/90	55 FR 27226.
Section X	Non-Enclosed Operations	06/05/85	10/03/89	54 FR 40660.
Section XI	Total Reduced Sulfur Emissions of Kraft Pulp Mills.	03/16/89	07/02/90	55 FR 27226.
Section XII	Periodic Testing	03/16/89	07/02/90	55 FR 27226.
Section XIII	Source Test Requirements	06/05/85	10/03/89	54 FR 40660.
Standard No. 5 Volatile Organic Compounds				
Section I	General Provisions	08/22/79	12/16/81	46 FR 61268.
Section II Provisions for Specific Sources				
Part A	Surface Coating of Cans	08/22/79	12/16/81	46 FR 61268.
Part B	Surface Coating of Coils	08/22/79	12/16/81	46 FR 61268.
Part C	Surface Coating of Paper, Vinyl,& Fabric	08/22/79	12/16/81	46 FR 61268.
Part D	Surface Coating of Metal Furniture & Large Appliances.	08/22/79	12/16/81	46 FR 61268.
Part E	Surface Coating of Magnet Wire	08/22/79	12/16/81	46 FR 61268.
Part F	Surface Coating of Miscellaneous Metal Parts & Products.	09/10/80	11/24/81	46 FR 57486.
Part G	Surface Coating of Flat Wood Paneling	09/10/80	11/24/81	46 FR 57486.
Part H	Graphic Arts-Rotogravure & Flexography	09/10/80	11/24/81	46 FR 57486.
Part I—M Reserved				
Part N	Solvent Metal Cleaning	09/10/80	11/24/81	46 FR 57486.
Part O	Petroleum Liquid Storage in Fixed Roof Tanks	09/10/80	11/24/81	46 FR 57486.
Part P	Petroleum Liquid Storage in External Floating Roof Tanks.	09/10/80	11/24/81	46 FR 57486.
Part Q	Manufacture of Synthesized Pharmaceutical Products.	09/10/81	11/24/81	46 FR 57486.
Part R	Manufacture of Pneumatic Rubber Tires	09/10/81	11/24/81	46 FR 57486.
Part S	Cutback Asphalt	06/13/79	12/16/81	46 FR 61268.
Part T	Bulk Gasoline Terminals ans Vapor Collection Systems.	06/13/79	12/16/81	46 FR 61268
Standard No. 6 Alternative Emissions Limitation Options				
		06/07/82	09/03/82	47 FR 38887.
Section I General				
Section II Conditions for Approval				
Part A	Emissions of Total Suspended Particulate or Sulfur Dioxide			
Part B	Emissions of Volatile Organic Compounds			
Part C.	Emissions of Nitrogen Dioxide, Carbon Monoxide, or Lead			
Part D	Designated Pollutants			

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA—Continued

State citation	Title/subject	State effective date	EPA approval date	Federal register notice
Part E	De Minimis Cases			
	Section III Enforceability			
	Standard No. 7 Prevention of Significant Deterioration			
		03/16/89	07/02/90	55 FR 27226.
Section I	Definitions			
Section II	Ambient Air Limits			
Section III	Review of Major Plants and Major Modifications-Applicability and Exemptions			
Section IV	Review Requirements			
Regulation No. 62.6	Control of Fugitive Particulate Matter			
		06/05/85	10/03/89	54 FR 40660.
Section I	Control of Fugitive Particulate Matter in Non-Attainment Areas			
Section II	Control of Fugitive Particulate Matter			
Section III	Control of Fugitive Particulate Matter Statewide			
Section IV	Effective Date			
Regulation No. 62.7	Good Engineering Practice Stack Height			
		06/11/86	05/28/87	52 FR 19859
Section I	General			
Section II	Applicability			
Section III	Definitions and Conditions			
Section IV	Public Participation			

(d) EPA-approved State Source specific requirements.

EPA-APPROVED SOUTH CAROLINA SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit number	State effective date	EPA approval date	Comments
None.				

(e) (reserved).

[FR Doc. 97–16898 Filed 6–30–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5851–4]

National Oil and Hazardous Substances Pollution Contingency Plan

National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of Sealand Limited Site from the National Priorities List.

SUMMARY: EPA, Region 3, announces the deletion of the Sealand Limited Site, Mount Pleasant, Delaware, from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA promulgated the NCP pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Delaware Department of Natural Resources and Environmental Control (DNREC) have determined that all appropriate CERCLA actions have been implemented, that the Site poses no significant threat to public health or the environment pursuant to CERCLA, and that no further cleanup by the responsible parties is necessary under CERCLA.

DATES: Effective July 1, 1997.

ADDRESSES: Comprehensive information on this Site is available through the public docket which is available for viewing at the Site information repositories at the following locations:

Hazardous Waste Technical Information Center, 9th Floor, U.S. EPA, Region 3, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566–5363

Appoquinimink Public Library, 118 Silver Lake Road, Middletown, DE, 19709, (302) 378–5290.

FOR FURTHER INFORMATION CONTACT: Lesley Brunker (3HW23), U.S. EPA Region 3, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566–3239.

SUPPLEMENTARY INFORMATION: EPA announces the deletion of the Sealand Limited Site located in Mount Pleasant, Delaware, from the National Priorities List (NPL). The NPL is Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to CERCLA, 40 U.S.C. 9605 (40 CFR 300.425(e)(3) of the NCP), any site deleted from the NPL remains eligible for Fund-financed remedial actions in the event that conditions at the site warrant such action in the future. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

A Notice of Intent to Delete the Sealand Limited Site from the NPL was published on February 10, 1997 in the **Federal Register** (62 FR 5949). The closing date for comments on the Notice of Intent to Delete was March 13, 1997. EPA received no comments on the proposed deletion.

List of Subjects in 40 CFR Part 300

Environmental Protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 18, 1997.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

The authority citation for part 300 continues to read as follows: Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 191 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

Table 1 of Appendix B to part 300 is amended by removing the site ''Sealand Limited, Mount Pleasant, Delaware.''

Stanley Laskowski,

Acting Regional Administrator, U.S. EPA Region 3.

[FR Doc. 97–17182 Filed 6–30–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 062497A]

Atlantic Tuna Fisheries; Closure Postponement

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

ACTION: Inseason adjustment.

SUMMARY: NMFS postpones the closure of the Angling category fishery for large school and small medium Atlantic bluefin tuna (ABT) in the southern area (Delaware and states south). NMFS previously announced a closure date of June 27, 1997, for this category. However, based on dockside intercept data, NMFS has determined that catch rates have not been as high as projected. This closure postponement is necessary to provide fishery participants a reasonable opportunity the catch the allocated quota. This action is being taken to extend scientific data collection on ABT and to further domestic management objectives for the Atlantic tuna fisheries.

DATES: Effective June 27, 1997, 11:30 p.m. until 11:30 p.m. local time, July 20, 1997.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 301–713–2347, or Mark Murray-Brown, 508–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the U.S. quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

NMFS is required, under § 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of ABT will equal the quota and publish a **Federal Register** announcement to close the applicable fishery.

On February 21, 1997, NMFS amended the regulations governing the Atlantic bluefin tuna (ABT) fisheries to provide authority for NMFS to close and/or reopen all or part of the Angling category in order to provide for further distribution of fishing opportunities throughout the species range (62 FR 8634, February 26, 1997). The regulatory amendments were necessary to increase the geographic and temporal scope of data collection from the scientific monitoring quota established for the United States. Additionally, the authority for interim closures facilitates a more equitable geographic and temporal distribution of fishing opportunities for all fishermen in the Angling category, thus furthering domestic management objectives for the Atlantic tuna fisheries.

On March 2, 1997, based on catch estimates obtained through angler interviews, NMFS closed the Angling category for school, large school, and small medium ABT in all areas (62 FR 9376, March 3, 1997).

Effective June 13, 1997, NMFS reopened the Angling category for all areas but limited to 2 weeks the opening period for large school and small medium ABT in the southern area (waters off Delaware and states south (south of 38°47' N. lat.)). The 2 week opening was based on preliminary estimates of catch in that size category in North Carolina, the available quota, and expected catch rates of large school and small medium ABT. NMFS has since determined that catch rates in the southern area are lower than originally projected and that the closure date should be postponed until July 20, 1997. This action does not apply to the northern Angling category fishery for large school and small medium ABT, and the Angling category fishery for school ABT in all areas, which remain open until further notice.

Catch Limit

NMFS previously adjusted the daily catch limit for the Angling category fishery for ABT to one fish per vessel (61 FR 66618, December 18, 1996), which may be from the school, large school, or small medium size class (measuring 27–73''). Due to increased participation in the fishery and anticipated catch rates, this daily catch limit remains in effect. Additionally, the catch limit for trophy size class ABT (large medium and giant ABT, measuring 73'' and greater) remains at one per vessel per year. Any changes to these catch limits will be published in the **Federal Register** and posted on the 24–hour Highly Migratory Species Information Lines (301–713–1279; 508–281–9305; 1–888–USA-TUNA). Anglers should consult the information lines prior to each fishing trip for updates on closures and catch limits.

This action is being taken to facilitate a wide distribution of fishing opportunities for all fishermen in the Angling category, thus furthering domestic management objectives for the Atlantic tuna fisheries. This action also facilitates data collection from the scientific monitoring quota established for the United States over the greatest geographic and temporal range.

Classification

This action is taken under 50 CFR 285.20(b)(1) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: June 25, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–17086 Filed 6–25–97; 4:42 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970623152–7152–01; I.D. 061897A]

RIN 0648–AJ57

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Vessel Monitoring System

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement a vessel monitoring system (VMS) program in the crustaceans fishery of the Northwestern Hawaiian Islands (NWHI). Under this program, a vessel equipped with an operational VMS unit may enter Crustaceans Permit Area 1 (CPA 1) except for the subarea consisting of the area seaward 50 nautical miles (nm) from the geographical center of the islands and banks within CPA 1 with lobster traps on board during the closed season. This rule is necessary to remove a restriction on fishermen so that they may reduce the transit distance and time needed to begin fishing at distant fishing grounds. The intended effect of this action is to reduce fishing on lobster on grounds closest to the main Hawaiian Islands by encouraging the distribution of fishing effort throughout the management area.

DATES: Effective June 26, 1997, except for § 660.48(a)(8), which is effective January 1, 1998.

ADDRESSES: Copies of background material pertaining to this action may be obtained from Ms. Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1405, Honolulu, HI 96813, or Dr. William T. Hogarth, Acting Administrator, Southwest Region, NMFS (Acting Regional Administrator), 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802. Comments regarding the collection-of-information requirements contained in this rule should be sent to the Acting Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Z. Katekaru at (808) 973–2985; Mr. Svein Fougner at (562) 980–4034; or Ms. Kitty M. Simonds at (808) 522–8220.

SUPPLEMENTARY INFORMATION: NMFS supports the policy of the Council to establish fishing VMSs where appropriate. A VMS is an automated, real-time, satellite-based tracking system coupled with a Global Positioning System that obtains accurate position reports of vessels at sea. The Council's VMS policy is reflected in Amendment 9 (61 FR 35145, July 5, 1996) to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP) in which the Council recommended consideration of a VMS program for the NWHI.

The NWHI lobster fishery is a limited access fishery with a maximum of fifteen permitted vessels. The program includes a fleet-wide harvest guideline, seasonal closure, closed areas, and gear restrictions. During the July 1–26, 1996, lobster season, a total of 187,583 lobsters, spiny and slipper combined, were harvested by five vessels. Because of the relatively short season, fishing effort was concentrated at Necker Island, the area closest to the main Hawaiian Islands.

On November 21, 1996, at the Council's 91st meeting in Honolulu, Hawaii, NMFS presented a report on the use of a VMS in the fishery based on the results of VMS trials conducted during the 1995 season by one lobster vessel, and during the 1996 season by four of the five lobster vessels in the fishery. The report described three major uses of a VMS: (1) Determination and tracking of vessel position, allowing NMFS enforcement and the U.S. Coast Guard (USCG) to enforce seasonal and area closures cost-effectively; (2) At-sea lobster catch-and-effort reporting facilitated by an on-board computer that transmits data to NMFS via the VMS on a real-time basis; and (3) Ship-to-shore/shore-to-ship communication by which NMFS is able to quickly notify lobster vessels when the fishery will be closed, thus giving fishermen sufficient time to prepare for their departure from the fishing grounds and reduce the likelihood of being in violation of Federal regulations.

At its 91st meeting, the Council approved implementation of a VMS program in the lobster fishery under the framework process of Amendment 9. At its 92nd meeting on April 25, 1997, the Council approved management measures that would implement an optional VMS program and requested NMFS to initiate rulemaking to implement the program before July 1, 1997, when the 1997 fishing season opens. There was ample opportunity for public comment at the Council meetings, and the only comments received were positive and in favor of the action.

Lobster vessels equipped with an operational VMS unit may enter CPA 1 in order to position themselves closer to the fishing grounds prior to the opening (i.e., closer than the border of CPA 1, which lies approximately 200 nm from the fishing grounds) and will have a shorter distance to exit the grounds when the fishery closes. Such vessels may not enter the subarea consisting of the area that extends seaward 50 nm from the geographical center of each island within CPA 1 prior to the season opening. Lobster vessels without an operational VMS unit must remain outside the CPA 1 boundary prior to the season opening. Lobster vessels with an operational VMS unit must exit the subarea by the close of the season. Lobster vessels without an operational VMS unit must exit CPA 1 by the closure of the fishery and be back in port by a specified date following the closure date, because tracking vessels without a VMS is difficult and prohibitively expensive over such a large area. By not having to be further than outside the boundary of the subarea before and after the season, vessels with an operational VMS unit would also have a lesser distance to transit to and from port.

Although a VMS eases certain requirements in the fishery, it strengthens the enforcement capabilities of NMFS and USCG as demonstrated in a recent VMS pilot program of the Hawaii-based longline fishery. Because the date by which vessel operators would be required to notify the Regional Administrator that a vessel intends to use a VMS unit this fishing season (June 15) has passed, the provisions of § 660.48(a)(8) are waived for this fishing season, allowing vessels with an installed VMS unit to use it this season.

Allowing vessels with a VMS unit to be closer to the fishing grounds will also provide an incentive to fish the more distant grounds further up the NWHI chain, such as Maro Reef, and reduce fishing pressure at Necker Island without fear of violating the requirement to be in port within the required time following closing of the fishing season.

Classification

The Acting Regional Administrator determined that the regulatory amendment is necessary for the conservation and management of the crustacean fishery and that it is consistent with the Magnuson-Stevens

Fishery Conservation and Management Act and other applicable law.

The Assistant Administrator, for good cause, finds under 5 U.S.C. 553(b) that prior notice and opportunity for public comment for this rule is unnecessary. There has been substantial opportunity for public comment on this rule and opportunity for additional public comment would serve no useful purpose. This action has received review during numerous public meetings under a review process at 50 CFR 660.53(d). It has been discussed at Council meetings as well as Advisory Panel meetings. Representatives of the nine vessels planning to fish this season supported adoption of this rule.

Under 5 U.S.C. 553(d)(3), the Assistant Administrator finds good cause to waive the 30-day delay in effectiveness for this rule. In order for the fishery to benefit from this rule this fishing season, the rule must be in effect prior to the July 1 start of the fishing season. To this extent, to delay the effectiveness of this rule would be contrary to the public interest. Further, since all nine vessels planning to participate in the fishery this season have already installed VMS units, to delay the effectiveness of this rule for 30 days to allow vessels to come into compliance is unnecessary.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by OMB. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection-of-information subject to the requirements of the PRA unless that collection-of-information displays a currently valid OMB control number. This rule's collection-of-information burden is only for those persons who wish to voluntarily use a VMS unit in the fishery. The burden will be used as follows. To query a vessel to learn of its location before and after the start of the season, which is automatic with no action required by the vessel operator, except to verify the VMS is operating, is estimated to require a response time of .033 seconds. All of the nine expected participants in this voluntary system have a VMS installed, therefore, vessel installation and maintenance time is included in the collection requirements for the pelagic fisheries of the Western Pacific. If the additional 6 vessels permitted in this fishery choose to participate, there would be a one-time installation taking 4 hours per vessel, and an annual maintenance of 2 hours per vessel. This collection-of-information was approved by OMB under OMB Control Number 0648–0307. Send comments regarding the collection-of-information burden or any other aspect of the information collection to NMFS and OMB (see **ADDRESSES**).

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

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act are inapplicable.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: June 25, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST AND WESTERN PACIFIC STATES

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.12, the definition of ''Crustaceans Permit Area 1 VMS Subarea'' is added in alphabetical order, and ''Vessel monitoring system unit (VMS unit)'' is revised to read as follows:

§ 660.12 Definitions.

* * * * *

Crustaceans Permit Area 1 VMS Subarea means an area within the EEZ off the NWHI designated under § 660.48, measured from the center geographical positions of the islands and reefs in the NWHI as follows: Nihoa Island 23°05′ N. lat., 161°55′ W. long.; Necker Island 23°35′ N. lat., 164°40′ W. long.; French Frigate Shoals 23°45′ N. lat., 166°15′ W. long.; Gardner Pinnacles 25°00′ N. lat., 168°00′ W. long.; Maro Reef 25°25′ N. lat., 170°35′ W. long.; Laysan Island 25°45′ N. lat., 171°45′ W. long.; Lisianski Island 26°00′ N. lat., 173°55′ W. long.; Pearl and Hermes Reef 27°50′ N. lat., 175°50′ W. long.; Midway Islands 28°14′ N. lat., 177°22′ W. long.; and Kure Island 28°25′ N. lat., 178°20′ W. long. Where the areas between islands and reefs are not contiguous, parallel lines drawn tangent to and connecting those semi-circles of the 50-nm areas that lie between Nohow Island and Necker Island, French Frigate Shoals and Gardner Pinnacles, and Maro Reef, and Lisianski Island and Pearl and Hermes Reef, shall delimit the remainder of the subarea within Crustaceans Permit Area 1.

* * * * *

Vessel monitoring system unit (VMS unit) means the hardware and software owned by NMFS, installed on vessels by NMFS, and required by subpart C of this part to track and transmit the positions of longline vessels or the hardware and software used by vessels to track and transmit the positions of vessels permitted under subpart D of this part to fish in Crustaceans Permit Area 1.

3. In § 660.42, paragraph (a)(4) is removed, paragraphs (a)(5) through (a)(8) are redesignated as paragraphs (a)(4) through (a)(7) respectively, and new paragraphs (a)(8), (a)(9), (a)(10), (a)(11), (a)(12) and (b)(5) are added to read as follows:

§ 660.42 Prohibitions.

* * * * *

(a) * * *

(1) * * *

(8) Possess on a fishing vessel that has a limited access permit issued under this subpart any lobster trap in Crustaceans Permit Area 1 when fishing for lobster is prohibited as specified in §§ 660.45(a), 660.50, 660.51, or 660.52, except as allowed under § 660.48(a)(7).

(9) Possess on a fishing vessel that has a limited access permit issued under this subpart any lobster trap in the Crustaceans Permit Area 1 VMS Subarea when fishing for lobsters is prohibited as specified in §§ 660.45(a), 660.50, 660.51, or 660.52.

(10) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or to attempt any of the same while engaged in the Permit Area 1 fishery; or to move or remove a VMS unit while engaged in the Permit Area 1 fishery without first notifying the Regional Administrator.

(11) Make a false statement, oral or written, to the Regional Administrator or an authorized officer, regarding the certification, use, operation, or maintenance of a VMS unit used in the fishery.

(12) Fail to allow an authorized officer to inspect and certify a VMS unit used in the fishery.

(b) * * *

(5) Possess on a fishing vessel that has a permit for Crustaceans Permit Area 2 issued under this subpart any lobster trap in Permit Area 2 when fishing for lobster in the main Hawaiian Islands is

prohibited during the months of June, July, and August.

4. In § 660.48, new paragraphs (a)(7) and (a)(8) are added to read as follows:

§ 660.48 Gear restrictions.

(a) * * *

(7) A vessel whose owner has a limited access permit issued under this subpart and has an operating VMS unit that has been certified by the National Marine Fisheries Service may enter Crustaceans Permit Area 1 with lobster traps on board during the closed season, but must remain outside the Crustaceans Permit Area 1 VMS Subarea as defined in § 660.12.

(8) The operator of a permitted vessel must notify the Regional Administrator or an authorized officer no later than June 15 of each year if the vessel will use a VMS unit in the fishery and allow for inspection and certification of the unit.

* * * * *

5. In § 660.50, paragraph (b)(4) is added as follows:

§ 660.50 Harvest limitation program.

* * * * *

(b) * * *

(4) Each permit holder and operator of each permitted vessel will be provided the following information, which will also be published in the **Federal Register**:

(i) Determination of when the harvest guideline will be reached;

(ii) Closure date after which the possession of lobster traps in Crustaceans Permit Area 1 VMS Subarea is prohibited by permitted vessels carrying VMS units;

(iii) Closure date after which the possession of lobster traps in Crustaceans Permit Area 1 is prohibited by permitted vessels without VMS units; and

(iv) Specification when further landings of lobster taken by permitted vessels without VMS units will be prohibited.

* * * * *

[FR Doc. 97–17153 Filed 6–26–97; 12:26 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970318059–7148–02; I.D. 022197B]

RIN 0648–AI82

Fisheries off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Amendment 12

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement portions of Amendment 12 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California (Salmon FMP). The rule includes, as management objectives for the Salmon FMP, the NMFS jeopardy standards or the objectives of NMFS recovery plans for salmon species that are listed as threatened or endangered under the Endangered Species Act (ESA), and eliminates from the Code of Federal Regulations a table that summarizes management goals. This final rule implements that change. The intended effect of this rule is to ensure that ESA listed salmon are given proper consideration in formulating fishery management measures under the Salmon FMP.

DATES: This rule will become effective July 31, 1997.

ADDRESSES: Copies of Amendment 12 (combined with Amendment 10 to the Fishery Management Plan for the Pacific Coast Groundfish Fishery (Groundfish FMP)), and the Environmental Assessment (EA)/Regulatory Impact Review (RIR) are available from Larry Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, Rodney McInnis at 562–980–4040, or the Pacific Fishery Management Council at 503–326–6352.

SUPPLEMENTARY INFORMATION: NMFS issues this final rule to implement a recommendation from the Pacific Fishery Management Council (Council), under the authority of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The background and rationale for the Council's recommendations were fully described in the notice of proposed rulemaking for this action (62 FR 15874, April 3, 1997). Public comments were requested through May 19, 1997. No comments were received on either Amendment 12 or the proposed implementing rule. Amendment 12 was approved on April 30, 1997.

In summary, Amendment 12 makes the following changes to the Salmon FMP: Allows adoption of rules to permit retention of, but not sale of, salmon bycatch in Pacific Coast groundfish trawl fisheries under a monitoring program that meets certain guidelines; specifies ESA standards as management objectives for salmon species listed under the ESA; and updates the Salmon FMP, without changing the FMP management objectives or procedures

Amendment 12 brings the Salmon FMP into compliance with the March 1996 Biological Opinion issued under section 7 of the ESA, regarding the impacts of the Pacific Coast salmon fishery on salmon stocks listed under the ESA. The Biological Opinion's first reasonable and prudent alternative (RPA) required NMFS to implement by May 1997, an amendment that includes ESA management objectives in the FMP.

Amendment 12 also updates the FMP to provide a comprehensive Salmon FMP that incorporates into a single document all of the amendments that have been made to the Salmon FMP since 1984. The updated Salmon FMP will be the operative salmon FMP, rather than an amendment to any existing document. This updated, comprehensive Salmon FMP will be much easier for the public to review and understand for any future amendment considerations.

The salmon bycatch retention provisions of Amendment 12 will not be implemented in this rule. These provisions would authorize regulations to permit groundfish trawl vessels to retain, but not sell, their bycatch of Pacific salmon under a monitoring program that meets certain guidelines. The Council is expected to develop such a program for the 1998 groundfish fishery.

There were no comments received during the public comment period ending May 19, 1997.

Classification

The Administrator, Northwest Region, NMFS, determined that Amendment 12 to the Salmon FMP is necessary for the conservation and management of the recreational and commercial Pacific Coast salmon fisheries and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

A formal section 7 consultation under the ESA was initiated for the Pacific Coast Salmon FMP. In a biological opinion dated March 8, 1996, the Assistant Administrator determined that fishing activities conducted under Amendment 12 and its implementing regulations are not likely to jeopardize the continued existence of Snake River sockeye, Snake River spring/summer chinook, Snake River fall chinook, or Sacramento River winter run chinook, or result in the destruction or adverse modification of critical habitat.

On April 30, 1997, NMFS completed a Biological Opinion on the effects of the fishery on coho salmon south of Cape Blanco, OR, which have recently been listed as threatened (northern California/southern Oregon), and endangered (central California) under the ESA. This rule to specify ESA standards as salmon management objectives will bring the Salmon FMP into compliance with the March 8, 1996, Biological Opinion on the impacts of ocean fisheries for Pacific salmon on stocks listed under the ESA. It formalizes in the FMP what was already required by the ESA.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Marianas Islands, Reporting and recordkeeping requirements.

Dated: June 25, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.410, the section heading and paragraph (a) are revised, the table ''Summary of Specific Management Goals for Stocks in the Salmon Management Unit'' is removed, and a new paragraph (c) is added to read as follows:

§ 660.410 Escapement and management goals.

(a) The escapement and management goals are summarized in Table 6–1 of the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California.

* * * * *

(c) The annual management measures will be consistent with NMFS jeopardy standards or NMFS recovery plans for species listed under the Endangered Species Act.

[FR Doc. 97–17154 Filed 6–30–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 126
Tuesday, July 1, 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 29

[Docket No. TB–97–05]

Tobacco Inspection: Subpart C—Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department is proposing to amend the regulations under the Official Standard Grades for Burley Tobacco to delete from the definition of ''Rework'' the reference to a lot of tobacco exceeding an average bale weight of 100 pounds. This action is being taken because average bale weight is not a significant factor for determining the quality of tobacco and classifying tobacco as ''No Grade'' solely because the average bale weight exceeds 100 pounds precludes producers from receiving an accurate description of their product at the marketplace.

DATES: Comments are due on or before September 2, 1997.

ADDRESSES: Send comments to John P. Duncan III, Director, Tobacco Division, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456. Comments will be made available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Director, Tobacco Division, AMS, USDA, Room 502 Annex Building, P. O. Box 96456, Washington, D.C. 20090–6456. Telephone (202) 205–0567.

SUPPLEMENTARY INFORMATION: The Department proposes to amend the Official Standard Grades for Burley Tobacco, U.S. Type 31 and Foreign Type 93, pursuant to the authority contained in the Tobacco Inspection Act of 1935, as amended (49 Stat. 731; 7 U.S.C. 511 *et seq.*).

The proposed revision would delete the reference to lots of tobacco exceeding an average bale weight of 100 pounds from the definition of ''Rework.''

In 1995, the regulations were amended (60 FR 7429) to provide that lots of burley tobacco in which the average bale weight exceeded 100 pounds would be classified as needing to be reworked. That amendment was in response to a request from the tobacco industry. The basis of that request was that those bales within a lot exceeding 100 pounds had a higher potential for deterioration affecting the quality and value of the tobacco.

During the grading process, the USDA inspector looks at the total weight of the lot listed on the inspection certificate and divides by the number of bales to ascertain the average bale weight. When a lot is identified as exceeding the average bale weight, it is classified as needing to be reworked and given the grademark ''No-G'' meaning No Grade. The No Grade designation is also used to classify lots that are nested, offtype, semicured, damaged 20 percent or more, abnormally dirty, extremely wet or watered, matter, or has an odor foreign to the type. A lot of tobacco that otherwise meets the specifications of a standard grade, but exceeds the 100 pound average bale weight criterion, is classified in a category of less desirable tobacco. This one factor precludes the producer from receiving an accurate description of their product at the marketplace.

After reviewing the average bale weight provision for two marketing seasons, the agency believes that it reduces the accuracy of applying the grade standards. Tobacco which is of doubtful keeping order may be identified and graded as such without regard to average bale weight.

This rule has been determined not significant for the purpose of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provision of this rule.

Additionally, in conformance with the provision of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. All tobacco warehouses and producers fall within the confines of ''small business'' which are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. There are approximately 160 tobacco warehouses and approximately 250,000 producers.

The Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities. The proposal would amend the regulations to delete from the definition of ''Rework'' the reference to a lot of tobacco exceeding an average bale weight of 100 pounds. This action is being taken because average bale weight is not a significant factor for determining the quality of tobacco. Classifying tobacco as ''No Grade'' solely because the average bale weight exceeds 100 pounds precludes producers from receiving an accurate description of their product at the marketplace. This proposed rule would not substantially affect the normal movement of the commodity in the marketplace. Compliance with this rule would not impose substantial direct economic cost, record keeping, or personnel workload changes on small entities, and would not alter the market share or competitive positions of small entities relative to the large entities and would in no way affect normal competition in the marketplace.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal may file them with the Director, Tobacco Division, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, and not later than (60 days after publication).

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports,

Pesticides and pests, Reporting and record keeping requirements, Tobacco.

For the reasons set forth in the preamble, it is proposed that the 7 CFR part 29 be amended as follows:

PART 29—TOBACCO INSPECTION

1. The authority citation for part 29, subpart C continues to read as follows:

Authority: 7 U.S.C. 511b, 511m, and 511r.

Subpart C—Standards

2. In § 29.3053, paragraph (b) would be revised to read as follows:

§ 29.3053 Rework.

* * * * *

(b) Tobacco not properly tied in hands, not packed in bales approximately 1 x 2 x 3 feet, not oriented, not packed straight, bales not opened for inspection when chosen by a grader, or otherwise not properly prepared for market.

* * * * *

Dated: June 24, 1997.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 97–17103 Filed 6–30–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–97–009]

RIN 2115–AE47

Drawbridge Operation Regulations; Pasquotank River, Elizabeth City, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the North Carolina Department of Transportation, the Coast Guard is proposing to change the regulations that govern the operation of the Highway 158 drawbridge across the Pasquotank River, mile 50.7, at Elizabeth City, North Carolina, by eliminating bridge openings for pleasure vessels from Monday through Friday between 7 a.m. and 9 a.m., and 4 p.m. and 6 p.m., except that, openings would be scheduled at 7:30 and 8:30 a.m., and 4:30 and 5:30 p.m. for any waiting pleasure vessels. This proposed rule is intended to help relieve automobile traffic congestion during the morning and afternoon rush hours, while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before September 2, 1997.

ADDRESSES: Comments may be mailed to Commander (Aowb), USCG Atlantic Area, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or may be hand-delivered to the same address between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6222. Comments will become a part of this docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, USCG Atlantic Area, at (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD05–97–009), the specific section of this rule to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander, USCG Atlantic Area, at the address listed under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Terrance Knowles, Project Manager, Bridge Administration Section, and LT Robert L. Wegman, Project Counsel, USCG Maintenance and Logistics Command Atlantic Legal Division.

Background and Purpose

The Highway 158 drawbridge across the Pasquotank River, mile 50.7, at Elizabeth City, North Carolina is currently required to open on signal year round. The City of Elizabeth City, through the North Carolina Department of Transportation (NCDOT), has requested permission to restrict drawbridge openings for pleasure vessels only to reduce highway traffic congestion during the morning and evening rush hours. In support of its request, the NCDOT contends that 10 years of records during the period from 1985 through 1995 show that highway traffic increases have caused excessive highway congestion.

The Coast Guard has reviewed the NCDOT highway traffic data during the 10 year period from 1985 through 1995, and the drawbridge opening logs from January 1995 to December 1995, copies of which are included in the docket for this rulemaking. This data appears to support NCDOT's request. According to the 1995 drawbridge logs, 234 openings occurred between 7 a.m. and 9 a.m. and 235 openings occurred between 4 p.m. and 6 p.m. Thus, the daily average for the year was 0.6 openings for each of the proposed restricted periods. Only during the month of May 1995 were there more than 2.0 openings during the time periods in question. During May 1995, an average of 2.6 openings occurred between 7 a.m. and 9 a.m. Even though 2.6 openings is not excessive, NCDOT states that the random timing of the openings caused highway traffic to backup four to six blocks. In support of this contention, the NCDOT provided highway traffic data which shows that highway traffic volumes increased by an average of between 200 and 300 vehicles during the proposed morning and evening restricted periods as compared to other daylight hours. Based upon this data, the Coast Guard believes that the 2.0 proposed scheduled openings for pleasure vessels for each time period should be adequate for marine traffic and should help to reduce highway traffic congestion.

Discussion of Proposed Rule

The Coast Guard is proposing a new regulation governing the operation of this drawbridge. The proposed rule would eliminate openings of the bridge between 7 a.m. and 9 a.m., and 4 p.m. and 6 p.m., Monday through Friday for pleasure vessels except that the draw would open at 7:30 a.m., 8:30 a.m., 4:30 p.m., and 5:30 p.m. for any pleasure vessels waiting to pass. The draw would open on signal for public vessels of the United States or local vessels used for public safety, commercial vessels, tugs with tows, and vessels in distress. The draw would continue to open on signal

at all other times. The Coast Guard believes that these proposed changes will relieve highway traffic congestion and not cause an undue hardship on navigation.

The text of the current regulation, Section 117.833 would be redesignated as paragraph (a) and a new paragraph (b) would be added for the new regulation.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposed rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and has determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.e(32)(e) of Commandant Instruction M16475.1B (as amended, 59 FR 38654, 29 July 1994), this proposed rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. The text of Section 117.833 is redesignated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 117.833 Pasquotank river.

(a) * * *

(b) The draw of the US 158 Highway Bridge, mile 50.7, at Elizabeth City, shall open on signal; except that between 7 a.m. and 9 a.m., and 4 p.m. and 6 p.m., Monday through Friday, the draw need open only at 7:30 a.m., 8:30 a.m., 4:30 p.m., and 5:30 p.m. for any pleasure vessels waiting to pass.

Dated: June 13, 1997.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 97–17072 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AI72

Provision of Vocational Training and Rehabilitation to Vietnam Veterans' Children With Spina Bifida

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to establish Department of Veterans Affairs (VA) regulations for providing vocational training and rehabilitation to Vietnam veterans' children with spina bifida. This is necessary for providing vocational training and rehabilitation to these children under recently enacted legislation that authorizes this benefit. This document also requests Paperwork Reduction Act comments concerning the proposed collections of information contained in this document.

DATES: Comments must be received on or before September 2, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AI72.'' All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Charles A. Graffam, Veterans Claims Examiner, Vocational Rehabilitation and Counseling Service (28), Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420; (202) 273–7410.

SUPPLEMENTARY INFORMATION: This document proposes to amend 38 U.S.C. part 21, Vocational Rehabilitation and Education, to set forth a new subpart M regarding the provision of vocational training, services, and assistance to Vietnam veterans' children with spina bifida. Spina bifida is a congenital birth defect, characterized by defective closure of the bones surrounding the spinal cord. The spinal cord and its covering (the meninges) may protrude through the defect. A 1996 study by the National Academy of Sciences found limited or suggestive evidence that associated parental exposure to herbicides in Vietnam and increased risk of spina bifida in their children.

The provisions of 38 U.S.C. chapter 18 (section 421, Pub. L. 104–204, September 26, 1996) provide for three separate types of benefits for Vietnam veterans' children who suffer from spina bifida: (1) Monthly monetary allowances; (2) provision of health care needed for the spina bifida or any disability associated with the spina bifida; and (3) provision of vocational training and rehabilitation. In the **Federal Register** of May 1, 1997, VA published companion documents to this one, setting forth proposed rules concerning the first two of these benefits: Monetary Allowance Under 38 U.S.C. 1805 for a Child Born with Spina Bifida Who Is a Child of a Vietnam Veteran (62 FR 23724) and Provision of Health Care to Vietnam Veterans'

Children With Spina Bifida (62 FR 23731).

As a condition of eligibility for vocational training and rehabilitation, it is proposed that a child must be eligible for a monetary allowance under the provisions setting forth a mechanism for monthly monetary payments relating to spina bifida. This would ensure that VA has determined that each child is a Vietnam veteran's child suffering from spina bifida and would obviate the need for duplicate medical determinations.

This proposed rule sets forth a mechanism for providing vocational training and rehabilitation to Vietnam veterans' children with spina bifida. In part, the proposed rule restates statutory provisions in Public Law 104–204.

For a child to be eligible for vocational training and employment assistance and services under Public Law 104–204, VA must determine that:

- The child's natural parent is a veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era (the period from February 28, 1961 through May 7, 1975) and who, as provided in 38 U.S.C. 101(2), was not dishonorably discharged;
- The child was conceived after the veteran first entered Vietnam during the Vietnam era; and
- The child has a form or manifestation of spina bifida other than spina bifida occulta.

It is proposed that a Vietnam veteran's child with spina bifida receive testing and evaluative services, as needed, similar to the testing and services that VA offers a veteran for the purposes of evaluation for eligibility and entitlement under a vocational rehabilitation program under 38 U.S.C. chapter 31. These testing and evaluative services are appropriate for determining whether it is reasonably feasible for the child to achieve a vocational goal and to guide the child, parent, or guardian in choosing a vocational training program for the child.

It is proposed that an eligible child with spina bifida would receive vocational training program services and assistance under provisions that, under the 38 U.S.C. chapter 31 program, already apply to vocational training program services and assistance for eligible veterans with service-connected disabilities. In this regard, it is proposed that the following provisions of 38 CFR part 21, subpart A, would apply as set forth in the text portion of this document:

- Section 21.35 concerning certain definitions and explanations (see proposed § 21.8012).
- Section 21.250 (a) and (b)(2), concerning provision of employment services, including the definition of job development; § 21.252 concerning job development and placement services; § 21.254 concerning supportive services; § 21.256 concerning incentives for employers; and §§ 21.257 and 21.258 concerning rehabilitation through self-employment, including special assistance for persons engaged in self-employment programs (see proposed § 21.8020).
- Sections 21.50(b)(5) and 21.53 (b) and (d) concerning the scope and nature of an evaluation of the reasonable feasibility of achieving a vocational goal (see proposed § 21.8032).
- Sections 21.80, 21.84, and 21.88 concerning the requirements for an individualized written plan of vocational rehabilitation and its purposes, to include employment assistance; and §§ 21.92, 21.94 (a) through (d), and 21.96 concerning preparation of, changes to, and review of an individualized written plan of vocational rehabilitation (see proposed §§ 21.8080 and 21.8082).
- Sections 21.100 and 21.380 concerning counseling (see proposed § 21.8100).
- Section 21.120 concerning vocational training; §§ 21.122 through 21.132 concerning types of allowable vocational training; and § 21.146 concerning independent instructor courses (see proposed § 21.8120).
- Sections 21.290 through 21.298 concerning course approval and facility selection (except that the provisions pertaining to use of facilities offering independent living services to evaluate independent living potential (see § 21.294(b)(1)(i)) and to provide a program of independent living services to individuals for whom an Individualized Independent Living Plan (IILP) has been developed (see § 21.294(b)(1)(ii)) do not apply, and provisions concerning authorization of independent living services as an incidental part of a plan (see § 21.294(b)(1)(iii)) apply, in a comparable manner as for veterans under the 38 U.S.C. chapter 31 program, only to the extent allowable under proposed § 21.8050 for an individualized written plan of vocational rehabilitation) (see proposed §§ 21.8120 and 21.8286).
- Sections 21.142 (a) and (b); § 21.144; § 21.146; § 21.148 (a) and (c); § 21.150, other than paragraph (b); § 21.152, other than paragraph (b); § 21.154, other than paragraph (b); and § 21.156 concerning special rehabilitative services of the following types: adult basic education, vocational course in a sheltered workshop or rehabilitation facility, independent instructor course, tutorial assistance, reader service, interpreter service for the hearing impaired, special transportation assistance, and other vocationally oriented incidental services (see proposed § 21.8140).
- Sections 21.212 through 21.224 concerning supplies (however, the following provisions do not apply to this subpart: section 21.216(a)(3) concerning special modifications, including automobile adaptive equipment; § 21.220(a)(1) concerning advancements from the 38 U.S.C. chapter 31 program revolving loan fund; and § 21.222(b)(x) concerning release or repayment for independent living services program supplies) (see proposed § 21.8210).
- Section 21.262 concerning reimbursement for costs of training and rehabilitation facilities, supplies, and services (see proposed § 21.8260).
- Sections 21.60 and 21.62 concerning a medical consultant and the Vocational Rehabilitation Panel and § 21.310 concerning rate of pursuit measurement (see proposed § 21.8310).
- Section 21.326 concerning the commencement and termination dates of a period of employment services (see proposed § 21.8320).
- Sections 21.362 and 21.364 concerning satisfactory conduct and cooperation (see proposed § 21.8360).
- Section 21.154 concerning special transportation allowance; § 21.370 (however, the words ''under § 21.282'' in § 21.370(b)(2)(iii)(B) do not apply) and § 21.372 concerning intraregional and interregional travel at government expense; and § 21.376 concerning authorization of transportation services for evaluation or counseling (see proposed § 21.8370).
- Section 21.380 concerning personnel qualification standards; §§ 21.412 and 21.414 (except § 21.414(c), (d), and (e)) concerning finality and revision of decisions; § 21.420 concerning notification that VA will provide as to findings, decisions, and appeal rights; and § 21.430 concerning accountability for authorization and payment of program costs for training and rehabilitation services (see proposed § 21.8380).

As set forth in the text portion of this document, these provisions appear to be appropriate to apply to the provision of vocational training and rehabilitation to Vietnam veterans' children with spina bifida.

It is also proposed to allow Veterans Benefits Administration officials to inform children who have spina bifida, as well as parents or guardians of

children with spina bifida, about any vocational training and rehabilitation that may be available at not-for-profit charitable entities or under other governmental and nongovernmental programs to either substitute for or supplement services and assistance available under this subpart.

It is proposed that VA provide case management to assist the eligible child throughout a planned vocational training program. This would help to ensure that the child achieves the maximum vocational benefit from the program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), collections of information are set forth in the provisions of the proposed §§ 21.8014, 21.8016, and 21.8370. Proposed § 21.8014 would prescribe the information to be submitted for an application for a Vietnam veteran's child suffering from spina bifida to participate in a VA vocational training program. Proposed § 21.8016 would require a written election of benefits, and would permit reelections between the benefits under this subpart and those under 38 U.S.C. chapter 35 by a child eligible for both benefits. Proposed § 21.8370 would permit a request for reimbursement for certain transportation costs and would require submission of supporting documentation to receive reimbursement. As required under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to the Office of Management and Budget (OMB) for its review of the proposed collections of information.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900-AI72''.

Title: Application for Spina Bifida Vocational Training Benefits.

Summary of collection of information: The provisions of the proposed 38 CFR 21.8014 would establish a requirement that a child with spina bifida submit an application for vocational training to be considered for this benefit.

Description of need for information and proposed use of information: VA needs to know sufficient identifying information about the applicant and the applicant's natural parent who was a Vietnam veteran to be able to relate the claim to other existing VA records. The information collected allows the Vocational Rehabilitation and Counseling (VR&C) Division to review the existing records and to set up an appointment for an applicant to meet with a VR&C staff member to evaluate the claim.

Description of likely respondents: Adult children with spina bifida, parents or guardians of minor or incompetent children with spina bifida, authorized representatives, or Members of Congress.

Estimated number of respondents: 500.

Estimated frequency of responses: Once.

Estimated total annual reporting and recordkeeping burden: 125 reporting burden hours. The total annual reporting burden is based on each respondent taking 15 minutes to write to VA indicating a desire to take part in a vocational training program and providing the necessary identifying information. Although there is no set format for this application, the applicant must provide certain information to perfect the claim. There are no recordkeeping requirements.

Estimated average burden per collection: 15 minutes.

Title: Election of Benefits Between Benefits Under 38 U.S.C. Chapter 35 and Vocational Training Benefits for Vietnam Veterans' Children Suffering from Spina Bifida.

Summary of collection of information: The provisions of the proposed 38 CFR 21.8016 would require a written election, and permit a written reelection, of which benefit a child with spina bifida wants to receive if the child is eligible for training under both 38 U.S.C. chapter 35 and Vocational Training Benefits for Vietnam Veterans' Children for Spina Bifida.

Description of need for information and proposed use of information: 38 U.S.C. 1804(e)(1) specifically bars the concurrent receipt of benefits under these two programs. VA will use the collected information to provide the benefit the child wants to receive.

Description of likely respondents: Children with spina bifida who have at least one parent who either died as a result of a service-connected condition or who is rated as 100 precent disabled for a service-connected condition, thus qualifying the child 38 U.S.C. chapter 35 benefits.

Estimated number of respondents: 25. Very few of the eligible children will have a parent who qualifies the child for 38 U.S.C. chapter 35 benefits.

Estimated frequency of responses: Once.

Estimated total annual reporting and recordkeeping burden: 2.5 reporting burden hours. The total annual reporting burden is based on each respondent taking 5 minutes to write out and sign an election statement. There is no set format for this election. There are no recordkeeping requirements.

Estimated average burden per collection: 5 minutes.

Title: Request for Transportation Expense Reimbursement.

Summary of collection of information: The provisions of the proposed 38 CFR 21.8370 would require a child receiving vocational training to request VA payment for travel expenses. VA must determine that the child would be unable to pursue training or employment or employment without this assistance. To obtain payment, the child must submit documentation showing the expenses of transportation.

Description of need for information and proposed use of information: A child must specifically request VA assistance with transportation expenses. This allows VA to investigate the child's situation to establish that the child would be unable to pursue training or employment without VA travel assistance. To receive payment, the child must provide supportive documentation of actual expenses incurred for the travel. This prevents VA from making payment erroneously or for fraudulently claimed travel.

Description of likely respondents: Children with spina bifida.

Estimated number of respondents: 100. Approximately half of the children who plan and enter a program (200) will need VA financial support for their transportation expenses while in a program.

Estimated frequency of responses: Once for the initial request; monthly to obtain the travel reimbursement.

Estimated total annual reporting and recordkeeping burden: 125 reporting burden hours. Each respondent will require 15 minutes to prepare and submit the initial request. (100×1/4 hour=25 hours.) Each respondent will then require 5 minutes to copy and

submit receipts for transportation expenses to obtain reimbursement. (100×12×1/12 hour=100 hours.)

Estimated average burden per collection: 1 hour and 15 minutes.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections 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, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulations.

Executive Order 12866

This proposed rule has been reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that the adoption of the proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. It is estimated that there are only between 600–2,000 Vietnam veterans' children who suffer from spina bifida. They are widely dispersed geographically, and the services provided to them would not have a significant impact on any small businesses. Moreover, the institutions capable of providing appropriate services and vocational training to children with spina bifida are generally large capitalization facilities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

There is no Catalog of Federal Domestic Assistance program number for this benefit.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflicts of interest, Defense Department, Education, Employment, Government contracts, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Personnel training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 27, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 21 is proposed to be amended as set forth below:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

In part 21, subpart M is added to read as follows:

Subpart M—Vocational Training and Rehabilitation for Vietnam Veterans' Children With Spina Bifida

General

Sec.
21.8010 Vocational training program for certain Vietnam veterans' children with spina bifida.
21.8012 Definitions and abbreviations.
21.8014 Application.
21.8016 Nonduplication of benefits.

Basic Entitlement Requirements

21.8020 Entitlement to vocational training and employment assistance.
21.8022 Entry and reentry.

Evaluation

21.8030 Requirement for evaluation of child.
21.8032 Evaluations.

Services and Assistance to Program Participants

21.8050 Scope of training, services, and assistance.

Duration of Training

21.8070 Basic duration of a vocational training program.
21.8072 Authorizing training, services, and assistance beyond the initial individualized written plan of vocational rehabilitation.
21.8074 Computing the period for vocational training program participation.

Individualized Written Plane of Vocational Rehabilitation

21.8080 Requirement for an individualized written plan of vocational rehabilitation.
21.8082 Inability of child to complete individualized written plan of vocational rehabilitation or achieve vocational goal.

Counseling

21.8100 Counseling.

Vocational Training, Services, and Assistance

21.8120 Vocational training, services, and assistance.

Evaluation and Improvement of Vocational Potential

21.8140 Evaluation and improvement of vocational potential.

Supplies

21.8210 Supplies.

Program Costs

21.8260 Training and rehabilitation costs.

Vocational Training Program Entrance, Termination, and Resources

21.8280 Effective date of induction into a vocational training program.
21.8282 Termination of a vocational training program.
21.8284 Additional vocational training.
21.8286 Training resources.

Rate of Pursuit

21.8310 Rate of pursuit.

Authorization of Services

21.8320 Authorization of services.

Leaves of Absence

21.8340 Leaves of absence.

Satisfactory Conduct and Cooperation

21.8360 Satisfactory conduct and cooperation.

Transportation Services

21.8370 Authorization of transportation services.

Additional Applicable Regulations

21.8380 Additional applicable regulations.

Delegation of Authority

21.8410 Delegation of authority.

Authority: 38 U.S.C. 101, 501, 512, 1151 note, 1801–1806, 5112, unless otherwise noted.

Subpart M—Vocational Training and Rehabilitation for Vietnam Veterans' Children With Spina Bifida

General

§ 21.8010 Vocational training program for certain Vietnam veterans' children with spina bifida.

VA will provide an evaluation to a Vietnam veteran's child who VA has determined under § 3.814 of this title suffers from spina bifida. If this evaluation establishes that it is feasible

for the child to achieve a vocational goal, VA will provide the child with the vocational training, employment assistance, and other related rehabilitation services authorized by this subpart that VA finds the child needs to enable the child to achieve a vocational goal, including employment.

(Authority: 38 U.S.C. 1804)

§ 21.8012 Definitions and abbreviations.

(a) *Program-specific definitions and abbreviations.* For the purposes of this subpart:

Child has the same meaning as § 3.814(c) of this title provides.

Employment assistance means employment counseling, placement and post-placement services, and personal and work adjustment training.

Institution of higher education has the same meaning that § 21.4200 provides for the term *institution of higher learning.*

Program of employment services means the services a child may receive if the child's entire program consists only of employment assistance.

Program participant means a child who, following an evaluation in which VA finds the child's achievement of a vocational goal is reasonably feasible, elects to participate in a vocational training program under this subpart.

Spina bifida means any form and manifestation of spina bifida except spina bifida occulta.

Vietnam veteran has the same meaning as § 3.814(c) of this title provides.

Vocational training program means the vocationally oriented training services, and assistance, including placement and post-placement services, and personal and work-adjustment training that VA finds necessary to enable the child to prepare for and participate in vocational training or employment. A vocational training program may include a program of education offered by an institution of higher education only if the program is predominantly vocational in content.

VR&C refers to the Vocational Rehabilitation and Counseling activity (usually a division) in a Veterans Benefits Administration regional office, the staff members of that activity in the regional office or in outbased locations, and the services that activity provides.

(Authority: 38 U.S.C. 101, 1801, 1802, 1804)

(b) *Other terms and abbreviations.* The following terms and abbreviations have the same meaning or explanation that § 21.35 provides:

(1) CP (Counseling psychologist);

(2) Program of education;

(3) Rehabilitation facility;

(4) School, educational institution, or institution;

(5) Training establishment;

(6) Vocational goal;

(7) VRC (Vocational rehabilitation counselor);

(8) VRS (Vocational rehabilitation specialist); and

(9) Workshop.

(Authority: 38 U.S.C. 1801, 1804)

§ 21.8014 Application.

(a) *Filing an application.* To participate in a vocational training program, the child (or the child's parent or guardian, an authorized representative, or a Member of Congress acting on behalf of the child) must file an application. An application is a request for an evaluation of the feasibility of the child's achievement of a vocational goal and, if a CP or VRC determines that achievement of a vocational goal is feasible, for participation in a vocational training program. The application may be in any form, but it must:

(1) Be in writing over the signature of the applicant or the individual applying on the child's behalf;

(2) Provide the child's full name, address, and VA claim number, if any, and the Vietnam veteran's full name and Social Security number or VA claim number, if any; and

(3) Clearly identify the benefit sought.

(Authority: 38 U.S.C. 1804(a))

(b) *Time for filing.* An application under this subpart may be filed at any time after September 30, 1997.

(Authority: 38 U.S.C. 1801, 1804)

§ 21.8016 Nonduplication of benefits.

(a) *Election of benefits—chapter 35.* A child may not receive benefits concurrently under 38 U.S.C. chapter 35 and under this subpart. If the child is eligible for both benefits, he or she must elect in writing which benefit to receive.

(Authority: 38 U.S.C. 1804(e)(1))

(b) *Reelections of benefits—chapter 35.* A child receiving benefits under this subpart or under 38 U.S.C. chapter 35 may change his or her election at any time. A reelection between benefits under this subpart and under 38 U.S.C. chapter 35 must be prospective, however, and may not result in a child receiving benefits under both programs for the same period of training.

(Authority: 38 U.S.C. 1804(e)(1))

(c) *Length of benefits under multiple programs—chapter 35.* The aggregate period for which a child may receive assistance under this subpart and under 38 U.S.C. chapter 35 together may not exceed 48 months of full-time training or the part-time equivalent.

(Authority: 38 U.S.C. 1804(e)(2))

Basic Entitlement Requirements

§ 21.8020 Entitlement to vocational training and employment assistance.

(a) *Basic entitlement requirements.* Under this subpart, for a child to receive vocational training, employment assistance, and related rehabilitation services and assistance to achieve a vocational goal (to include employment), the following requirements must be met:

(1) A CP or VRC must determine that achievement of a vocational goal by the child is reasonably feasible; and

(2) The child and VR&C staff members must work together to develop and then agree to an individualized written plan of vocational rehabilitation identifying the vocational goal and the means to achieve this goal.

(Authority: 38 U.S.C. 1804(b))

(b) *Services and assistance.* A child found eligible and entitled to be a vocational training program participant may receive the services and assistance described in § 21.8050(a). The following sections in subpart A of this part apply to the provision of these services and assistance in a manner comparable to their application for a veteran under that subpart:

(1) Section 21.250 (a) and (b)(2);

(2) Section 21.252;

(3) Section 21.254;

(4) Section 21.256 (not including paragraph (e)(2));

(5) Section 21.257; and

(6) Section 21.258.

(Authority: 38 U.S.C. 1804)

(c) *Requirements to receive employment services and assistance.* VA will provide employment services and assistance under paragraph (b) of this section only if the child:

(1) Has achieved a vocational objective;

(2) Has voluntarily ceased vocational training under this subpart, but the case manager finds the child has attained sufficient skills to be employable; or

(3) VA determines during evaluation that the child already has the skills necessary for suitable employment and does not need additional training, but to secure suitable employment the child does need the employment assistance that paragraph (b) of this section describes.

(Authority: 38 U.S.C. 1804)

(d) *Additional employment services and assistance.* If a child has received employment assistance and obtains a

suitable job, but VA later finds the child needs additional employment services and assistance, VA may provide the child with these services and assistance if, and to the extent, the child has remaining program entitlement.

(Authority: 38 U.S.C. 1804)

(e) *Program entitlement usage.* (1) *Basic entitlement period.* A child will be entitled to receive 24 months of full-time training, services, and assistance (including employment assistance) or the part-time equivalent, as part of a vocational training program.

(2) *Extension of basic entitlement period.* The child may receive an extension of the basic 24-month entitlement period, not to exceed another 24 months of full-time program participation or the part-time equivalent. VA may authorize an extension only if VA first determines that:

(i) The extension is necessary for the child to achieve a vocational goal identified before the end of the basic 24-month entitlement period; and

(ii) The child can achieve the vocational goal within the extended period.

(3) *Principles for charging entitlement.* VA will charge entitlement usage for training, services, or assistance (but not the initial evaluation, as described in § 21.8032) on the same basis as VA would charge entitlement usage for providing the same training, services, or assistance to a veteran in a vocational rehabilitation program under 38 U.S.C. chapter 31. VA may charge entitlement at a half-time, three-quarter-time, or full-time rate based upon the child's training time using the rate of pursuit criteria in § 21.8310. The provisions concerning reduced work tolerance under § 21.312 or less than half-time training under § 21.314 do not apply under this subpart.

(Authority: 38 U.S.C. 1804)

§ 21.8022 Entry and reentry.

(a) *Dates of entry.* VA may not evaluate a child for a vocational training program before the later of the following dates:

(1) The date VA first receives an application for a vocational training program for the child; or

(2) October 1, 1997.

(Authority: 38 U.S.C. 1151 note, 1804, 1806)

(b) *Reentry.* If a child interrupts or ends pursuit of a vocational training program and VA subsequently allows the child to reenter the program, the date of reentrance will accord with the facts, but may not precede the date VA receives an application for the reentrance.

(Authority: 38 U.S.C. 1804)

Evaluation

§ 21.8030 Requirement for evaluation of child.

(a) *Children to be evaluated.* The VR&C Division will evaluate each child who:

(1) Applies for a vocational training program; and

(2) Has been determined under § 3.814 of this title to suffer from spina bifida.

(Authority: 38 U.S.C. 1804(a))

(b) *Purpose of evaluation.* The evaluation has two purposes:

(1) To ascertain whether achievement of a vocational goal by the child is reasonably feasible; and

(2) If a vocational goal is reasonably feasible, to develop an individualized plan of integrated training, services, and assistance that the child needs to prepare for and participate in vocational training or employment.

(Authority: 38 U.S.C. 1804)

§ 21.8032 Evaluations.

(a) *Scope and nature of evaluation.* The scope and nature of the evaluation under this program will be comparable to an evaluation of the reasonable feasibility of achieving a vocational goal for a veteran under 38 U.S.C. chapter 31 and §§ 21.50(b)(5) and 21.53 (b) and (d).

(Authority: 38 U.S.C. 1804(a))

(b) *Specific services to determine the reasonable feasibility of achieving a vocational goal.* As a part of the evaluation of reasonable feasibility of achieving a vocational goal, VA may provide the following specific services, as appropriate:

(1) Assessment of feasibility by a CP or VRC;

(2) Review of feasibility assessment and of need for special services by the Vocational Rehabilitation Panel;

(3) Provision of medical, testing, and other diagnostic services to ascertain the child's capacity for training and employment; and

(4) Evaluation of employability by professional staff of an educational or rehabilitation facility, for a period not to exceed 30 days.

(Authority: 38 U.S.C. 1804(a))

(c) *Responsibility for evaluation.* A CP or VRC will make all determinations as to the reasonable feasibility of achieving a vocational goal.

(Authority: 38 U.S.C. 1804(a), (b))

Services and Assistance to Program Participants

§ 21.8050 Scope of training, services, and assistance.

(a) *Allowable training, services, and assistance.* VA may provide to vocational training program participants:

(1) Vocationally oriented training, services, and assistance, to include:

(i) Training in an institution of higher education if the program is predominantly vocational; and

(ii) Tuition, fees, books, equipment, supplies, and handling charges.

(2) Employment assistance including:

(i) Vocational, psychological, employment, and personal adjustment counseling;

(ii) Services to place the individual in suitable employment and post-placement services necessary to ensure satisfactory adjustment in employment;

(iii) Personal adjustment and work adjustment training.

(3) Vocationally oriented independent living services only to the extent that the services are indispensable to the achievement of the vocational goal and do not constitute a significant portion of the services to be provided.

(4) Other vocationally oriented services and assistance of the kind VA provides veterans under the 38 U.S.C. chapter 31 program, except as paragraph (c) of this section provides, that VA determines the program participant needs to prepare for and take part in vocational training or in employment.

(Authority: 38 U.S.C. 1804(c))

(b) *Vocational training program.* VA will provide either directly or by contract, agreement, or arrangement with another entity, and at no cost to the beneficiary, the vocationally oriented training, other services, and assistance that VA approves for the individual child's program under this subpart. Authorization and payment for approved services will be made in a comparable manner to that VA provides for veterans under the 38 U.S.C. chapter 31 program.

(Authority: 38 U.S.C. 1804(c))

(c) *Prohibited services and assistance.* VA may not provide to a vocational training program participant any:

(1) Loan;

(2) Subsistence allowance;

(3) Automobile adaptive equipment;

(4) Training at an institution of higher education in a program of education that is not predominantly vocational in content;

(5) Employment adjustment allowance;

(6) Room and board in a special rehabilitation facility for a period in excess of 30 days; or

(7) Independent living services, except those that are incidental to the pursuit of the vocational training program.

(Authority: 38 U.S.C. 1804(c))

Duration of Vocational Training

§ 21.8070 Basic duration of a vocational training program.

(a) *Basic duration of a vocational training program.* The duration of a vocational training program, as paragraphs (e)(1) and (e)(2) of § 21.8020 provide, may not exceed 24 months of full-time training, services, and assistance or the part-time equivalent, except as § 21.8072 allows.

(Authority: 38 U.S.C. 1804(d))

(b) *Responsibility for estimating the duration of a vocational training program.* While preparing the individualized written plan of vocational rehabilitation, the CP or VRC will estimate the time the child needs to complete a vocational training program.

(Authority: 38 U.S.C. 1804(c))

(c) *Duration and scope of training must meet general requirements for entry into the selected occupation.* The child will receive training, services, and assistance, as § 21.8120 describes, for a period that VA determines the child needs to reach the level employers generally recognize as necessary for entry into employment in a suitable occupational objective.

(Authority: 38 U.S.C. 1804(c))

(d) *Approval of training beyond the entry level.* To qualify for employment in a particular occupation, the child may need training that exceeds the amount a person generally needs for employment in that occupation. VA will provide the necessary additional training under one or more of the following conditions:

(1) Training requirements for employment in the child's vocational goal in the area where the child lives or will seek employment exceed those job seekers generally need for that type of employment;

(2) The child is preparing for a type of employment in which he or she will be at a definite disadvantage in competing with nondisabled persons and the additional training will offset the competitive disadvantage;

(3) The choice of a feasible occupation is limited, and additional training will enhance the child's employability in one of the feasible occupations; or

(4) The number of employment opportunities within a feasible occupation is restricted.

(Authority: 38 U.S.C. 1804(c))

(e) *Estimating the duration of the training period.* In estimating the length of the training period the child needs, the CP or VRC must determine that:

(1) The proposed vocational training would not normally require a person without a disability more than 24 months of full-time pursuit, or the part-time equivalent, for successful completion; and

(2) The program of training and other services the child needs, based upon VA's evaluation, will not exceed 24 months or the part-time equivalent. In calculating the proposed program's length, the CP or VRC will follow the procedures in § 21.8074(a).

(Authority: 38 U.S.C. 1804(d))

(f) *Required selection of an appropriate vocational goal.* If the total period the child would require for completion of an initial vocational training program in paragraph (e) of this section is more than 24 months, or the part-time equivalent, the CP or VRC must work with the child to select another suitable initial vocational goal.

(Authority: 38 U.S.C. 1804(d)(2))

§ 21.8072 Authorizing training, services, and assistance beyond the initial individualized written plan of vocational rehabilitation.

(a) *Extension of the duration of a vocational training program.* VA may authorize an extension of a vocational training program when necessary to provide additional training, services, and assistance to enable the child to achieve the vocational or employment goal identified before the end of the child's basic entitlement period, as stated in the individualized written plan of vocational rehabilitation under § 21.8080. A change from one occupational objective to another in the same field or occupational family meets the criterion for prior identification in the individualized written plan of vocational rehabilitation.

(Authority: 38 U.S.C. 1804 (d)(2), (e)(2))

(b) *Extensions for prior participants in the program.* (1) Except as paragraph (b)(2) of this section provides, VA may authorize additional training, limited to the use of remaining program entitlement including any allowable extension, for a child who previously participated in vocational training under this subpart. The additional training must:

(i) Be designed to enable the child to complete the prior vocational goal or a different vocational goal; and

(ii) Meet the same provisions as apply to training for new participants.

(2) A child who has previously achieved a vocational goal in a vocational training program under this subpart may not receive additional training under paragraph (b)(1) of this section unless a CP or VRC sets aside the child's achievement of that vocational goal under § 21.8284 (a) or (b).

(Authority: 38 U.S.C. 1804 (b) through (e))

(c) *Responsibility for authorizing a program extension.* A CP or VRC may approve extensions of the vocational training program the child is pursuing up to the maximum program limit of 48 months if the CP or VRC determines that the child needs the additional time to successfully complete training and obtain employment, and the following conditions are met:

(1) The child has completed more than half of the planned training; and

(2) The child is making satisfactory progress.

(Authority: 38 U.S.C. 1804(d)(2))

§ 21.8074 Computing the period for vocational training program participation.

(a) *Computing the participation period.* To compute the number of months and days of a child's participation in a vocational training program:

(1) Count the number of actual months and days of the child's:

(i) Pursuit of vocational education or training;

(ii) Receipt of extended evaluation-type services and training, or services and training to enable the child to prepare for vocational training or employment, if a veteran in a 38 U.S.C. chapter 31 program would have received a subsistence allowance while receiving the same type of services and training; and

(iii) Receipt of employment and post-employment services (any period of employment or post-employment services is considered full-time program pursuit).

(2) Do not count:

(i) The initial evaluation period;

(ii) Any period before the child enters a vocational training program under this subpart;

(iii) Days of authorized leave; and

(iv) Other periods during which the child will not pursue training, such as periods between terms.

(3) Convert part-time training periods to full-time equivalents.

(4) Total the months and days under paragraphs (a)(1) through (a)(3) of this

section. This sum is the period of the child's participation in the program.

(Authority: 38 U.S.C. 1804(d))

(b) *Consistency with principles for charging entitlement.* Computation of the program participation period under this section will be consistent with the principles for charging entitlement under § 21.8020.

(Authority: 38 U.S.C. 1804(d))

Individualized Written Plan of Vocational Rehabilitation

§ 21.8080 Requirement for an individualized written plan of vocational rehabilitation.

(a) *General.* A CP or VRC will work in consultation with each child for whom a vocational goal is feasible to develop an individualized written plan of vocational rehabilitation services and assistance to meet the child's vocational training needs. The CP or VRC will develop this individualized written plan of vocational rehabilitation in a manner comparable to the rules governing the development of an individualized written rehabilitation plan (IWRP) for a veteran for 38 U.S.C. chapter 31 purposes, as §§ 21.80, 21.84, 21.88, 21.90, 21.92, 21.94 (a) through (d), and 21.96 provide.

(Authority: 38 U.S.C. 1804(b))

(b) *Selecting the type of training to include in the individualized written plan of vocational rehabilitation.* If training is necessary, the CP or VRC will explore a range of possibilities, to include paid and unpaid on-job training, institutional training, and a combination of on-job and institutional training to accomplish the goals of the program. Generally, a child's program should include on-job training, or a combination of on-job and institutional training, when this training:

(1) Is available;

(2) Is as suitable as using only institutional training for accomplishing the goals of the program; and

(3) Will meet the child's vocational training program needs.

(Authority: 38 U.S.C. 1804 (b), (c))

§ 21.8082 Inability of child to complete individualized written plan of vocational rehabilitation or achieve vocational goal.

(a) *Inability to timely complete an individualized written plan of vocational rehabilitation or achieve identified goal.* After a vocational training program has begun, the VR&C case manager may determine that the child cannot complete the vocational training program described in the child's individualized written plan of vocational rehabilitation within the time limits of the individualized written plan of vocational rehabilitation or cannot achieve the child's identified vocational goal. Subject to paragraph (b) of this section, VR&C may assist the child in revising or selecting a new individualized written plan of vocational rehabilitation or goal.

(b) *Allowable changes in the individualized written plan of vocational rehabilitation or goal.* Any change in the child's individualized written plan of vocational rehabilitation or vocational goal is subject to the child's continuing eligibility under the vocational training program and the provisions governing duration of a vocational training program in §§ 21.8020(c) and 21.8070 through 21.8074.

(Authority: 38 U.S.C. 1804(d), 1804(e))

(c) *Change in the individualized written plan of vocational rehabilitation or vocational goal.* (1) The individualized written plan of vocational rehabilitation or vocational goal may be changed under the same conditions as provided for a veteran under § 21.94 (a) through (d), and subject to § 21.8070 (d) through (f), if:

(i) The CP or VRC determines that achievement of a vocational goal is still reasonably feasible and that the new individualized written plan of vocational rehabilitation or goal is necessary to enable the child to prepare for and participate in vocational training or employment; and

(ii) Reentrance is authorized under § 21.8284 in a case when the child has completed a vocational training program under this subpart.

(2) A CP or VRC may approve a change of vocational goal from one field or occupational family to another field or occupational family if the child can achieve the new goal:

(i) Before the end of the basic 24-month entitlement period that § 21.8020(c)(1) describes; or

(ii) Before the end of any allowable extension under §§ 21.8020(c)(2) and 21.8072 if the new vocational goal in another field or occupational family was identified during the basic 24-month entitlement period.

(3) A change from one occupational objective to another in the same field or occupational family does not change the planned vocational goal.

(4) The child must have sufficient remaining entitlement to pursue the new individualized written plan of vocational rehabilitation or goal, as § 21.8020 provides.

(Authority: 38 U.S.C. 1804(d))

(d) *Assistance if child terminates planned program before completion.* If the child elects to terminate the planned vocational training program, he or she will receive the assistance that § 21.80(d) provides in identifying other resources through which to secure the desired training or employment.

(Authority: 38 U.S.C. 1804(c))

Counseling

§ 21.8100 Counseling.

A child requesting or receiving services and assistance under this subpart will receive professional counseling by VR&C and other qualified VA staff members, and by contract counseling providers, as necessary, in a manner comparable to VA's provision of these services to veterans under the 38 U.S.C. chapter 31 program, as §§ 21.100 and 21.380 provide.

(Authority: 38 U.S.C. 1803(c)(8), 1804(c))

Vocational Training, Services, and Assistance

§ 21.8120 Vocational training, services, and assistance.

(a) *Purposes.* A child eligible for a vocational training program may receive training, services, and assistance to enable the child to prepare for and participate in vocational training or employment.

(Authority: 38 U.S.C. 1804 (b), (c))

(b) *Training permitted.* VA and the child will select vocationally oriented courses of study and training, completion of which usually results in a diploma, certificate, degree, qualification for licensure, or direct placement in employment. The educational and training services to be provided include:

(1) Remedial, deficiency, and refresher training; and

(2) Training that leads to an identifiable vocational goal. Under this program, VA may authorize all forms of programs that §§ 21.122 through 21.132 describe. This includes education and training programs in institutions of higher education. VA may authorize the education and training at an undergraduate or graduate degree level, only if the degree program is predominantly vocational in nature. For a child to participate in a graduate degree program, the graduate degree must be a requirement for entry into the child's vocational goal. For example, a master's degree is required to engage in social work. The program of training is predominantly vocational in content if the majority of the instruction provides the technical skills and knowledge employers generally regard as specific to, and required for, entry into the child's vocational goal.

(c) *Cost of education and training services.* The CP or VRC will consider the cost of training in selecting a facility when:

(1) There is more than one facility in the area in which the child resides that:

(i) Meets the requirements for approval under §§ 21.290 through 21.298 (except as provided by § 21.8286(b)),

(ii) Can provide the training, services and other supportive assistance the child's individualized written plan of vocational rehabilitation specifies, and

(iii) Is within reasonable commuting distance; or

(2) The child wishes to train at a suitable facility in another area, even though a suitable facility in the area where the child lives can provide the training. In considering the costs of providing training in this case, VA will use the provisions of § 21.120 (except 21.120(a)(3)), § 21.370 (however, the words ''under § 21.282'' in § 21.370(b)(2)(iii)(B) do not apply), and § 21.372 in a manner comparable to that for veterans under the 38 U.S.C. chapter 31 program.

(Authority: 38 U.S.C. 1804 (b), (c))

(d) *Accessible courses not locally available.* If suitable vocational training courses are not available in the area in which the child lives, or if they are available but not accessible to the child, VA may make other arrangements. These arrangements may include, but are not limited to:

(1) Transportation of the child, but not the child's family, personal effects, or household belongings, to another area where necessary services are available; or

(2) Use of an individual instructor to provide necessary training in a manner comparable to that for veterans under the 38 U.S.C. chapter 31 program, as § 21.146 describes.

(Authority: 38 U.S.C. 1804 (b), (c))

Evaluation and Improvement of Vocational Potential

§ 21.8140 Evaluation and improvement of vocational potential.

(a) *General.* A CP or VRC may use the services that paragraph (d) of this section describes to:

(1) Evaluate vocational training and employment potential;

(2) Provide a basis for planning:

(i) A program of services and assistance to improve the child's preparation for vocational training and employment; or

(ii) A vocational training program;

(3) Reevaluate the vocational training feasibility of a child participating in a vocational training program; and

(4) Remediate deficiencies in the child's basic capabilities, skills, or knowledge to give the child the ability to participate in vocational training or employment.

(Authority: 38 U.S.C. 1804(b))

(b) *Periods when evaluation and improvement services may be provided.* A CP or VRC may authorize the services described in paragraph (d) of this section, except those in paragraph (d)(4) of this section, for delivery during:

(1) An initial evaluation; or

(2) Pursuit of a vocational training program.

(Authority: 38 U.S.C. 1804(c))

(c) *Duration of services.* The duration of services needed to improve vocational training and employment potential, furnished on a full-time basis either as a preliminary part or all of a vocational training program, may not exceed 9 months. If VA furnishes these services on a less than full-time basis, the duration will be for the period necessary, but may not exceed the equivalent of 9 months of full-time training.

(Authority: 38 U.S.C. 1804(c))

(d) *Scope of services.* Evaluation and improvement services include:

(1) Diagnostic services;

(2) Personal and work adjustment training;

(3) Referral for medical care and treatment for the spina bifida or related conditions;

(4) Vocationally oriented independent living services indispensable to pursuing a vocational training program;

(5) Language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(6) Orientation, adjustment, mobility and related services; and

(7) Other appropriate services to assist the child in functioning in the proposed training or work environment.

(Authority: 38 U.S.C. 1804(c))

(e) *Applicability of chapter 31 rules on special rehabilitation services.* The provisions of § 21.140 do not apply to this subpart. Subject to the provisions of this subpart, the following provisions apply to the vocational training program under this subpart in a manner comparable to that for veterans under the 38 U.S.C. chapter 31 program: § 21.142 (a) and (b); § 21.144; § 21.146; § 21.148 (a) and (c); § 21.150 other than paragraph (b); § 21.152 other than paragraph (b); § 21.154 other than paragraph (b); and § 21.156.

(Authority: 38 U.S.C. 1804(c))

Supplies

§ 21.8210 Supplies.

(a) *Purpose of furnishing supplies.* VA will provide the child with the supplies that the child needs to pursue training, to obtain and maintain employment, and otherwise to achieve the goal of his or her vocational training program.

(Authority: 38 U.S.C. 1804(c))

(b) *Types of supplies.* VA may provide books, tools, and other supplies and equipment that VA determines are necessary for the child's vocational training program and are required by similarly circumstanced veterans pursuing such training under 38 U.S.C. chapter 31.

(Authority: 38 U.S.C. 1804(c))

(c) *Periods during which VA may furnish supplies.* VA may provide supplies to a child receiving:

(1) An evaluation;

(2) Vocational training, services, and assistance to reach the point of employability; or

(3) Employment services.

(Authority: 38 U.S.C. 1804(c))

(d) *Other rules.* The provisions of §§ 21.212 through 21.224 apply to children pursuing a vocational training program under this subpart in a comparable manner as VA provides supplies to veterans under 38 U.S.C. chapter 31, except the following portions:

(1) Section 21.216(a)(3) pertaining to special modifications, including automobile adaptive equipment;

(2) Section 21.220(a)(1) pertaining to advancements from the revolving fund loan;

(3) Section 21.222(b)(x) pertaining to discontinuance from an independent living services program.

(Authority: 38 U.S.C. 1804(c))

Program Costs

§ 21.8260 Training, services, and assistance costs.

The provisions of § 21.262 pertaining to reimbursement for training and other program costs apply, in a comparable manner as provided under the 38 U.S.C. chapter 31 program for veterans, to payments to facilities, vendors, and other providers for training, supplies, and other services they deliver under this subpart.

(Authority: 38 U.S.C. 1804(c))

Vocational Training Program Entrance, Termination, and Resources

§ 21.8280 Effective date of induction into a vocational training program.

Subject to the limitations in § 21.8022, the date a child is inducted into a vocational training program will be the date the child first begins to receive training, services, or assistance under an individualized written plan of vocational rehabilitation.

(Authority: 38 U.S.C. 1804 (c), (d))

§ 21.8282 Termination of a vocational training program.

A case manager may terminate a child's vocational training program for cause, including lack of cooperation, failure to pursue the individualized written plan of vocational rehabilitation, fraud, or administrative error. A child for whom a vocational goal is reasonably feasible remains eligible for the program subject to the rules of this subpart unless the child's eligibility for or entitlement to a vocational training program under this subpart resulted from fraud or administrative error.

(a) *Fraud.* If a child establishes eligibility for or entitlement to benefits under this subpart through fraud, VA will terminate the award of vocational training and rehabilitation as of the date VA first began to pay benefits.

(b) *Administrative error.* If a child who is not entitled to benefits under this subpart receives those benefits through VA administrative error, VA will terminate the award of benefits as of the first day of the calendar month beginning at least 60 days after notifying the child of the proposed termination. This 60-day period may not result in the entrance of the child into a new quarter, semester, or other term of training unless VA has already obligated payment for the training.

(c) *Lack of cooperation or failure to pursue individualized written plan of vocational rehabilitation.* If reasonable VR&C efforts to motivate a child do not resolve a lack of cooperation or failure to pursue an individualized written plan of vocational rehabilitation, VA will terminate the award of benefits as of the first day of the calendar month beginning at least 60 days after notifying the child of the proposed termination. This 60-day period may not result in the entrance of the child into a new quarter, semester, or other term of training. VA will deobligate payment for training in the new quarter, semester, or other term of training.

(Authority: 38 U.S.C. 1804)

§ 21.8284 Additional vocational training.

VA may provide an additional period of training or services under a vocational training program to a child who has completed training for a vocational goal and/or been suitably employed under this subpart, if the child is otherwise eligible and has remaining program entitlement as provided in § 21.8072(b), only under one of the following conditions:

(a) Current facts, including any relevant medical findings, establish that the child's disability has worsened to the extent that he or she can no longer perform the duties of the occupation which was the child's vocational goal under this subpart;

(b) The occupation that was the child's vocational goal under this subpart is now unsuitable;

(c) The vocational training program services and assistance the child originally received are now inadequate to make the child employable in the occupation which he or she sought to achieve;

(d) Experience has demonstrated that VA should not reasonably have expected employment in the objective or field for which the child received vocational training program services and assistance; or

(e) Technological change that occurred after the child achieved a vocational goal under this subpart now prevents the child from:

(1) Performing the duties of the occupation for which VA provided training, services, or assistance, or in a related occupation; or

(2) Securing employment in the occupation for which VA provided training, services, or assistance, or in a related occupation.

(Authority: 38 U.S.C. 1804(c))

§ 21.8286 Training resources.

(a) *Applicable 38 U.S.C. chapter 31 resource provisions.* The provisions of § 21.146 and §§ 21.290 through 21.298 apply to children pursuing a vocational training program under this subpart in a comparable manner as for veterans under the 38 U.S.C. chapter 31 program, except as paragraph (b) of this section specifies.

(Authority: 38 U.S.C. 1804(c))

(b) *Limitations.* The provisions of § 21.294(b)(1)(i) and (b)(1)(ii) pertaining to independent living services do not apply to this subpart. The provisions of § 21.294(b)(1)(iii) pertaining to authorization of independent living services as a part of an individualized written plan of vocational rehabilitation apply to children under this subpart in a comparable manner as for veterans under the 38 U.S.C. chapter 31 program only to the extent § 21.8050 allows.

(Authority: 38 U.S.C. 1804(c))

Rate of Pursuit

§ 21.8310 Rate of pursuit.

(a) *General requirements.* VA will approve a child's pursuit of a vocational training program at a rate consistent with his or her ability to successfully pursue training, considering:

(1) Effects of his or her disability;

(2) Family responsibilities;

(3) Travel;

(4) Reasonable adjustment to training; and

(5) Other circumstances affecting the child's ability to pursue training.

(Authority: 38 U.S.C. 1804(c))

(b) *Continuous pursuit.* A child should pursue a program of vocational training with as little interruption as necessary, considering the factors in paragraph (a) of this section.

(Authority: 38 U.S.C. 1804(c))

(c) *Responsibility for determining the rate of pursuit.* VR&C staff members will consult with the child when determining the rate and continuity of pursuit of a vocational training program. These staff members will also confer with the medical consultant and the Vocational Rehabilitation Panel described in §§ 21.60 and 21.62, as necessary. This rate and continuity of pursuit determination will occur during development of the individualized written plan of vocational rehabilitation, but may change later, as necessary to enable the child to complete training.

(Authority: 38 U.S.C. 1804(c))

(d) *Measurement of training time used.* VA will measure the rate of pursuit in a comparable manner to rate of pursuit measurement under § 21.310 for veterans under the 38 U.S.C. chapter 31 program.

(Authority: 38 U.S.C. 1804(c))

Authorization of Services

§ 21.8320 Authorization of services.

The provisions of § 21.326, pertaining to the commencement and termination dates of a period of employment services, apply to children under this subpart in a manner comparable to that provided for veterans under the 38 U.S.C. chapter 31 program. References in that section to an IEAP (individualized employment assistance plan) should be considered as referring to the child's individualized written plan of vocational rehabilitation under this subpart.

(Authority: 38 U.S.C. 1804(c))

Leaves of Absence

§ 21.8340 Leaves of absence.

(a) *Purpose of leave of absence.* The purpose of the leave system is to enable the child to maintain his or her status as an active program participant.

(Authority: 38 U.S.C. 1804(c)

(b) *Basis for leave of absence.* The VR&C case manager may grant the child leaves of absence for periods during which the child fails to pursue a vocational training program. For prolonged periods of absence, the VR&C case manager may approve leaves of absence only if the case manager determines the child is unable to pursue a vocational training program through no fault of the child.

(Authority: 38 U.S.C. 1804(c))

(c) *Effect on entitlement.* During a leave of absence, the running of the basic 24-month period of entitlement, plus any extensions thereto, shall be suspended until the child resumes the program.

(Authority: 38 U.S.C. 1804(c))

Satisfactory Conduct and Cooperation

§ 21.8360 Satisfactory conduct and cooperation.

The provisions for satisfactory conduct and cooperation in §§ 21.362 and 21.364, except as otherwise provided in this section, apply to children under this subpart in a manner comparable to the way they apply to veterans under the 38 U.S.C. chapter 31 program. If a child fails to meet these requirements for satisfactory conduct or cooperation, the VR&C case manager will terminate the child's vocational training program. VA will not grant a child reentrance to a vocational training program unless the reasons for unsatisfactory conduct or cooperation have been removed.

(Authority: 38 U.S.C. 1804(c))

Transportation Services

§ 21.8370 Authorization of transportation services.

(a) *General.* VA shall authorize transportation services necessary for a child to pursue a vocational training program. The sections in subpart A of this part that are referred to in this paragraph shall apply to children under this subpart in a manner comparable to the way they apply to veterans under the 38 U.S.C. chapter 31 program. Transportation services include:

(1) Transportation for evaluation or counseling under § 21.376;

(2) Intraregional travel under § 21.370 (however, the words ''under § 21.282'' in § 21.370(b)(2)(iii)(B) do not apply) and interregional travel under § 21.372;

(3) Special transportation allowance under § 21.154; and

(4) Commuting to and from training and while seeking employment under paragraphs (c) and (d) of this section.

(Authority: 38 U.S.C. 1804(c))

(b) *Reimbursement.* For transportation services that VA authorizes, VA will normally pay in arrears and in the same manner as tuition, fees, and other services under this program.

(Authority: 38 U.S.C. 1804(c))

(c) *Transportation payment.* VA may pay for transportation during the period of vocational training and the first 3 months the child receives employment services. VA may reimburse the child's costs of commuting to and from training and seeking employment if he or she requests this assistance and VA determines, after careful examination of the child's situation and subject to the limitations in paragraph (d) of this section, that the child would be unable to pursue training or employment without this assistance. VA may:

(1) Reimburse the facility at which the child is training if the facility provided transportation or related services;

(2) Reimburse the child for his or her actual commuting expense if the child paid for the transportation.

(Authority: 38 U.S.C. 1804(c))

(d) *Limitations.* Payment of commuting expenses may not be made for any period when the child:

(1) Is gainfully employed;

(2) Is eligible for, and entitled to, payment of commuting costs through other VA and non-VA programs; or

(3) Can commute to school with family, friends, or fellow students.

(Authority: 38 U.S.C. 1804(c))

(e) *Amount that VA may pay.* VA will reimburse the child for his or her actual cost of transportation, not to exceed $70 per month. VA must receive supportive documentation with each request for reimbursement. The individualized written plan of vocational rehabilitation will specify whether VA will pay monthly or at a longer interval.

(Authority: 38 U.S.C. 1804(c))

(f) *Nonduplication.* A child eligible for reimbursement of transportation services both under this section and under § 21.154 will receive only the benefit under § 21.154.

(Authority: 38 U.S.C. 1804(c))

Additional Applicable Regulations

§ 21.8380 Additional applicable regulations.

The following regulations are applicable to children in this program in a manner comparable to that provided for veterans under the 38 U.S.C. chapter 31 program: § 21.380, 21.412, 21.414 (except (c), (d), and (e)), 21.420, and 21.430.

(Authority: 38 U.S.C. 1804, 5112)

Delegation of Authority

§ 21.8410 Delegation of authority.

The Secretary delegates authority for making findings and decisions under 38 U.S.C. 1804 and the applicable regulations, precedents, and instructions for the program under this subpart to the Under Secretary for Benefits and to VR&C supervisory or non-supervisory staff members.

(Authority: 38 U.S.C. 512(a))

[FR Doc. 97–17225 Filed 6–30–97; 8:45 am]

BILLING CODE 3810–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AH91

Veterans Education: Approval of Correspondence Programs or Courses

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the VA-administered educational assistance and educational benefits regulations concerning approval of programs of education pursued exclusively by correspondence and the correspondence portion of correspondence-residence courses for Department of Veterans Affairs (VA) training. A number of changes would be made to conform to statutory changes. Also, it is proposed to require that the educational institution offering a correspondence program or course certify to the State approving agency (SAA) that at least 50 percent of those pursuing the program or course require 6 months or more to complete it based on the 6-month period immediately preceding the educational institution's application for approval. The certification is to enable the SAA to determine whether the program or course meets the statutory requirement that at least 50 percent of those pursuing the program or course require 6 months or more to complete it. The regulations would also be amended to expressly

provide that the SAA may periodically review the program or course approvals already granted and that this determination would be based on the records of the school for a 2-year period reasonably related to the date on which such review is conducted. These periods appear to be appropriate to determine compliance with the statutory requirements. Further, it is proposed to remove, due to the deletion of the statutory basis for its adoption, the requirement that the program or course must require not less than 6 hours preparation per week over any 26-week period and would change related requirements for SAAs. In addition, this document would clarify that the provisions concerning enrollments in the program or course apply not only to eligible veterans, spouses, and surviving spouses, but also to reservists. Other changes would be made for purposes of clarity. This document also requests comments on proposed collections of information under the Paperwork Reduction Act.

DATES: Comments must be received on or before September 2, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900-AH91.'' All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, 202–273–7187.

SUPPLEMENTARY INFORMATION: Regulations concerning VA-administered educational assistance and educational benefits are set forth at 38 CFR part 21. The current regulations regarding programs of education pursued exclusively by correspondence and combined correspondence-residence courses that may be approved for VA training are set forth at § 21.4256. The current regulations:

- Provide for approval of courses, whether accredited or nonaccredited;
- Provide that the school offering the course must certify the normal time period required for completion of the course;
- Provide that no more than 20 percent of the students pursuing the course should be able to complete the course in less than 6 months in order for the course to be certified as requiring 6 months or more to complete, and provide that this determination shall be based on the records of the school for the 2 immediately preceding years; and
- Provide that the course must require at least 6 hours of preparation per week over any 26-week period.

With respect to payment of VA educational assistance, the Veterans' Benefits Improvement Act of 1994, Public Law 103–446, amended statutory provisions to provide that, as to programs of education offered exclusively by correspondence or the correspondence portion of a correspondence-residence course, only programs or courses offered by an educational institution that is accredited may be approved; and negated a prior regulatory requirement providing that the normal period required to complete a program of education by correspondence or the correspondence portion of a combination correspondence-residence course may not be less than 6 months and imposed the requirement that at least 50 percent of those pursuing the program or course shall require 6 months or more to complete it. The regulations at §§ 21.4256 and 21.4279 would be amended to reflect these statutory changes.

Current regulations regarding review of an application for a new program or course approval provide that an SAA reviewing the application must determine whether it meets the completion requirements based on the 2-year period immediately preceding the educational institution's application for approval. It is proposed to change the 2-year period to a 6-month period. This is proposed since it appears that a 6-month period is all that is needed to make a determination under the statutory requirement that at least 50 percent of those pursuing the program or course require 6 months or more to complete it. VA is aware that, in effect, this would require that a correspondence program or course be offered for at least 6 months before it could be approved, but it appears that this is the most reasonable choice available to the Department.

The Department considered, for the programs and courses that are subject to the statutory completion requirement of 6 months or more, allowing the SAA to approve, prior to the end of 6 months, programs or courses that had never been offered before and to evaluate the completion rate after sufficient time had elapsed. If the completion rate were unsatisfactory, approval would be withdrawn. VA decided against this alternative because such an approach could allow payments to be made to individuals enrolled in courses that subsequently fail to meet the statutory requirement and thereby cause overpayments.

For correspondence course approvals already granted, the current rule provides that the determination of whether the completion requirement has been met shall be based on the records of the school for the 2 immediately preceding years. To make explicit in § 21.4256 the review process that VA believes accords with the statutory scheme concerning the responsibilities of SAAs, it is proposed to permit SAAs to review periodically correspondence program or course approvals already granted and to determine whether the completion requirement was met by examining a prior 2-year period reasonably related to the date on which such review is conducted. It appears that a 2-year period allows for a review of data over a sufficiently long period to verify that a decision to continue an approval would be the correct one. This change would allow for some flexibility. It appears that by application of this rule, ease of administration would be promoted and the cost of data provision for the reviews may be reduced, while retaining an appropriate means of determining compliance with the statutory approval requirement. Thus, this proposal would retain a 2-year period for review of approvals already granted but would reduce to 6 months the review period for new approvals.

VA proposes to remove the current regulatory requirement that a correspondence program or course must require at least 6 hours of preparation per week over any 26-week period because the statutory basis for its adoption was deleted and the amended statute does not include such a restriction.

Currently, section 21.4279 contains specific rules for approval of courses that are offered in part by correspondence and in part by residence. Public Law 103–446 amended the governing statute so that these correspondence-residence courses have to meet the same approval criteria as courses offered exclusively by correspondence. The provisions of section 21.4279 would be amended to conform to the statute. It is also proposed that these courses would have to meet the same course completion criteria as correspondence programs, including the time periods during which the SAA will determine whether course completion criteria have been met. It appears that it would be prudent

to adopt the same rules for these courses as for correspondence courses because the rationale for correspondence courses applies equally to correspondence-residence courses. Furthermore, it appears that approval errors would be reduced if correspondence programs and correspondence-residence courses had to meet the same course completion criteria, including the time period during which the course completion time criteria has to be met.

In addition, this document would clarify that the provisions concerning enrollments in correspondence courses apply not only to eligible veterans, spouses, and surviving spouses, but also to reservists. Other changes also would be made for purposes of clarity.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), collections of information are set forth in the proposed 38 CFR 21.4256(a)(1), 21.4256(b)(3), and 21.4279. Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to the Office of Management and Budget (OMB) for its review of the proposed collections of information.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AH91.''

Title: Certification as to the Completion Time of a Correspondence Program or Course.

Summary of collection of information: The proposed 38 CFR 21.4256(a)(1) would provide that before an SAA could approve a program of education offered by correspondence or the correspondence portion of a correspondence-residence course, the educational institution offering the program or course would have to certify to the SAA that at least 50 percent of those pursuing the program or course require six months or more to complete it. The proposed rule would add a provision that the determination of compliance with the statutory requirement that at least 50 percent of those pursuing the program or course require 6 months or more to complete it must be based on the experience of students who completed the program or course during the 6-month period immediately preceding the educational institution's application for approval of the program or course. The proposed rule also would permit the SAA to review periodically the record of an already approved program or course regarding completion time by examining a prior two-year period reasonably related to the date on which such review is conducted.

The provisions of the proposed 38 CFR 21.4279(a) also would require that a program of education could be pursued in a correspondence-residence course only if the course met the requirements of § 21.4256(a) with respect to the length of time it takes students to complete the course. This is a restatement of statute, except that through the reference to § 21.4256(a) the experience of the students in the course during the six-month period immediately preceding the educational institution's application for approval of the course would be required to be considered by the SAA when determining whether the course can be approved.

Description of need for information and proposed use of information: VA contracts with various agencies of the State governments to approve courses for VA training. A statute requires that a program of education pursued exclusively by correspondence or the correspondence portion of a combined correspondence-residence course may not be approved unless at least 50 percent of those persons pursuing such a program or course take six months or more to complete it. The SAA needs this information to consider approval of such programs or courses. Although VA occasionally acts as an SAA, VA is not the primary user of this information.

The States would collect this information when an educational institution applies for approval of a new correspondence program or course. The proposed rule would also give States the authority to periodically review the length of time needed to complete a previously approved correspondence program or course. VA believes that this collection of information would be annual or less frequently.

Description of likely respondents: Educational institutions that offer correspondence programs or courses or combined correspondence-residence courses and that wish to have those programs or courses approved for VA training.

Estimated number of respondents: 11.

Estimated frequency of responses: Annually. Some educational institutions would have to supply the information several times a year as they develop new programs or courses or as the SAA verifies compliance with the rule for programs or courses already approved. Others would supply the information less frequently than annually if they develop new programs or courses less frequently. VA estimates that the average frequency would be annually.

Estimated average burden per collection: 3.27 hours.

Estimated total annual reporting and recordkeeping burden: 36 hours. VA estimates that there would be no additional recordkeeping burden imposed. Officials of schools have records of when the first lesson in a correspondence course is sent to a student and when the last lesson was received. Hence, the officials have records showing how long it took a student to complete the course or program. Usually these records are stored electronically. Therefore, VA estimates that there would be no additional recordkeeping burden imposed by the adoption of this proposed rule. As indicated above, VA anticipates that this information would have to be supplied to an SAA by an educational institution an average of annually. VA estimates that to do a search by computer to determine whether 50 percent of the students over either a 6-month or a 2-year period took 6 months or more to complete a program or course and then to file such a report with the SAA would take 3.27 hours. This estimate is based on informal discussions with officials of educational institutions that offer courses or programs by correspondence. The estimated annual reporting burden is 36 hours.

Title: Affirmation of Enrollment Agreement.

Summary of collection of information: The provisions of the proposed 38 CFR 21.4256(b)(3) would restate a statutory provision found in 38 U.S.C. 3686(b). The statute requires that an individual pursuing a correspondence course must submit to VA a written affirmation of the enrollment agreement between the individual and the educational institution offering the course. If VA does not receive this written affirmation, the enrollment agreement is not effective, and VA may not award educational assistance to the individual.

Description of need for information and proposed use of information: This statutory provision provides a consumer

protection because, in effect, it provides a 10-day period when the individual can consider whether he or she actually wishes to enroll in the correspondence course. If the individual does not wish to enroll, he or she merely does not send in an affirmation to VA. Consequently, the use this information has for VA is to provide evidence that the individual has carefully considered the step he or she is taking in enrolling and to enable VA to comply with a statutory prerequisite for the awarding of educational assistance for pursuit of a correspondence course.

Description of likely respondents: Individuals who enroll in correspondence courses and who wish to receive educational assistance from VA.

Estimated number of respondents: 3500 per year.

Estimated frequency of responses: Once, upon enrollment in a correspondence course.

Estimated average burden per collection: 5 minutes.

Estimated total annual reporting and recordkeeping burden: 292 hours. VA estimates that there would be no additional recordkeeping burden imposed. Individuals are not required to keep a record of the fact that they have sent in a written affirmation to VA, although, of course, they may choose to do so. As indicated above, VA anticipates that this information would have to be supplied once upon enrollment in a correspondence course. In recent years, an average of 3500 students per year have enrolled in such courses in all the educational programs VA administers. VA estimates that it would take each individual an average of 5 minutes to sign an affirmation and mail it to VA. 3500 x .083 = 291.67 hours, which rounded gives the estimate of 292 hours.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

The Secretary of Veterans Affairs certifies that the adoption of this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Although it is possible that small entities could be among the educational institutions affected by this rulemaking, the adoption of this proposed rule would have only a minuscule effect on any educational institution. Pursuant to 5 U.S.C. 605(b), this proposed rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

(The Catalog of Federal Domestic Assistance numbers for programs affected by this proposed rule are 64.117, 64.120, and 64.124. This proposed rule will also affect the Montgomery GI Bill—Selected Reserve program, for which there is no Catalog of Federal Domestic Assistance number.)

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 23, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out above, 38 CFR part 21 (subpart D) is proposed to be amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

1. The authority citation for part 21, subpart D, is revised to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

2. Section 21.4256 is revised to read as follows:

§ 21.4256 Correspondence programs and courses.

(a) *Approval of correspondence programs and courses.* (1) An educational institution desiring to enroll veterans under 38 U.S.C. chapter 30 or 32, spouses and/or surviving spouses under 38 U.S.C. chapter 35, and/or reservists under 10 U.S.C. chapter 1606 in a program of education to be pursued exclusively by correspondence, or in the correspondence portion of a combination correspondence-residence course, may have the program or course approved only when the educational institution meets the requirements of §§ 21.4252(e), 21.4253, and 21.4279, as applicable.

(Authority: 38 U.S.C. 3672(e))

(2) The application of an educational institution for approval of a program of education to be pursued exclusively by correspondence or the correspondence portion of a combined correspondence-residence course must demonstrate that the program or course is satisfactory in all elements. The educational institution must certify to the State approving agency that at least 50 percent of those pursuing the program or course require 6 months or more to complete it. For applications for approval that are pending approval by the State approving agency on February 2, 1995, and for applications received by the State approving agency after that date, the required certification shall be based on the experience of students who completed the program or course during the 6-month period immediately preceding the educational institution's application for approval.

(Authority: 38 U.S.C. 3672(e))

(3) State approving agencies have the authority to review periodically the length of time needed to complete each approved correspondence program or approved correspondence-residence course in order to determine whether the program or course should continue to be approved. In implementing this authority, a State approving agency will examine the results over a prior 2-year

period reasonably related to the date on which such a review is conducted.

(Authority: 38 U.S.C. 3672(e))

(b) *Enrollment agreement.* (1) An educational institution offering a program of education to be pursued exclusively by correspondence must enter into an enrollment agreement with the veteran, spouse, surviving spouse, or reservist who wishes to receive educational assistance from VA while pursuing the program. The enrollment agreement shall disclose fully the obligations of the institution and the veteran, spouse, surviving spouse, or reservist, and shall display in a prominent place on the agreement the conditions for affirmance, termination, refund, and payment of the educational assistance by VA.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(a)(1), 3686(b))

(2) A copy of the agreement shall be given to the veteran, spouse, surviving spouse, or reservist when it is signed.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(b))

(3) The agreement shall not be effective unless the veteran, spouse, surviving spouse, or reservist after the expiration of 10 days after the agreement is signed, shall have signed and submitted to VA a written statement, with a signed copy to the institution, specifically affirming the agreement.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(b))

(c) *Mandatory refund policy.* (1) Upon notification of the educational institution by the veteran, spouse, surviving spouse, or reservist of an intention not to affirm the enrollment agreement, any fees paid by the individual shall be returned promptly in full to him or her.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(2) Upon termination of enrollment under an affirmed enrollment agreement for training in the accredited course by the veteran, spouse, surviving spouse, or reservist, without having completed any lessons, a registration fee not in excess of 10 percent of the tuition for the course or $50, whichever is less, may be charged him or her. When the individual terminates the agreement after completion of less than 25 percent of the lessons of the course, the institution may retain the registration fee plus 25 percent of the tuition. When the individual terminates the agreement after completing 25 percent but less than 50 percent of the lessons, the institution may retain the registration fee plus 50 percent of the tuition for the course. If 50 percent or more of the lessons are completed, no refund of tuition is required.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(3) Where the school either has or adopts an established policy for the refund of the unused portion of tuition, fees, and other charges subject to proration, which is more favorable to the veteran, spouse, surviving spouse, or reservist than the pro rata basis as provided in paragraph (b)(2) of this section, such established policy will be applicable.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(4) Any institution that fails to forward any refund due to the veteran, spouse, surviving spouse, or reservist within 40 days after receipt of a notice of termination or disaffirmance, shall be deemed, prima facie, to have failed to make a prompt refund as required by this section.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

3. In § 21.4279, paragraph (a) introductory text and paragraph (a)(4) are revised, and paragraph (a)(5) is added, to read as follows:

§ 21.4279 Combination correspondence-residence program.

(a) *Requirements for pursuit.* A program of education may be pursued partly in residence and partly by correspondence for the attainment of a predetermined and identified objective under the following conditions:

* * * * *

(4) The educational institution offering the course is accredited by an agency recognized by the Secretary of Education; and

(5) The State approving agency has approved the correspondence-residence course and has verified compliance with the requirement of 38 U.S.C. 3672(e) and § 21.4256(a) that at least 50 percent of those pursuing the correspondence-residence course require 6 months or more to complete it.

(Authority: 38 U.S.C. 3672(e))

* * * * *

[FR Doc. 97–17216 Filed 6–30–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 970527125–7125–01; I.D. 032797B]

RIN 0648–AJ95

Magnuson Act Provisions; Appointment of Regional Fishery Management Council Members

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to amend the regulations governing the nomination and appointment of members of regional fishery management councils to establish the procedures applicable to the nomination and appointment to the Pacific Fishery Management Council of a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The purpose of this rule is to implement certain sections of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended by the Sustainable Fisheries Act (SFA) which require such an appointment.

DATES: Comments on the proposed rule must be received on or before July 31, 1997.

ADDRESSES: Comments should be sent to Mr. Will Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070; or to Mr. William Hogarth, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6142 or Rodney McInnis at 310–980–4040.

SUPPLEMENTARY INFORMATION: On October 11, 1996, President Clinton signed into law the SFA which amended the Magnuson-Stevens Act. The SFA added a seat on the Pacific Fishery Management Council (Pacific Council) exclusively for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho. Specifically, section 302(b)(5)(A) of the Magnuson-Stevens Act requires that:

The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

Sections 302(b)(5)(B)(i), (ii), and (iii) of the Magnuson-Stevens Act require that representation be rotated among the tribes taking into consideration the qualifications of the individuals on the list, the various rights of the Indian tribes involved and judicial cases that set out how those rights are to be exercised, and the geographic area in which the tribe of the representative is located. Finally, section 302(b)(5)(C) requires that ''a vacancy occurring prior to the expiration of any term * * * be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.''

Having consulted with the Secretary of the Interior and the tribal governments, NMFS proposes to consult with and rely on the advice of the Bureau of Indian Affairs, Department of the Interior, in determining from which Indian tribes to solicit nominations for the Council seat. By statute, NMFS must solicit nominees only from those Indian tribes with federally recognized fishing rights from California, Oregon, Washington, or Idaho. NMFS proposes to solicit nominees who are knowledgeable and experienced regarding the fishery resources affected by the recommendations of the Pacific Council. NMFS proposes to solicit nominations in writing from each tribal government to produce a list of not less than three individuals from which the Secretary of Commerce (Secretary) will appoint one individual to the Pacific Council for a term of 3 years. Since this new Council seat is specifically for a tribal representative, NMFS proposes that prior service on the Council in a different capacity will not disqualify a nominee proposed by a tribal government. NMFS proposes that if any tribal representative appointed to the Council vacates the Council seat prior to the expiration of any term, the Secretary may appoint a replacement for the remainder of the vacant term from the original list of nominees or may solicit a new set of nominees following the process described above. NMFS proposes that no tribal representative may serve more than three consecutive terms in the Indian tribal seat.

As required by statute, the Secretary will rotate the appointment of a tribal representative to the Pacific Council among the tribes, taking into consideration the qualifications of the individuals nominated, the various rights of the Indian tribes involved and judicial cases that set out how those rights are to be exercised, and the geographic area in which the tribe of the representative is located. Because numerous California, Oregon, Washington, and Idaho Indian tribes have federally recognized fishing rights that are potentially affected by actions of the Pacific Council, there is the potential for a large number of nominations, which may slow the process of appointing a single representative. NMFS encourages coordination among the tribes in order to nominate in total a limited number of qualified individuals. By having fewer individuals nominated, adequate time is assured to consider each nominee's qualifications and ensure the timely appointment of an individual to the Pacific Council seat.

Because this rule is a rule of agency organization and practice, under 5 U.S.C. 553(b)(A), it may be issued without prior notice and opportunity for public comment. Nevertheless, NMFS is voluntarily soliciting comments on this rule and will consider all such comments received within 30 days following publication of this proposed rule. NMFS is especially interested in receiving comments from potentially affected Indian tribes.

Classification

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

Because prior notice and opportunity for public comment is not required for this rule by 5 U.S.C. 553 or by any other law, under 5 U.S.C. 603(a) and 604(a) it is not subject to the analytical requirements of the Regulatory Flexibility Act.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to penalty for failure to comply with a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains a collection-of-information requirement subject to the PRA and which has been submitted to OMB for approval. The public reporting burden for Indian tribal governments' nominations for council appointments are estimated to average 120 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

Comments are invited on: (a) whether the proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection-of-information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection-of-information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection-of-information to the NMFS Northwest or Southwest Regional Administrators at the ADDRESSES above, and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

List of Subjects in 50 CFR Part 600

Fisheries, Fishing.

Dated: June 24, 1997.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 600 is proposed to be amended as follows:

PART 600—MAGNUSON ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.215, the introductory text is removed; paragraphs (a) through (g) are redesignated as paragraphs (a)(1) through (a)(7) respectively; former paragraphs (c)(1) through (c)(6) are redesignated as paragraphs (a)(3)(i) through (a)(3)(vi) respectively; former paragraphs (f)(1) and (f)(2) are redesignated (a)(6)(i) and (a)(6)(ii) respectively; former paragraphs (g)(1) through (g)(6) are redesignated (a)(7)(i) through (a)(7)(vi) respectively; and paragraphs (a) introductory text and (b) are added to read as follows:

§ 600.215 Appointments.

* * * * *

(a) *Members appointed from Governors' lists.* This paragraph applies to council members selected by the

Secretary from lists submitted by Governors pursuant to section 302(b)(2)(C) of the Magnuson-Stevens Act.

* * * * *

(b) *Tribal member.* This paragraph applies to the selection of the Pacific Fishery Management Council's tribal member as required by section 302(b)(5) of the Magnuson-Stevens Act.

(1) The Secretary shall appoint to the Pacific Fishery Management Council one representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than three individuals submitted by the tribal Governments.

(2) The Secretary shall solicit nominations of individuals for the list referred to in paragraph (b)(1) of this section only from those Indian tribes with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The Secretary will consult with the Bureau of Indian Affairs, Department of the Interior, to determine which Indian tribes may submit nominations.

(3) To assist in assessing the qualifications of each nominee, each tribal government must furnish to the NMFS Office of Sustainable Fisheries a current resume, or equivalent, describing the nominee's qualifications with emphasis on knowledge and experience related to the fishery resources affected by recommendations of the Pacific Council. Prior service on the Council in a different capacity will not disqualify nominees proposed by tribal governments.

(4) Nominations must be provided to NMFS by March 15 of the year in which the term of the current tribal member expires.

(5) The Secretary shall rotate the appointment among the tribes taking into consideration:

(i) The qualifications of the individuals on the list referred to in paragraph (b)(1) of this section.

(ii) The various rights of the Indian tribes involved and judicial cases that set out how those rights are to be exercised.

(iii) The geographic area in which the tribe of the representative is located.

(iv) No tribal representative shall serve more than three consecutive terms in the Indian tribal seat.

(6) Any vacancy occurring prior to the expiration of any term shall be filled in the same manner as described above except that the Secretary may use the list referred to in paragraph (b)(1) of this section from which the vacating member was chosen.

[FR Doc. 97–16955 Filed 6–30–97; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 126
Tuesday, July 1, 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

Foreign Agricultural Service

Public Briefings on Development of a U.S. Action Plan on Food Security

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that a public meeting regarding development of a U.S. Action Plan on Food Security will take place on July 21. Individual comments will be invited on specific actions which should be considered in the subsequent drafting of mini-papers on each of the topic areas listed below. Meetings will also be held September 23 and 24 to brief the public on the draft mini-papers, to respond to questions and receive reactions. The purpose of these meetings is to facilitate public participation in the process of developing the U.S. Action Plan on Food Security.

DATES: The meeting will be held on July 21, 1:00–5:00 p.m., and September 23 (domestic topics) and 24 (international topics), 9 a.m. to 4 p.m., all in Room 107A, Administration Building, U.S. Department of Agriculture in Washington, D.C.

SUPPLEMENTARY INFORMATION: The meetings are open to the public. Inquiries may be directed to the Office of the National Food Security Coordinator, Foreign Agricultural Service, Room 3008 South Building, U.S. Department of Agricultural, 14th and Independence Ave. SW, Washington, D.C. 10250, telephone (202) 690–0776 or fax (202) 720–6103.

The topic clusters are as follows:

Combined International/Domestic Topics

1. Promote Awareness, Education, and Involvement in Food Security and an Understanding of Root Causes of Food Insecurity; Strengthen Nutrition Education and Build Food Security Skills Domestically
2. Human Rights as a Framework for Food Security

Priority Domestic Topics

Themes

Create and Sustain Partnerships and Networks
Develop Community-Based Strategies for Achieving Food Security
3. Monitor Food Security and Nutritional Status
4. Research and Evaluation
5. Food Access for All (including maintaining an effective food security safety net)
6. Household Economic Security (including identifying and reducing barriers)
7. Sustainable Agriculture and Environment
8. Safe, Nutritious and Affordable Food and Water

Priority International Topics

9. Measuring Hunger and Mapping Risk
10. Appropriate Research, Education, and Extension for Food Production and Food Systems Economically, Environmentally and Socially Sustainable Agriculture
11. Prioritize the Allocation of Foreign Assistance to Promote Food Security Health, Nutrition, and Population Stabilization

The Role of Women
12. Trade, Food Distribution, and Economic Policy
13. Food Aid to Promote Food Security
14. Maximizing and Targeting Resources

Additional information is available on the FAS home page. (http://www.fas.usda.gov/icd/summit/summit.html) or by calling (202) 690–0776.

Signed in Washington, D.C. June 25, 1997.

Christopher E. Goldthwait,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 97–17169 Filed 6–30–97; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Establishment of Homochitto Purchase Unit

AGENCY: Forest Service, USDA.

ACTION: Notice of establishment of Homochitto Purchase Unit.

SUMMARY: The Deputy Under Secretary of Agriculture created the 67-acre Homochitto Purchase Unit in Franklin County, Mississippi. A copy of the establishment document, which includes the legal description of the lands within the purchase unit, appears at the end of this notice.

EFFECTIVE DATE: Establishment of this purchase unit was effective May 1, 1997.

ADDRESSES: A copy of the map depicting the land within the purchase unit is on file and available for inspection in the Office of the Director, Lands Staff, 201 14th Street, S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Jack Craven, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090, telephone (202) 205–1248.

Dated: June 20, 1997.

Janice H. McDougle,

Associate Deputy Chief, National Forest System.

Homochitto Purchase Unit, Franklin County, Mississippi

Pursuant to the Secretary of Agriculture's authority under Section 17, P.L. 94–588 (90 Stat. 2949), the following lands are being added to the Homochitto Purchase Unit:

Lands lying in Township 5 North, Range 4 East, Franklin County, Washington Meridian, Mississippi, and more particularly described as:

All that part of the N½ of the NE¼ of Section 31 lying South of the Homochitto River, and all that part of the N½ of the NW¼ of Section 32 lying South of the Homochitto River.

Containing 67 acres, more or less.

These lands are well suited for watershed protection and meet the requirements of the Act of March 1, 1911, as amended.

Dated: May 1, 1997.

Brian Eliot Burke,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 97–17139 Filed 6–30–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Oregon Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on July 15 and 16 at the Coos Bay Bureau of Land Management Office at 1300 Airport Lane, North Bend, Oregon. The meeting will begin at 9:00 a.m. and continue until 4:30 p.m. The meeting will be primarily a field tour. Agenda items to be covered include: (1) Marbled Murrelet habitat; (2) Province monitoring; (3) Update on Rogue and Umpqua Basin Assessments; (4) Forest Service and Bureau of Land Management local issues; and (5) Local watershed council field tour. All Province Advisory Committee meetings are open to the public. Interested citizens need to contact Chuck Anderson ahead of time for this field trip.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Chuck Anderson, Province Advisory Committee staff, USDA, Forest Service, Rogue River National Forest, 333 W. 8th Street, Medford, Oregon 97501, phone 541–858–2322.

Dated: June 23, 1997.

James T. Gladen,

Forest Supervisor, Designated Federal Official.

[FR Doc. 97–17137 Filed 6–30–97; 8:45 am]

BILLING CODE 3410–11–M

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATE: July 9–10, 1997.

PLACE: ARRB, 600 E Street, NW, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review and Accept Minutes of Closed Meeting
2. Review of Assassination Records
3. Other Business

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Assistant Press and Public Affairs Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

David G. Marwell,

Executive Director.

[FR Doc. 97–17287 Filed 6–27–97; 10:40 am]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Commodity Survey Test

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 2, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Judy Dodds, Assistant Chief for Census and Related Programs, Bureau of the Census, Room 2102, FB–4, Washington, DC 20233, Telephone (301) 457–4587.

SUPPLEMENTARY INFORMATION:

I. Abstract

The proposed information collection is a test of an alternate method of collecting manufacturers' product shipments data. Currently, we collect product class shipments from the establishments in the Annual Survey of Manufactures (ASM) and product shipments in the Census of Manufactures every five years. We also collect product shipments for various products from a combination of companies and establishments in the Current Industrial Reports (CIR) series. The data from the CIR, while quite detailed, do not cover all manufactured products. The data from the ASM, while comprehensive, does not provide sufficient detail for some data users.

The Census Bureau would like to design a survey that would satisfy the need for both comprehensive and more detailed product data. The survey would collect detailed product shipments data from a sample of all manufacturing companies. The survey would cover all manufacturers' products at greater detail than the current ASM but less detail that is available in the existing CIR. If it is possible to successfully design such a survey, we could reduce the size of the ASM and eliminate much of the existing CIR program and divert those resources to the new survey.

Before we give additional consideration to implementation, we are planning to test the concept. We plan to test the proposed survey using the chemicals industry (SIC major group 28) and the furniture industry (SIC major group 25). These industries were chosen because they contain a number of the difficult definitional and collection issues that we identified in our research. We plan to select a sample of approximately 2,900 companies and ask them to report their company level product shipments for data year 1997. We have drafted questionnaires and developed reporting instructions. We plan to compare the results of this test collection to data from the CIR program and the 1997 Census of Manufactures. Those comparisons and the results of response follow-up to the test survey should help us determine if this type of survey is feasible and likely to produce the results our data users need.

II. Method of Collection

We plan a mail out/mail back survey of approximately 2,900 companies. We plan to use three questionnaires so that the questionnaire can be somewhat ''tailored'' to the type of company. We will imprint those products that are most likely to be appropriate to the company, based on the classification of their manufacturing plants. We will include instructions that provide definitions and a complete list of the products we are collecting. Companies will be asked to report on the products we have imprinted on their forms and any others that are covered by the survey.

III. Data

OMB Number: Not available.

Form Number: MA25Z, MA28X and MA28Z.

Type of Review: Regular.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,900 companies.

Estimated Time Per Response: 30 minutes to 2 hours; average 1½ hours.

Estimated Total Annual Burden Hours: 4,350 hours.

Estimated Total Annual Cost: $56,246.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 25, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–17120 Filed 6–30–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Annual Survey of Local Government Finances (School Systems).

Form Number(s): F–33, F–33–1, F–33–L1.

Agency Approval Number: 0607–0700.

Type of Request: Revision of a currently approved collection.

Burden: 2,871 hours.

Number of Respondents: 894.

Avg. Hours Per Response: 3.2 hours.

Needs and Uses: The Census Bureau collects education finance data as part of its Annual Survey of State and Local Governments. This survey is the only comprehensive source of public fiscal data collected on a nationwide scale using uniform definitions, concepts and procedures. The collection covers the revenues, expenditures, debt, and assets of all public school systems. This data collection has been coordinated with the National Center for Education Statistics (NCES). The NCES uses this collection to satisfy its need for school system level finance data.

Information on the finances of our public schools is vital to assessing their effectiveness. This data collection makes it possible to access a single data base to obtain information on such things as per pupil expenditures and the percent of state, local, and federal funding for each school system. Recently, as exemplified by the establishment of the America 2000 education goals, there has been increased interest in improving the Nation's public schools. One result of this intensified interest has been a significant increase in the demand for school finance data.

The data to be collected is identical to the previous collection except as follows:

1—In order to differentiate between payments made to public school systems and those made to private school systems, we are adding an item that identifies payments to private schools.

2—In order to differentiate between payments made to public schools, those made to private schools, and those made to quasi-public charter schools, we are adding an item that identifies payments to charter schools.

3—We are eliminating separate items that request expenditure data for business support, central support, and other support services and will collect them under a single combined heading, as respondents often do not separately collect the detail for these three functions.

Affected Public: State, local, or tribal government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 USC, Sections 161 and 182.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: June 24, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–17121 Filed 6–30–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Benchmark Survey of Foreign Direct Investment in the United States—1997

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 2, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be directed to: R. David Belli, U.S. Department of Commerce, Bureau of Economic Analysis, BE–50(OC), Washington, DC 20230 (Telephone: 202–606–9800).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Benchmark Survey of Foreign Direct Investment in the United States—1997 will obtain universe data on the financial and operating characteristics of, and on positions and transactions between, U.S. affiliates and their foreign parents. The data from the quinquennial survey will provide benchmarks for deriving current universe estimates of foreign direct investment from sample data collected in other BEA surveys in nonbenchmark years. The data are needed to measure the size of foreign direct investment in the United States, monitor changes in such investment, assess its impact on the U.S. economy, and based upon this assessment, make

informed policy decisions regarding foreign direct investment in the United States. They are required for compiling the balance of payments, international investment position, and national income and product accounts of the United States.

Key changes proposed by BEA from the previous benchmark survey include reducing respondent burden, particularly for small companies, by: (1) Increasing the exemption level for reporting on the survey to $3 million (measured by the company's total assets, sales, or net income) from $1 million in the 1992 survey; (2) increasing the exemption level at which reporting on the long form version of the survey is required from $50 million to $100 million; and (3) requiring reporting companies with assets, sales, or net income between $3 million and $30 million to report only selected data items on the short form version. In addition, BEA proposes to base industry coding of reporting companies on the new North American Industry Classification System (NAICS) in place of the current system which is based upon the U.S. Standard Industrial Classification system; to collect new information on affiliated services transactions by type of service; and to modify the detail collected on the composition of external financing of the reporting enterprise, on exports and imports of goods by product, and on the operations of foreign-owned businesses in individual States.

II. Method of Collection

The survey will be sent to potential respondents in February 1998, and responses are due on May 31, 1998. Each U.S. business enterprise that was owned 10 percent or more by a foreign person at the end of its 1997 fiscal year, and had total assets, sales or gross operating revenues, or net income that exceed $3 million must file a report. U.S. business enterprises that were owned 10 percent or more by a foreign person at the end of their 1997 fiscal years but had total assets, sales or gross operating revenues, and net income that did not exceed $3 million, and other U.S. businesses that receive a copy of the survey but are not subject to reporting, must file a claim for exemption from filing in the benchmark survey.

III. Data

OMB Number: 0608–0042 (the number assigned to the previous quinquennial survey).

Form Number: BE–12.

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 11,000.

Estimated Time Per Response: 22 hours is considered the average but the amount of time to complete the survey depends on the size and complexity of the business.

Estimated Total Annual Burden: 245,000 hours.

Estimated Total Annual Cost: $7,350,000 (based on an estimated reporting burden of 245,000 hours and an estimated hourly cost of $30). No capital costs will need to be expended to respond to the collection.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 24, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–17122 Filed 6–30–97; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Materials Technical Advisory Committee will be held July 24, 1997, 10:30 a.m., Herbert C. Hoover Building, Room 1617M–2, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda: General Session

1. Opening remarks by the Chairman.
2. Presentation of papers and comments by the public.
3. Review of Committee letters to the Department regarding a proposal for decontrol of aluminum alloys and titanium alloys and regarding implementation of the provisions of the Biological Weapons Convention protocol.

Executive Session

4. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the materials should be forwarded two weeks prior to the meeting to the address below:

Ms. Lee Ann Carpenter, TAC Unit/OAS/EA MS:3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 13, 1996, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public. A copy of the notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For further information or copies of the minutes call (202) 482–2583.

Dated: June 25, 1997.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 97–17095 Filed 6–30–97; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061997B]

Longline Advisory Panel; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Advisory Panel (AP) for the pelagic longline fishery for Atlantic highly migratory species (HMS) will hold its first meeting on July 9–10, 1997, in Silver Spring, MD.

DATES: The meeting will begin on July 9, 1997 at 1:00 p.m. and will continue on July 10, 1997, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Liz Lauck, telephone: (301) 713–2347, Fax (301) 713–1917.

SUPPLEMENTARY INFORMATION: The longline AP is established under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq. The longline AP will assist the Secretary of Commerce in preparing a study on the feasibility of implementing a comprehensive management system for the pelagic longline fishery for Atlantic HMS. Input for the study will include, among other things, the deliberations and recommendations of the longline AP and the findings of a series of workshops and surveys with affected fishery participants to identify future management options for the fishery. The longline AP meeting is open to the public and will be attended by members of the AP, including appointed members, representatives of the five fishery management councils that work with HMS, the Atlantic and Gulf states that work with HMS, the Atlantic and Gulf states marine fisheries commissions, and the Chair, or his representative, of the U.S. Advisory Committee to the International Commission for the Conservation of Atlantic Tunas. Potential agenda items include:

(1) The role of the AP in the HMS management process.

(2) Operating Practices and Procedures for the AP.

(3) Initial scoping by the AP for a study on the feasibility of implementing a comprehensive management system for the pelagic longline fishery for Atlantic HMS.

This meeting is physically accessible to people with disabilities.

Requests for sign language interpretation or other auxiliary aids should be directed to Liz Lauck, 1315 East-West Highway, Silver Spring, MD 20910, phone (301) 713–2347 at least 5 days prior to the meeting date.

Dated: June 24, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–17085 Filed 6–25–97 ;4:42 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Advisory Committee on Gender-Integrated Training and Related Issues in the Military Services

ACTION: Notice.

SUMMARY: The Advisory Committee on Gender-Integrated Training and Related Issues in the Military Services (Army, Navy, Air Force, Marines Corps) (the ''Committee'') is being established in consonance with the public interest, and in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act,'' Title 5 U.S.C., Appendix 2.

The Committee will advise and make recommendations to the Secretary of Defense and Deputy Secretary of Defense regarding current training programs and policies of the Military Services and related morale and discipline issues. The Committee will meet, hold hearings, and submit a final report approximately six months after the first meeting is held.

The Committee will consist of a balanced membership of approximately nine experts appointed by the Secretary of Defense from private life who have substantial expertise, knowledge or experience in matters of public policy, and possess such other requirements as the Secretary of Defense may determine. At lease four members shall be retired military personnel.

For further information regarding the Committee, contact: Mr. Henry J. Gioia, telephone (703) 695–4281.

Dated: June 24, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–17096 Filed 6–30–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Proposed Placement of Dredged Material at Site 104, Chesapeake Bay, Queen Anne County, MD

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of meetings.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, Public Law (92–463) announcement is made of the following public meetings:

Name of Project: Proposed Placement of Dredged Material at Site 104, Chesapeake Bay, Queen Anne County, Maryland.

Dates, Times, and Locations of Meetings:

July 15, 1997—7:00 p.m.—Kent County Court House, Commissioners Hearing Room—First Floor, 103 North Cross Street, Chestertown, Maryland 21620

July 17, 1997—7:00 p.m.—Queen Anne's County Office Building, Second Floor Meeting Room, 208 North Commerce Street, Centreville, Maryland 21617

July 22, 1997—7:00 p.m.—Broadneck High School, 1265 Green Holly Drive, Annapolis, Maryland 21401

Proposed Agenda: The meetings will consist of presentations on the following topics: the history of use of Suite 104 for placement of dredged material, proposed plans to place additional clean dredged material from maintenance of the Federal navigation channels in the mainstem of the Chesapeake Bay leading to the Baltimore Harbor and the Port of Baltimore, and alternative equipment and placement methods. A discussion period will follow the presentations. The meetings will begin at 7:00 p.m. and are expected to adjourn at 9:00 p.m. The meetings are open to the public and any interested person may attend. Additional public meetings will be scheduled during development of alternative plans and to receive comments during the public review of the Draft Environmental Impact Statement (EIS) for the proposed project.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Walls, CENAB–P–TN (104), USAED, P.O. Box 1715, Baltimore, Maryland 21203–1715.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–17129 Filed 6–30–97; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF EDUCATION

Intent To Compromise Audit Claim Against the Commonwealth of Massachusetts Department of Education

AGENCY: Department of Education.

ACTION: Notice of intent to compromise audit claim.

SUMMARY: The United States Department of Education (Department) intends to compromise an audit claim against the Commonwealth of Massachusetts Department of Education (Massachusetts) now pending before the Office of Administrative Law Judges (OALJ). Docket No. 95–84–R (20 U.S.C. 1234a(j)).

DATES: Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before August 15, 1997.

ADDRESSES: Comments should be addressed to Cathy L. Grimes-Miller, Esq., U.S. Department of Education, Office of the General Counsel, 600 Independence Avenue, S.W., Room 5100, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Cathy L. Grimes-Miller, Esq., Telephone (202) 401–8292. 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: The claim in question arose from an audit of the financial affairs and operations of Massachusetts for the period July 1, 1991, through June 30, 1992 (State fiscal year 1992). The audit was performed by the independent public accounting firm of Deloitte and Touche to fulfill the requirements of the Single Audit Act of 1984 (Public Law No. 98–502) and the Office of Management and Budget Circular No. A–128, as set forth in Department regulations at 34 CFR Part 80, Appendix. The audit included an evaluation of Massachusetts' internal control structure policies and procedures, including those related to administration of Federal financial assistance programs. Among other things, the auditors examined compliance with Federal maintenance of effort requirements in Massachusetts' vocational education program.

The auditors found that Massachusetts did not meet the maintenance of effort requirement in its vocational education program for State fiscal year 1992 on either an aggregate or per pupil basis, as required by section 502(a) of the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act), as amended, 20 U.S.C. 2463(a). The auditors recommended that Massachusetts ''make every effort to ensure that the state resources for the Vocational Education Program are sufficient to comply with the federal government's maintenance of effort requirement.''

Department officials issued a program determination letter (PDL) on March 31, 1995. The PDL demanded a refund in the amount of $4,604,211, based on a determination by the Assistant Secretary for Vocational and Adult Education (Assistant Secretary) that Massachusetts failed to maintain fiscal effort in accordance with section 502(a) of the Perkins Act for State fiscal year 1992. Massachusetts filed a timely request for review of the PDL with the OALJ. Thereafter, the Administrative Law Judge assigned to the appeal granted the parties' joint motion to stay the proceeding pending voluntary mediation.

During mediation, Massachusetts submitted substantial additional documentation purporting to show that it maintained fiscal effort in 1992. After conducting a thorough review of such documentation and re-examining the documentation upon which the PDL was based, the Assistant Secretary has redetermined Massachusetts' actual maintenance of effort shortfall for State fiscal year 1992 to be $2,311,810. Accordingly, the Department has withdrawn its claim for $2,292,401 of the $4,604,211 sought in the PDL, thereby reducing the refund demanded to $2,311,810.

The Department proposes to compromise the $2,311,810 refund demanded for $2,111,810. Under the proposed compromise, Massachusetts would repay the full principal amount of $2,111,810 by September 1, 1997.

The documentation submitted by Massachusetts during mediation consisted primarily of data and information relating to student enrollment and expenditures in its vocational education program for State fiscal years 1990 and 1991. *See* 20 U.S.C. 2463(a) (maintenance of effort determination based on State expenditures in two fiscal years preceding fiscal year for which determination is made). In addition, Massachusetts raised various legal and factual issues that could reduce or eliminate the remaining amounts at issue.

Based on the amount that would be repaid by Massachusetts under the proposed settlement agreement, the additional documentation submitted by Massachusetts during mediation, and the litigation risks and costs of proceeding through the administrative and, possibly, court process for this appeal, the Department has determined that it would not be practical or in the public interest to continue this proceeding. Rather, under the authority provided in 20 U.S.C. 1234a(j)(1), the Department has determined that compromise of this audit claim for $2,111,810 is appropriate.

The public is invited to comment on the Department's intent to compromise this audit claim. Additional information may be obtained by calling or writing to Cathy L. Grimes-Miller, Esq. at the telephone number and address listed at the beginning of this notice.

Program Authority: 20 U.S.C. 1234a(j).

Dated: June 26, 1997.

Donald Rappaport,

Chief Financial Officer.

[FR Doc. 97–17205 Filed 6–30–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Financial Assistance Program Notice 97–17; Human Genome Program—Technologies in Support of the DOE Joint Genome Institute

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 (ER), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications for support of the Human Genome Program. This Program is a coordinated multidisciplinary research effort to develop creative, innovative resources and technologies that lead to a molecular level understanding of the human genome. As one aspect of this program, the DOE is establishing a ''Joint Genome Institute'' (JGI) to develop a DNA sequencing factory. The JGI will oversee a central sequencing facility that will initially have parallel production lines that use shotgun and transposon-based directed sequencing approaches. This dual approach is intended to evolve into an optimized and unified sequencing strategy within two to three years. This unified strategy will take advantage of technologies and expertise at the JGI and in the broader research community. An important aspect of developing this automated facility will be the establishment of

external collaborations and partnerships aimed at technology development. The JGI's genomic sequencing program will also be coupled to a collection of experimental functional genomics approaches designed to provide a partial functional characterization of the genes as they are revealed by the sequencing. Here, the primary goal will be to develop cost-effective approaches that can yield worthwhile functional information. A related goal is to develop improved ways of integrating human genomics with the information coming from model organism genomics.

DATES: Preapplications referencing Program Notice 97–17 should be received by August 1, 1997. Formal applications in response to this notice must be received by 4:30 p.m., E.D.T., October 16, 1997, to be accepted for merit review and to permit timely consideration for award in FY 1998.

ADDRESSES: Preapplications referencing Program Notice 97–17 should be sent to Dr. Marvin E. Frazier, Office of Health and Environmental Research, ER–72, Office of Energy Research, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290; e-mail is acceptable for submitting preapplications using the following address: joanne.corcoran@oer.doe.gov. Formal applications referencing Program Notice 97–17 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 97–17. This address must be used when submitting applications by U.S. Postal Service Express Mail or any commercial mail 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: Dr. Marvin E. Frazier, ER–72, Office of Health and Environmental Research, Office of Energy Research, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone: (301) 903–6488, e-mail: joanne.corcoran@oer.doe.gov.

SUPPLEMENTARY INFORMATION: The goal of this notice is to support technology development that serves the needs of the Department of Energy's (DOE) Joint Genome Institute (JGI). The DOE JGI is developing a high throughput DNA sequencing factory. This factory will take advantage of the complementing strengths of each of the three current DOE Genome Centers: Lawrence Berkeley National Laboratory (LBNL), Lawrence Livermore National Laboratory (LLNL), and Los Alamos National Laboratory (LANL). The JGI Sequencing Factory will be physically located in proximity to LLNL and LBNL. The Scientific Director of the DOE Human Genome Program, Dr. Elbert Branscomb, is the leader of the JGI. With respect to the JGI genomic sequencing task, the specific goals are: (1) To establish a cooperative technology development project with an outside entity that will produce, within two years, an automated DNA sequencing production line based on either shotgun or directed strategies; and (2) to develop and implement technologies for automated and advanced high-throughput DNA sequencing that can be integrated into the unified sequencing production strategy that is identified and implemented at the JGI.

In support of the first goal, the grantee will form a close collaboration with the JGI aimed at technology co-development and transfer for high throughput production DNA sequencing. A critical success factor for this effort will be the construction of a new, highly automated pilot DNA sequencing production line at the JGI within 6 to 9 months of the project's start. The grantee, working in conjunction with the JGI, will help build and maintain automated devices as appropriate for this pilot line (e.g., those for DNA purification, DNA sequencing, and automated finishing). It is anticipated that this pilot DNA sequencing production line may use, in significant part, technology supplied by the grantee. The second phase of the project, to be completed within two years, will be the development of a high throughput DNA sequencing production line. It is anticipated that this production line will lead current technology in automation and the minimization of human labor and will ultimately produce 100–200 Mb of finished human genomic sequence per year. It is also expected that, in close cooperation with the JGI, the grantee will use the technology being supplied to perform a significant amount of DNA sequencing on targets that support the DOE effort. This would be designed to drive the technology development and to permit modifications in technology between the pilot and production phases to be evaluated and validated under high throughput conditions. It is estimated that one major award, for a total of approximately $4 million in FY 1998, will be made.

In support of the second sequencing goal, technology developments aimed at improving the constituent technologies and overall performance of the JGI DNA sequencing production line are sought. These could include: innovative instrumentation and automated systems that offer the potential for rapid, cost-effective sequencing of approximately a million bases per day; for non-gel techniques and direct imaging approaches; for development of applied genome informatics software for use in DNA sequencing and functional interpretation, including information retrieval; for user interfaces compatible with Genome Data Base (GDB), Genome Sequence DataBase (GSDB), and GenBank; and for communications, software engineering, and data management. Improved algorithms and hardware for DNA sequence annotation, including identification of homologies, regulatory sites, and protein coding regions can also be included. It is anticipated that between 2–4 awards for a total of up to $1 million could be made in FY 1998.

With respect to the functional genomics and model organism goals, projects in the following program areas are solicited: (1) Strategies for full-length cDNA clone generation and sequencing and for economically and accurately determining transcript lengths and types; (2) strategies for expression mapping, sub-cellular localization, and pathway tracing; (3) economical approaches for revealing single base pair polymorphisms and for characterizing their haplotypes; and (4) affordable approaches for using model organisms to systematically relate phenotype information to anonymous genes discovered in the human genome. It is anticipated that between 2–4 awards for pilot and proof-of-principle studies, for a total of up to $1 million could be made in FY 1998.

Potential applicants are strongly encouraged to submit a brief preapplication that consists of two to three pages of narrative describing the research objectives and methods of accomplishment. Preapplications will be reviewed relative to the scope and research needs of the DOE Human Genome Program, as outlined in the summary paragraph and in the **SUPPLEMENTARY INFORMATION.** Principal investigator address, telephone number, FAX number, and e-mail address are required as part of the preapplication. A response to each preapplication discussing the potential programmatic relevance of a formal application generally will be communicated to the Principal Investigator within 21 days of receipt. ER's preapplication policy can be found on ER's Grants and Contracts Web Site at: http://www.er.doe.gov/production/grants/preapp.html.

It is anticipated that approximately $6 million will be available for grant awards during FY 1998, contingent upon availability of appropriated funds. Multiple year funding of grant awards is expected, with out-year funding also contingent upon the availability of appropriated funds, progress of the research, and programmatic needs. It is expected that most awards will be from one to three years and that there will be one award for approximately $4 million per year (total costs) with the remaining 4–6 awards in the $200 thousand to $400 thousand per year (total costs) range. The dissemination of materials and research data in a timely manner is essential for progress towards the goals of the DOE Human Genome Program. OHER requires the timely sharing of resources and data. Applicants should, in their applications, discuss their plans for disseminating research data and materials which may include, where appropriate, putting cell lines, probes, sequence data, etc., into public repositories. Funds to defray the costs of disseminating materials or submitting data to repositories are allowable; however, such requests must be adequately justified.

Applications will be subjected to formal merit review (peer review) and will be evaluated against the following evaluation criteria which are 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.

Information about development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in the ER Application Guide for the Office of Energy Research Financial Assistance Program 10 CFR Part 605, which is available on the World Wide Web at: http://www.er.doe.gov/production/grants/grants.html. The ER, as part of its grant regulations, requires at 10 CFR 605.11(b) that a grantee funded by ER and performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health ''Guidelines for Research Involving Recombinant DNA Molecules'' (51 FR 16958, May 7, 1986), or such later revision of those guidelines as may be published in the **Federal Register**.

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 June 20, 1997.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 97–17161 Filed 6–30–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation

DATES: Wednesday, July 9, 1997, 6:00 p.m.–9:30 p.m.

ADDRESS: Ramada Inn, 420 South Illinois Avenue, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Sandy Perkins, Site-Specific Advisory Board Coordinator, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–1590.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The meeting will feature Mr. Al Alm, DOE's Assistant Secretary for Environmental Management, who will discuss the Department's Accelerated Cleanup Plan.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Sandy Perkins at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 am and 5:00 pm on Monday, Wednesday, and Friday; 8:30 am and 7:00 pm on Tuesday and Thursday; and 9:00 am and 1:00 pm on Saturday, or by writing to Sandy Perkins, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–1590.

Issued at Washington, DC on June 26, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–17162 Filed 6–30–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Monticello Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Board Committee Meeting: Environmental Management Site-Specific Advisory Board, Monticello Site.

DATE AND TIME: Tuesday, August 19, 1997, 7:00 p.m.–9:00 p.m.

ADDRESSES: San Juan County Courthouse, 2nd Floor Conference

Room, 117 South Main, Monticello, Utah 84535.

FOR FURTHER INFORMATION CONTACT: Audrey Berry, Public Affairs Specialist, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO, 81502 (303) 248–7727.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to advise DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Update on Millsite excavation status; reports from subcommittees on local training and hiring, health and safety, and future land use.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Audrey Berry's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Audrey Berry, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO 81502, or by calling her at (303) 248–7727.

Issued at Washington, DC on June 26, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–17163 Filed 6–30–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Basic Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is given of a meeting of the Basic Energy Sciences Advisory Committee.

DATE: Wednesday, July 30, 1997–8:30 a.m.–5:00 p.m., Thursday, July 31, 1997–8:30 a.m.–5:00 p.m., Friday, August 1, 1997–8:30 a.m.–12:00 p.m.

ADDRESS: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

FOR FURTHER INFORMATION CONTACT: Dr. Patricia M. Dehmer, Basic Energy Sciences Advisory Committee, U. S. Department of Energy, ER–10, GTN, 19901 Germantown Road, Germantown, MD 20874–1290, Telephone: (301) 903–3081.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The Committee will provide advice and guidance with respect to the basic energy sciences research program.

Tentative Agenda: The meeting will be devoted in its entirety to the general issue of neutron science capabilities in the U.S. under the circumstances surrounding the current shutdown of the High Flux Beam Reactor (HFBR) at Brookhaven National Laboratory. Presentations and discussion will cover the capabilities of the major neutron sources in the U.S.; the impacts of the loss of the HFBR on U.S. neutron sciences research; the extent to which other facilities can accommodate the scientific users displaced from HFBR now and in the future; the cost and timing of alternative restart scenarios for the HFBR; and the most appropriate course to pursue in the context of U.S. neutron science and in the context of the entire portfolio of research supported by BES. A detailed agenda will be available two weeks before the meeting from the Office of Basic Energy Sciences.

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact Patricia Dehmer at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. Public comment will follow the 10 minute rule.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on June 26, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–17160 Filed 6–30–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–165–005]

Alabama-Tennessee Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 25, 1997.

Take notice that on June 19, 1997, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet to be effective June 1, 1997.

Alabama-Tennessee states that the tariff sheets is filed in compliance with the June 9, 1997 letter order issued in the captioned proceeding:

First Substitute First Revised Sheet No. 154

Alabama-Tennessee states that copies of the filing were served on all affected entities.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file and available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17114 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–37–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Refund Report

June 25, 1997.

Take notice that on June 20, 1997, Great Lakes Gas Transmission Limited Partnership (Grate Lakes) tendered for filing a Report of Gas Research Institute Tier 1 Refunds for 1996 calendar year overpayments. Great Lakes states that the refund report is filed in accordance with the Commission's Order issued February 22, 1995 in Docket No. RP95–124–000 (70 FERC ¶ 61,205).

Great Lakes states that a refund amount of $329,321 was received from GRI on May 30, 1997. Great Lakes further states this amount was subsequently refunded to eligible firm transportation customers on a pro-rata basis. The report filed by Great Lakes reflects the GRI refund amounts allocated to each eligible firm transportation customer for the 1996 calendar year.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before July 1, 1997. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17111 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–015]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

June 25, 1997.

Take notice that on June 19, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet in to be effective June 19, 1997:

Tenth Revised Sheet No. 29

Koch states that the proposed changes to this tariff sheet reflects a recently negotiated rate transaction between Koch and Texaco Exploration and Production, Inc.

Koch also states that this filing has been served upon all parties on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426, in accordance with § 385.211 of the Commission's regulations. All such protest must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17113 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–591–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

June 25, 1997.

Take notice that on June 18, 1997, NorAm Gas Transmission Company (NGT), 525 Milam Street, P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP97–591–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate certain facilities in Union County, Arkansas, under NGT's blanket certificate issued in Docket No. CP82–384–000 and CP82–384–001, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NGT proposes to install a 1-inch and a 1-inch meter station on Line HM–3, at pipeline station no. 9+45 in Section 30, Township 17th South, Range 14 West, Union County, Arkansas. NGT states it is installing this tap to deliver gas to a domestic customer served by Arkla, a division of NorAm Energy Corporation (Arkla). NGT asserts the estimated peak day and annual volumes of gas to be delivered through these facilities are approximately 1 MMBtu and 85 MMBtu, respectively.

NGT states that estimated cost of the facilities to be installed is $2,135 and Arkla will reimburse NGT for this cost.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17105 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–592–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

June 25, 1997.

Take notice that on June 19, 1997, NorAm Gas Transmission Company (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP97–592–000 a request pursuant to §§ 157.205, 157.216, and 157.211 of the Commission's Regulations under the Natural Gas Act for authorization in abandon, replace, and operate certain facilities in Cleburne County, Arkansas, to deliver gas to ARKLA, a distribution division of NorAm Energy Corp (ARKLA), under blanket certificate issued in Docket No. CP82–384–000,[1] all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

Specifically, Applicant states that it proposes to abandon, replace, and upgrade an existing 1-inch delivery tap [2]

[1] *See*, 20 FERC ¶ 62,408 (1982).

[2] Applicant states the existing tap and metering facility were certificated in 1967 under Docket No. CP67–83.

on its Line BM–21 in Cleburne County, Arkansas to provide increased volumes to an ARKLA rural distribution line. Applicant states that no services will be abandoned; and, the metering facilities to be abandoned will be removed and scrapped at no value. The total estimated volumes to be delivered to ARKLA are 21,900 MMBtu annually and 60 MMBtu on a peak day. Applicant estimates a total construction cost of $4,558; and, ARKLA will reimburse Applicant $4,142 of these costs.

Applicant verifies that the proposed activities for which certification is requested comply with the requirements of Part 157, Subpart F, of the Commission's Regulations. Applicant states that it will transport gas to ARKLA and provide service under its tariff, that the volumes delivered are within ARKLA's certificated entitlement and Applicant's tariff does not prohibit the addition of new delivery points. Applicant states that it has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customer.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17107 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–38–000]

Northwest Pipeline Corporation, Notice of Refund Report

June 25, 1997.

Take notice that on June 20, 1997, Northwest Pipeline Corporation (Northwest) tendered for filing a refund report in compliance with the Commission's February 22, 1995 Order Approving Refund Methodology for 1994 Overcollections in Docket No. RP95–124–000 (Order).

Northwest states that on May 30, 1997 it received a refund from the Gas Research Institute (GRI) in the amount of $1,894,532, representing an overcollection of the 1996 GRI Tier 1 funding target level set for Northwest by GRI. On June 13, 1997, Northwest states that it credited the GRI refund, pro rata, to its eligible firm customers who received nondiscounted service during 1996.

Northwest states that a copy of this filing has been served upon Northwest's affected customers and interested state regulatory commissions.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 2, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17112 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–315–002]

Northwest Pipeline Corporation; Notice of Compliance Filing

June 25, 1997.

Take notice that on June 20, 1997, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective June 1, 1997:

Second Substitute Original Sheet No. 232–H
Substitute Original Sheet No. 232–I

Northwest states that on June 13, 1997, it submitted a filing to comply with the Commission's May 29, 1997 Order in Docket No. RP97–315 (79 FERC Sec. 61,259). Northwest states that the instant filing is to further comply with the May 29 Order by revising its scheduling priorities for pooled gas and by clarifying that pooling parties may have multiple packages of gas within a particular pool.

Northwest further states that a copy of this filing has been served upon all intervenors in Docket No. RP97–315.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17117 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–182–005]

South Georgia Natural Gas Company: Notice of Proposed Changes to FERC Gas Tariff

June 25, 1997.

Take notice that on June 20, 1997, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised Tariff sheets in compliance with the Commission's May 30, 1997 Order in this docket, to become effective June 1, 1997:

First Substitute Eighth Revised Sheet No. 5
First Substitute Third Revised Sheet No. 17
First Substitute Third Revised Sheet No. 35
First Substitute First Revised Sheet No. 51
First Substitute First Revised Sheet No. 98
First Substitute Second Revised Sheet No. 125

On July 17, 1996, the Commission issued Order No. 587 in Docket No. RM96–1–000 which revised the Commission's regulations governing interstate natural gas pipelines to require such pipelines to follow certain standardized business practices issued by the Gas Industry Standards Board (GISB) and adopted by the Commission in said Order. 18 CFR 284.10(b). The standards govern certain aspects of the

following practices of natural gas pipelines: nominations, allocations, balancing, measurement, invoicing, and capacity release. On December 4, 1996, South Georgia made its compliance filing submitting pro forma tariff sheets to comply with Order No. 587. On March 4, 1997, the Commission issued an order in this docket in response to South Georgia's filing.

On April 15, 1997, South Georgia submitted its compliance filing pursuant to the March 4 Order. In its order dated May 30, 1997, the Commission accepted South Georgia's filing subject to minor modifications that are addressed in the above Tariff sheets.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 385.211 of the Commission's Rules of Practice and Procedures. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17116 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–593–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

June 25, 1997.

Take notice that on June 19, 1997, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston Texas 77054–5310, filed a request with the Commission in Docket No. CP97–593–000, pursuant to § 157.205 and § 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct a delivery point in Macon County, Tennessee, so that Texas Eastern may provide natural gas deliveries to the City of Lafayette (Lafayette), Tennessee authorized in blanket certificate issued in Docket No. CP82–535–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Eastern proposes to construct and install a 2-inch tap valve and a 20inch check valve on Texas Eastern's existing 30-inch Line Nos. 10 and 15 at approximate Mile Post 318.83 in Macon County, Tennessee (Tap). In addition to the facilities described above, Lafayette will install, or cause to be installed, a dual 2-inch turbine meter (Meter Station), approximately 50 feet of 2-inch pipeline which will extend from the Meter Station to the Tap, and electronic gas measurement equipment.

The estimated cost will be approximately $150,000.00 for installing the facilities. Texas Eastern reports that Lafayette will reimburse Texas Eastern for 100% of the costs, including an allowance for federal income taxes.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17108 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–594–000]

Texas Gas Transmission Corporation; Notice of Application

June 25, 1997.

Take notice that on June 19, 1997, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 20008, Owensboro, Kentucky 42304, filed in Docket No. CP97–594–000 an abbreviated application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an interruptible transportation service for Louisiana Power & Light Company (Louisiana Power) which was authorized in Docket No. CP78–91, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Under Docket No. CP78–91, Texas Gas was authorized to continue an existing interruptible transportation service for Louisiana Power pursuant to a Transportation Agreement (Transportation Agreement) dated September 15, 1969. Service is no longer being provided under the Transportation Agreement and Louisiana Power has agreed to terminate the Transportation Agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 16, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211 and the Regulations under the Natural Gas Act (18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

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

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17109 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–36–000]

Texas Gas Transmission Corporation; Notice of Filing of Refund Report

June 25, 1997.

Take notice that on June 20, 1997, Texas Gas Transmission Corporation (Texas Gas) tendered for filing a refund report detailing the pro rata refund to its eligible firm customers of a June 10, 1997, Gas Research Institute (GRI) refund of $966,658.

Texas Gas states that this refund report is being made to comply with Commission Order issued February 22, 1995, in Docket No. RP95–124–000 requiring each pipeline to file a refund report with the Commission within fifteen (15) days of making the refunds.

Texas Gas states that copies of the refund report were included with the refunds made on June 10, 1997, and served upon Texas Gas's jurisdictional, customers receiving refunds, and interested state commissions.

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, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests or motions should be filed on or before July 2, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17110 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–215–003]

Williston Basin Interstate Pipeline Company; Notice of Fuel Reimbursement Charge Filing

June 25, 1997.

Take notice that on June 20, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing certain workpapers in compliance with the Commission's June 6, 1997 Letter Order in Docket No. RP97–215–002.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before July 2, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–17115 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3241–000, et al.]

Central Louisiana Electric Company, Inc., et al.; Electric Rate and Corporate Regulation Filings

June 25, 1997.

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

1. Central Louisiana Electric Company, Inc.

[Docket No. ER97–3241–000]

Take notice that on June 6, 1997, Central Louisiana Electric Company, Inc., (CLECO), tendered for filing a service agreement under which CLECO will provide non-firm point-to-point transmission service to Progress Power Marketing, Inc. under its point-to-point transmission tariff.

CLECO states that a copy of the filing has been served on Progress Power Marketing, Inc.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Valley Electric Association, Inc.

[Docket No. ER97–3242–000]

Take notice that on June 6, 1997, Valley Electric Association, Inc. (Valley), tendered for filing a Contract with the Department of Energy (DOE). Under the Contract, Valley provides transmission service to the DOE's Test Site in Nevada. The filing is one of a series of initial rate filings being submitted by Valley as a result of the pre-payment of its Rural Utilities Service debt.

A copy of the filing was served upon the DOE.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Valley Electric Association, Inc.

[Docket No. ER97–3243–000]

Take notice that on June 6, 1997, Valley Electric Association, Inc. (Valley), tendered for filing a Transmission Service Agreement with Lincoln County Power District No. 1 (Lincoln). The filing is one of a series of initial rate filings being submitted by Valley as a result of the pre-payment of its Rural Utilities Service debt.

A copy of the filing was served upon Lincoln.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Valley Electric Association, Inc.

[Docket No. ER97–3244–000]

Take notice that on June 6, 1997, Valley Electric Association, Inc. (Valley), tendered for filing an Interchange Agreement with Nevada Power Company (Nevada Power). The filing is one of a series of initial rate filings being submitted by Valley as a result of the pre-payment of its Rural Utilities Service debt.

A copy of the filing was served upon Nevada Power.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power & Light Company

[Docket No. ER97–3245–000]

Take notice that on June 6, 1997, Florida Power & Light Company (FPL), tendered for filing a proposed notice of cancellation of an umbrella service agreement with Coral Power, L.L.C. for Firm Short-Term transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed cancellation be permitted to become effective on May 15, 1997.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Montana Power Company

[Docket No. ER97–3246–000]

Take notice that on June 6, 1997, Montana Power Company (MPC), tendered for filing an Agreement between MPC and Big Horn County

Electric Cooperative, Inc. (Big Horn), pursuant to which the assignment to Central Montana Electric Power Cooperative, Inc. of a contract for the purchase of power between Big Horn and MPC is terminated and Big Horn will resume the purchase of power at wholesale directly from MPC.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Valley Electric Association, Inc.

[Docket No. ER97–3247–000]

Take notice that on June 6, 1997, Valley Electric Association, Inc. (Valley), tendered for filing a Contract for Exchange of Electric Service with Southern California Edison Company (Edison)(Edison Rate Schedule FERC No. 218). The filing is one of a series of initial rate filings being submitted by Valley as a result of the pre-payment of its Rural Utilities Service debt.

A copy of the filing was served upon Edison.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Valley Electric Association, Inc.

[Docket No. ER97–3248–000]

Take notice that on June 6, 1997, Valley Electric Association, Inc. (Valley), tendered for filing a Letter Agreement for Interchange of Hoover Resources between the members of the Silver State Power Association in Nevada. The filing is one of a series of initial rate filings being submitted by Valley as a result of the pre-payment of its Rural Utilities Service debt.

A copy of the filing was served upon the other members of the Silver State Power Association: City of Boulder City, Nevada; Lincoln County Power District No. 1; and Overton Power District No. 5.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Company Services, Inc.

[Docket No. ER97–3249–000]

Take notice that on June 6, 1997, Southern Company Services, Inc. (SCSI), acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as the Operating Companies), submitted for filing Amendment No. 9 to The Southern Company System Intercompany Interchange Contract dated October 31, 1988, as amended. The amendment provides for the use of monthly capacity worth factors to distribute the annual capacity cost for reserve sharing purposes to different months of the year based upon an assessment of the reliability requirements of the system. The amendment also adopts marginal replacement fuel cost as the basis for determining the energy rate for purchases and sales among the Operating Companies to serve their territorial requirements. SCSI requests an effective date of January 1, 1998 for this submittal.

10. Florida Power Corporation

[Docket No. ER97–3251–000]

Take notice that on June 5, 1997, Florida Power Corporation, tendered for filing a service agreement providing for service to Morgan Stanley Capital Group, Inc., pursuant to Florida Power's power sales Tariff. Florida Power requests that the Commission waive its notice of filing requirements and allow the Service Agreement to become effective on June 6, 1997.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Minnesota Power & Light Company

[Docket No. ER97–3252–000]

Take notice that on June 6, 1997, Minnesota Power & Light Company (MP), tendered for filing signed a Service Agreement with Marshfield Electric & Water Department under MP's cost-based Wholesale Coordination Sales Tariff WCS–1 to satisfy its filing requirements under this tariff.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. South Carolina Electric & Gas Company

[Docket No. ER97–3253–000]

Take notice that on June 9, 1997, South Carolina Electric & Gas Company (SCE&G), filed executed service agreements with the City of Orangeburg, South Carolina (Orangeburg) providing for unbundled power supply, transmission and ancillary services on a long-term basis pursuant to SCE&G's Negotiated Market Sales and Open Access Transmission Tariffs. SCE&G also simultaneously filed a notice of termination of the current service arrangements between Orangeburg and SCE&G, thereby resolving all outstanding disputes regarding those arrangements.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Long Island Lighting Company

[Docket No. ER97–3254–000]

Take notice that on June 9, 1997, Long Island Lighting Company (LILCO), filed a Service Agreement for Non-Firm Point-to-Point Transmission Service between LILCO and Western Power Services, Inc. (Transmission Customer).

This Service Agreement specifies that the Transmission Customer has agreed to the rates, terms and conditions of the LILCO open access transmission tariff filed on July 9, 1996, in Docket No. OA96–38–000.

LILCO requests waiver of the Commission's sixty (60) day notice requirements and an effective date of May 30, 1997, for the Service Agreement. LILCO has served copies of the filing on the New York State Public Service Commission and on the Transmission Customer.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Portland General Electric

[Docket No. ER97–3255–000 Company]

Take notice that on June 9, 1997, Portland General Electric Company (PGE), tendered for filing its Average System Cost (ASC) as calculated by PGE and determined by the Bonneville Power Administration under the revised ASC Methodology which became effective on October 1, 1984. This filing includes PGE's revised Appendix 1 of the Residential Purchase and Sale Agreement.

PGE states that the revised Appendix 1 shows the ASC to be 36.32 mills/kWh effective October 11, 1996. The Bonneville Power Administration determined the ASC rate for PGE to be 36.35 mills/kWh. However, there is no effect on the residential exchange payments because the amount for fiscal year 1997 was fixed by federal legislation.

Copies of the filing have been served on the persons named in the transmittal letter as included in the filing.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Virginia Electric and Power Company

[Docket No. ER97–3256–000]

Take notice that on June 9, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Service with NIPSCO Energy Services, Inc., Northeast Utilities Service Company, and South Carolina Electric & Gas Company under the Open Access Transmission Tariff to

Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement Virginia Power will provide non-firm point-to-point service to the Transmission Customers as agreed to by the parties under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Niagara Mohawk Power Corporation

[Docket No. ER97–3257–000]

Take notice that on June 9, 1997, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing, an amendment to its filing dated June 5, 1997 regarding the Marcy-South Facilities Agreement with the Power Authority of the State of New York (NYPA).

Copies of this filing were served upon NYPA and the Public Service Commission of New York.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. American Electric Power Service Corporation

[Docket No. ER97–3258–000]

Take notice that on June 9, 1997, the American Electric Power Service Corporation (AEPSC), tendered for filing executed service agreements under the AEP Companies' Power Sales Tariff. The Power Sales Tariff was accepted for filing effective October 1, 1995, and has been designated AEP Companies' FERC Electric Tariff First Revised Volume No. 2. AEPSC requests waiver of notice to permit the service agreements to be made effective for service billed on and after May 15, 1997.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Louisville Gas and Electric Co.

[Docket No. ER97–3259–000]

Take notice that on June 9, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Purchase and Sales Agreement between LG&E and Stand Energy Corporation under LG&E's Rate Schedule GSS.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Carolina Power & Light Company

[Docket No. ER97–3260–000]

Take notice that on June 9, 1997, Carolina Power & Light Company (CP&L), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Service executed between CP&L and the following Eligible Transmission Customers: Vastar Power Marketing, Inc.; Constellation Power Source; Consumers Power Company and The Detroit Edison Company collectively referred to as the Michigan Companies; and NESI Power Marketing, Inc. Service to each Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Central Power and Light Company, Public Service Company of Oklahoma Southwestern Electric Power Company, West Texas Utilities Company

[Docket No. ER97–3261–000]

Take notice that on June 9, 1997, Central Power and Light Company (CPL), Public Service Company of Oklahoma (PSO), Southwestern Electric Power Company (SWEPCO) and West Texas Utilities Company (WTU) (collectively, the Companies) each tendered for filing Service Agreements establishing the EnerZ Corporation, Equitable Power Services Company and PanEnergy Trading and Market Services, L.L.C. as customers under the terms of each Company's CSRT–1 Tariff.

The Companies request an effective date of May 10, 1997 for each of the service agreements and, accordingly, seek waiver of the Commission's notice requirements. Copies of this filing were served on the three customers, the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Oklahoma Corporation Commission and the Public Utility Commission of Texas.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Orange and Rockland Utilities, Inc.

[Docket No. ER97–3263–000]

Take notice that on June 4, 1997, Orange and Rockland Utilities, Inc. (O&R), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR Part 35, service agreements under which O&R will provide capacity and/or energy to North American Energy Conservation, Inc. (NAEC) and Niagara Mohawk Power Corporation (Niagara Mohawk) in accordance with O&R's market-based power sales tariff.

O&R has requested waiver of the notice requirement so that the service agreements with NAEC and Niagara Mohawk become effective as of May 15, 1997.

O&R served copies of the filing upon the New York State Public Service Commission, NAEC and Niagara Mohawk.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Central Hudson Gas & Electric Corporation

[Docket No. ER97–3264–000]

Take notice that on June 9, 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 New York State Electric & Gas Corporation. 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 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: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. New England Power Pool

[Docket No. ER97–3265–000]

Take notice that on June 6, 1997, the New England Power Pool (NEPOOL), filed a Service Agreement for Through or Out or Other Point-to-Point Transmission Service pursuant to Section 205 of the Federal Power Act and 18 CFR 35.12 of the Commission's Regulations.

Acceptance of the Service Agreement will permit NEPOOL to provide transmission service to PanEnergy Trading and Market Services, L.I.C. in accordance with the provisions of the NEPOOL Transmission Tariff filed with

the Commission on December 31, 1996 under the above-referenced docket. NEPOOL requests an effective date of June 1, 1997 for commencement of transmission service. Copies of this filing were served upon New England Public Utility Commissioners and all NEPOOL members.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Florida Power & Light Company

[Docket No. ER97–3266–000]

Take notice that on June 10, 1997, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with AYP Energy, Inc. for Short-Term Firm and Non-Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on July 1, 1997.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Southern Company Services, Inc.

[Docket No. ER97–3267–000]

Take notice that on June 10, 1997, Southern Company Services, Inc. (SCSI), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed one (1) service agreement under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with the following entity: Florida Power Corporation. SCSI states that the service agreement will enable Southern Companies to engage in short-term market-based rate transactions with this entity.

Comment date: July 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Commonwealth Electric Company Cambridge Electric Light Company

[Docket No. ER97–3262–000]

Take notice that on June 9, 1997, Commonwealth Electric Company (Commonwealth) and Cambridge Electric Light Company (Cambridge), collectively referred to as the Companies, tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and the following Market-Based Power Sales Customers (collectively referred to herein as the Customers):

AYP Energy, Inc.

Niagara Mohawk Power Corporation

Plum Street Energy Marketing, Inc.

TransCanada Energy Ltd.

VTEC Energy, Inc.

Western Power Services, Inc.

These Service Agreements specify that the Customers have signed on to and have agreed to the terms and conditions of the Companies' Market-Based Power Sales Tariffs designated as Commonwealth's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 7) and Cambridge's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 9). These Tariffs, accepted by the FERC on February 27, 1997, and which have an effective date of February 28, 1997, will allow the Companies and the Customers to enter into separately scheduled short-term transactions under which the Companies will sell to the Customers capacity and/or energy as the parties may mutually agree. The Companies request an effective date as specified on each Service Agreement.

Comment date: July 9, 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. 97–17165 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3193–000, et al.]

Maine Electric Power Company, et al.; Electric Rate and Corporate Regulation Filings

June 24, 1997.

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

1. Maine Electric Power Company

[Docket No. ER97–3193–000]

Take notice that on June 4, 1997, Maine Electric Power Company (''MEPCO''), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service entered into with Aquila Power Corporation. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Maine Electric Power Company

[Docket No. ER97–3194–000]

Take notice that on June 4, 1997, Maine Electric Power Company (''MEPCO''), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service entered into with Southern Energy Trading and Marketing, Inc. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Maine Electric Power Company

[Docket No. ER97–3195–000]

Take notice that on June 4, 1997, Maine Electric Power Company (''MEPCO''), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service entered into with New England Power Company. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Maine Electric Power Company

[Docket No. ER97–3196–000]

Take notice that on June 4, 1997, Maine Electric Power Company (''MEPCO''), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service entered into with Unitil Power Corporation. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Maine Electric Power Company

[Docket No. ER97–3197–000]

Take notice that on June 4, 1997, Maine Electric Power Company (''MEPCO''), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service entered into with Western Power Services, Inc. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 3, as supplemented.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Maine Electric Power Company

[Docket No. ER97–3198–000]

Take notice that on June 4, 1997, Maine Electric Power Company (''MEPCO''), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service entered into with LG&E Power Marketing, Inc. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Columbus Southern Power Company

[Docket No. ER97–3213–000]

Take notice that on June 5, 1997, Columbus Southern Power Company (CSP), tendered for filing with the Commission a Facilities and Operations Agreement dated June 3, 1997, and a Facilities Service Agreement between CSP, Buckeye Power, Inc. (Buckeye) and Guernsey-Muskingum Electric Cooperative, Inc. (GME). GME is an Ohio electricity cooperative and a member of Buckeye Power, Inc.

GME has requested CSP provide a new delivery point pursuant to provisions of the Power Delivery Agreement between CSP, Buckeye, The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, Monongahela Power Company, Ohio Power Company and Toledo Edison Company, dated January 1, 1968. CSP requests an effective date of June 15, 1997, for the tendered agreements.

CSP states that copies of its filing were served upon the Guernsey-Muskingum Electric Cooperative, Inc., Buckeye Power, Inc., R&F Coal Company and the Public Utilities Commission of Ohio.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Interstate Power Company

[Docket No. ER97–3214–000]

Take notice that on June 5, 1997, Interstate Power Company (IPW), tendered for filing a Transmission Service Agreement between IPW and Coral Power, L.L.C. (Coral). Under the Transmission Service Agreement, IPW will provide non-firm point-to-point transmission service to Coral.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Interstate Power Company

[Docket No. ER97–3215–000]

Take notice that on June 5, 1997, Interstate Power Company (IPW), tendered for filing a Power Sales Service Agreement between IPW and NP Energy Inc. Under the Agreement, IPW will sell Capacity & Energy to NP Energy Inc., as agreed to by both companies.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Interstate Power Company

[Docket No. ER97–3216–000]

Take notice that on June 5, 1997, Interstate Power Company (IPW), tendered for filing three Transmission Service Agreements between IPW and CornBelt Power Cooperative (CornBelt). Under the Transmission Service Agreements, IPW will provide firm point-to-point transmission service to CornBelt.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. UtiliCorp United Inc.

[Docket No. ER97–3217–000]

Take notice that on May 30, 1997, UtiliCorp United Inc. (UtiliCorp), tendered for filing on behalf of its operating divisions, further amendments to its filings in this docket. UtiliCorp requests waiver of the Commission's Regulations to permit these further amendments to become effective on June 1, 1997.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corporation

[Docket No. ER97–3218–000]

Take notice that on June 5, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Jersey Central Power and Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (GPU Energy). This Transmission Service Agreement specifies that GPU Energy has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and GPU Energy to enter into separately scheduled transactions under which NMPC will provide transmission service for GPU Energy as the parties may mutually agree.

NMPC requests an effective date of June 2, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and GPU Energy.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Kansas City Power & Light Company

[Docket No. ER97–3219–000]

Take notice that on June 5, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated May 16, 1997, between KCPL and Western Resources, Inc.(WR). KCPL proposes an effective date of June 6, 1997 and requests a 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.

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: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. ONEOK Power Marketing Company

[Docket No. ER97–3220–000]

Take notice that on June 5, 1997, ONEOK Power Marketing Company

(OPMC), tendered for filing a notice of cancellation of OPMC's FERC Electric Rate Schedule No. 1 to be effective immediately.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Consumers Energy Company

[Docket No. ER97–3221–000]

Take notice that on June 5, 1997, Consumers Energy Company (Consumers) submitted for filing a retail wheeling tariff in the form authorized by the Michigan Public Service Commission. Said tariff would operate in conjunction with Consumer's FERC open access tariff and provide direct access to eligible customers and suppliers as defined by the tariff and MPSC orders. The direct access tariff is of limited scope and duration having an upper limit of 100 MW and an expiration date of December 31, 2000 unless extended by the MPSC.

Consumers requests an effective date of July 1, 1997 and, accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon the Michigan Public Service Commission.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Atlantic City Electric Company

[Docket No. ER97–3222–000]

Take notice that on June 5, 1997, Atlantic City Electric Company (Atlantic Electric), tendered for filing service agreements under which Atlantic Electric will sell capacity and energy to North American Energy Conservation, Inc. and Eastern Power Distribution, Inc. under Atlantic Electric's market-based rate sales tariff. Atlantic Electric requests the agreement with Eastern Power Distribution, Inc. be accepted to become effective on June 6, 1997, and the agreement with North American Energy Conservation, Inc. be accepted to become effective on June 1, 1997.

Atlantic Electric states that a copy of the filing has been served on North American Energy Conservation, Inc. and Eastern Power Distribution, Inc.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Southern Company Services, Inc.

[Docket No. ER97–3223–000]

Take notice that on June 5, 1997, Southern Company Services, Inc. (SCSI), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed one (1) service agreement under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with the following entity: Tennessee Valley Authority. SCSI states that the service agreement will enable Southern Companies to engage in short-term market-based rate transactions with this entity.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Public Service Company of New Mexico

[Docket No. ER97–3224–000]

Take notice that on June 5, 1997, Public Service Company of New Mexico (PNM) submitted for filing pursuant to Section 35.15 of the Regulations to the Federal Energy Regulatory Commission, 18 CFR 35.15, its Notices of Cancellation of Economy Energy Agreements. PNM states that it has filed its Notices of Cancellation to comply with the requirements contained in the Commission's Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996) which provide that economy energy transactions must be unbundled. The agreements to be canceled by PNM are bundled economy energy agreements.

Pursuant to PNM's filing, the following agreements are to be canceled: Six Party Economy Agreement between PNM, Tucson Electric Power Company (formerly Tucson Gas and Electric Company), Salt River Project Agricultural Improvement and Power District, Southern California Edison Company, Arizona Public Service Company, and El Paso Electric Company, dated November 15, 1971; Economy Energy Agreement between The City of Pasadena, California and PNM, dated May 18, 1989; Economy Energy Agreement between The Los Angeles Department of Water and Power and PNM, dated August 14, 1986; Economy Energy Agreement between Louis Dryfus Electric Power, Inc. and PNM, dated January 27, 1993; Capacity and Energy Services Agreement between Enron Power Marketing, Inc. and PNM, dated May 27, 1994; Economy Energy Agreement between Arkansas River Power Authority and PNM, dated December 19, 1984; Economy Energy Agreement between The City of Anaheim, California and PNM, dated June 15, 1982; and Service Schedule C of the Interconnection Agreement between The City of Anaheim, California and PNM, dated April 26, 1991. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Pacific Gas and Electric Company

[Docket No. ER97–3225–000]

Take notice that on June 5, 1997, Pacific Gas and Electric Company (PG&E), tendered for filing changes in the rate schedule for Midway Transmission Service (MTS) to the Transmission Agency of Northern California (TANC). MTS is provided under PG&E Rate Schedule FERC No. 143, as supplemented.

These changes revise the process of determining whether certain future transmission reinforcements are needed by adding a dispute resolution procedures to apply in the event the need for the reinforcements is questioned.

PG&E proposed that the amendment to the rate schedule become effective on the earliest date the Commission permits.

Copies of this filing have been served upon TANC and the California Public Utilities Commission.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. New England Power Company

[Docket No. ER97–3226–000]

Take notice that on June 6, 1997, New England Power Company (NEP) filed a Service Agreement with Pennsylvania Power & Light Power Company for non-firm, point-to-point transmission service under NEP's open access transmission tariff, FERC Electric Tariff, Original Volume No. 9. NEP also tendered, as part of the filing, a fully executed version of its Tariff No. 9 Service Agreement with Enron Power Marketing, Inc.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Ohio Edison Company, Pennsylvania Power Company

[Docket No. ER97–3227–000]

Take notice that on June 6, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement for Non-Firm Point-to-Point Transmission Service with Western Power Services, Inc. and Ohio Edison Company pursuant to Ohio Edison's Open Access Tariff. This Service Agreement will enable the parties to obtain Non-Firm Point-to-Point Transmission Service in accordance with the terms of the Tariff.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Central Vermont Public Service Corporation

[Docket No. ER97–3228–000]

Take notice that on June 6, 1997, Central Vermont Public Service Corporation (Central Vermont), tendered for filing amendments to its FERC Electric Tariff, Original Tariff No. 5, which modify the Tariff to provide for the resale of transmission rights obtained by the Company's wholesale power merchant. This Tariff originally was accepted for filing by the Commission on November 26, 1991 in Docket No. ER92–12–000.

Central Vermont states that it has added a new Article III that provides for the resale of transmission capacity the Company has obtained pursuant to service agreements under its open access Transmission Tariff No. 7, or pursuant to the transmission tariffs of other entities. The amendments also provide that when the Company resells transmission rights that it has obtained pursuant to a service agreement under its own Transmission Tariff No. 7, all of the non-rate terms and conditions of its pro forma tariff that otherwise would apply to a transmission capacity sale (such as posting of discounts, disclosing other information) continue to apply.

Central Vermont requests any necessary waivers so that these amendments may become effective on June 9, 1997.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Illinois Power Company

[Docket No. ER97–3229–000]

Take notice that on June 6, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which East Kentucky Power Cooperative, Inc. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 1, 1997.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Illinois Power Company

[Docket No. ER97–3230–000]

Take notice that on June 6, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Apogee Coal Company d/b/a Arch of Illinois 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 June 1, 1997.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Illinois Power Company

[Docket No. ER97–3231–000]

Take notice that on June 6, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which NIPSCO Energy Services, Inc. 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 June 1, 1997.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. The Cleveland Electric Illuminating Company

Docket No. ER97–3232–000

Take notice that on June 6, 1997, The Cleveland Electric Illuminating Company, filed an Electric Power Service Agreement between CEI and Delhi Energy Services, Inc., Northeast Utilities Service Company, Williams Energy Services Company and the Dayton Power and Light Company.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. The Toledo Edison Company

[Docket No. ER97–3233–000]

Take notice that on June 6, 1997, The Toledo Edison Company filed Electric Power Service Agreements between TE and Delhi Energy Services, Inc., Northeast Utilities Service Company, Williams Energy Services Company and the Dayton Power and Light Company.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Minnesota Power & Light Company

[Docket No. ER97–3234–000]

Take notice that on June 6, 1997, Minnesota Power & Light Company (MP), tendered for filing signed Service Agreements with Marshfield Electric & Water Department and Wisconsin Electric Power Company under MP's market-based Wholesale Coordination Sales Tariff (WCS–2) to satisfy its filing requirements under this tariff.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Northern Indiana Public Service Company

[Docket No. ER97–3235–000]

Take notice that on June 6, 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 NP Energy, Inc.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to NP Energy, Inc. pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of June 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: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Northern Indiana Public Service Company

[Docket No. ER97–3236–000]

Take Notice that on June 6, 1997, Northern Indiana Public Service Company tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and NP Energy, Inc.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to NP Energy, Inc. under Northern Indiana Public Service Company's Power Sales Tariff. Northern Indiana Public Service Company and NP Energy, Inc. request waiver of the Commission's sixty-day notice requirement to permit an effective date of June 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: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Northern States Power Company (Minnesota Company)

[Docket No. ER97–3237–000]

Take notice that on June 6, 1997, Northern States Power Company (Minnesota) (NSP), tendered for filing a Firm Point-to-Point Transmission Service Agreement between NSP and Wisconsin Electric Power Company.

NSP requests that the Commission accept the agreement effective May 10, 1997, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. The Washington Water Power Company

[Docket No. ER97–3238–000]

Take notice that on June 6, 1997, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements for Non-Firm Point-To-Point Transmission Service under WWP's Open Access Transmission Tariff—FERC Electric Tariff, Original Volume No. 8. WWP requests the Service Agreements be given effective dates concurrent with their respective dates of execution.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Ohio Valley Electric Corporation Indiana-Kentucky Electric Corporation

[Docket No. ER97–3239–000]

Take notice that on June 6, 1997, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation) (OVEC) tendered for filing a Service Agreement for Non-Firm Point-To-Point Transmission Service, dated May 19, 1997 (the Service Agreement) between Virginia Electric and Power Company (VEPCO) and OVEC. OVEC proposes an effective date of May 19, 1997 and requests waiver of the Commission's notice requirement to allow the requested effective date. The Service Agreement provides for non-firm transmission service by OVEC to VEPCO.

In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Open Access Transmission Tariff.

Copies of this filing were served upon the North Carolina Utilities Commission, the Virginia State Corporation Commission and VEPCO.

Comment date: July 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Central Louisiana Electric Company, Inc.

[Docket No. ER97–3240–000]

Take notice that on June 6, 1997, Central Louisiana Electric Company, Inc., (CLECO), tendered for filing a service agreement under which CLECO will provide non-firm point-to-point transmission service to USGen Power Services, L.P. under its point-to-point transmission tariff.

CLECO states that a copy of the filing has been served on USGen Power Services, L.P.

Comment date: July 8, 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. 97–17164 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2888–005 et al.]

Hydroelectric Applications [Idaho Power Company, et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Major Relicense (Tendered Notice).

b. *Project No.:* 2778–005.

c. *Date filed:* May 29, 1997.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* Shoshone Falls Hydroelectric Project.

f. *Location:* On the Snake River in Twin Falls and Jerome Counties, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)—825(r).

h. *Applicant Contact:* Mr. Robert W. Stahman, Vice President, Secretary, and General Counsel, Idaho Power Company, P.O. Box 70, Boise, Idaho 83707, (208) 388–2676.

i. *FERC Contact:* Alan D. Mitchnick at (202) 219–2826.

j. *Comment Date:* 60 days from the filing date in paragraph c.

k. *Description of Project:* The existing project consists of: (1) a diversion dam consisting of four sections with a total length of 798.4 feet; (2) a reinforced concrete intake structure; (3) a 450-foot-long tunnel and 120-foot-long penstock; (4) a powerhouse containing three generating units with an installed nameplate capacity of 12.5 megawatts; (5) an 86-acre impoundment with a gross storage of 1,500 acre-feet at normal operating elevation; and (6) other appurtenances.

The applicant proposes to continue to operate the project in a run-of-river mode.

l. With this notice, we are initiating consultation with the Idaho State Historic Preservation Office (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR, at 800.4.

m. Under Section 4.32 (b)(7) of the Commission's regulations (18 CFR), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission, not later than 60 days after the application is filed, and must serve a copy of the request on the applicant.

2 a. *Type of Application:* Major Relicense.

b. *Project No:* 2666–007.

c. *Date filed:* March 28, 1997.

d. *Applicant:* Bangor Hydro Electric Company.

e. *Name of Project:* Medway Hydroelectric Project.

f. *Location:* On the West Branch of the Penobscot River in Penobscot County, Maine.

g. *Filed Pursuant to:* Federal Power Act 16 USC §§ 791(A)—925(r).

h. *Applicant Contact:* Kathleen C. Billings, Director Environmental Services & Compliance, Bangor Hydro Electric Company, 33 State Street, Bangor, Maine 04401, (207) 941–6636.

i. *FERC Contact:* David A. Turner at (202)219–2844.

j. *Deadline for Interventions and Protests:* August 25, 1997.

k. Status of Environmental Analysis: This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: The existing project consists of: (1) a 343-foot-long, 20-foot-high (exclusive of 4-foot, 10-inch-high flash boards) concrete gravity dam, with a permanent crest elevation of 254.5 feet (referenced to National Geodetic Vertical Datum-NGVD); (2) a 120-acre impoundment at elevation 259.3 feet (normal impoundment level); (3) a 64-foot-long concrete gravity forebay; (4) a 170-foot-long, 34-foot-wide, 71-foot-high brick powerhouse containing five generating units with a total installed capacity of 3.44 MW; (5) an approximate 144-foot-long, 3-kilovolt (kv) underground transmission line, and (6) appurtenant facilities.

The applicant proposes to continue to operate the project in a run-of-river mode.

m. This notice also consists of the following standard paragraph: B1.

3 a. *Application Type:* Non-project use of project lands.

b. *Project No:* 459–091.

c. *Date Filed:* May 21, 1997.

d. *Applicant:* Union Electric Company.

e. *Name of Project:* Osage Hydroelectric Project.

f. *Location:* Lake of the Ozarks, Camden County, Missouri.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Ms. Phyllis McLaughlin, Union Electric Company, 1901 Chouteau Avenue, St. Louis, MO 63166, (314) 554–2264.

i. *FERC Contact:* Steve Hocking, (202) 219–2656.

j. *Comment Date:* August 1, 1997.

k. *Description of Application:* Union Electric Company (licensee) requests Commission approval to grant a permit to Indian Creek Hills Property Owners Association. Inc. (Association), to excavate about 4,500 cubic yards of gravel from Indian Creek. Excavation would remove gravel deposits restoring the creek's hydraulic capacity and reducing flooding. The permit would also allow the Association to install 500 feet of riprap to stabilize the adjacent shoreline. The excavation and installation of riprap would occur at the Lake of the Ozarks near lake mile 6.2 + 6.0 + 3.7 in Sections 17 and 20, Township 41 North, Range 16 West, Camden County, Missouri

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

4 a. *Type of Application:* Non-project Use of Project Lands (New Marina and Expansion of Docking Facility).

b. *Project Nos.:* 1494–140: Hangar 51—Shangri-la Airpark; 1494–141: Island Park Estates.

c. *Dates Filed:* May 9 and May 12, 1997, respectively.

d. *Applicant:* Grand River Dam Authority (GRDA).

e. *Name of Project:* Pensacola Project.

f. *Location:* The proposed new marina (Shangri-la Airpark) and the expansion of an existing homeowners dock (Island Park Estates) would be located near the Shangri-la Airport in the Monkey Island area of Grand Lake O' the Cherokees in Delaware County, Oklahoma.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant contact:* Marsha Hawkins, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301, (918) 256–5545.

i. *FERC contact:* John K. Hannula, (202) 219–0116.

j. *Comment date:* August 1, 1997.

k. *Description of the Applications:*

1494–140: GRDA requests approval to permit Paul Staten, d/b/a Hangar 51—Shangri-la Airpark to construct a marina consisting of 6 new docks containing 146 boat slips and a breakwater.

1494–141: GRDA requests approval to permit Bob Corlett, d/b/a Island Park Estates to add 3 docks containing 24 slips to an existing dock containing 18 slips.

Comments on the applications should specifically address the appropriate project docket number.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

5 a. *Type of Application:* Surrender of license.

b. *Project No.:* 10895–006.

c. *Date filed:* May 14, 1997.

d. *Applicant:* Michiana Hydro-Electric Power Corporation.

e. *Name of Project:* Mishawaka.

f. *Location:* On the St. Joseph River, in the City of Mishawaka, St. Joseph County, Indiana.

g. *File Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. John E. Fisher, Michiana Hydro-Electric Power, Corporation, 1634 East Jefferson Blvd., South Bend, Indiana 46617, (219) 233–1296.

i. *FERC Contact:* Tom Papsidero (202) 219–2715.

j. *Comment Date:* August 1, 1997.

k. *Description of Filing:* The licensee requests to surrender the license for this unconstructed project for economic reasons.

l. This notice also consists of the following standard paragraphs: B, C2 & D2.

6 a. *Type of Application:* Amendment of Exemption.

b. *Project No:* 3760–007.

c. *Date Filed:* April 17, 1997.

d. *Applicant:* Franklin Industrial Complex, Inc.

e. *Name of Project:* Steven's Mills Project.

f. *Location:* Winnipesaukee River, Merrimack County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. Section 791(a)–825(r).

h. *Applicant Contact:* Mr. David Stevenson, C.I.M.; MGR., General Manager, Algonquin Power Systems, New Hampshire Inc., 2085 Hurontario St., Suite 210, Mississauga, Ontario L5A4GI, (905) 273–8900.

i. *FERC Contact:* Anum Purchiaroni, (202) 219–3297.

j. *Comment Date:* August 6, 1997.

k. *Description of Project:* Algonquin Power Systems New Hampshire, Inc. on behalf of Franklin Industrial Complex, Inc. (FICI), exemptee for the Steven's Mills Project, filed an application to amend its exemption. FICI proposes to remove the second generating unit from the powerhouse. The unit has been idle since 1992 because of mechanical difficulties. The unit generated about 224 kW and had been operating since 1987. The unit was used only when the river flows exceeded 1,100 cfs, which was approximately 15% of the time during a normal year. The total plant generating capacity would be reduced from the authorized 2,161 kW to 1,910 kW. FICI states in its filing that the removal of the second unit will not change the run-of-river mode of operation of the project.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

7 a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project Name:* Catawba-Wateree Project,.

c. *Project No.:* FERC Project No. 2232–341.

d. *Date Filed:* April 10, 1997.

e. *Applicant:* Duke Power Company.

f. *Location:* Mecklenburg County, North Carolina, Woods at Lake Davidson, Lake Norman near the Town of Davidson.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

(h) *Applicant Contact:* Mr. E.M. Oakley, Duke Power Company, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 382–5778.

i. *FERC Contact:* Brian Romanek, (202) 219–3076.

j. *Comment Date:* August 1, 1997.

k. *Description of the filing:* Duke Power Company proposes to grant an easement of O.615 acre of project land to the Woods at Lake Davidson Homeowners Association to construct a private residential marina. The proposed marina would provide access to the reservoir for residents of Woods at Lake Davidson Subdivision. The proposed marina facility would consist of an access ramp and 27 floating boat slips. The slips would be anchored by using self-driving piles.

l. This notice also consists of the following standard paragraphs: B, C1, D2.

8 a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project Name:* Catawba-Wateree Project.

c. *Project No.:* FERC Project No. 2232–342.

d. *Date Filed:* April 30, 1997.

e. *Applicant:* Duke Power Company.

f. *Location:* Iredell County, North Carolina, Harbor Cove Subdivision, Lake Norman near Mooresville.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Power Company, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 382–5778.

i. *FERC Contact:* Brian Romanek, (202) 219–3076.

j. *Comment Date:* August 1, 1997.

k. Description of the filing: Duke Power Company proposes to grant an easement of 1.836 acres of project land to the Ipswich Bay, LLC to construct a private residential marina. The proposed marina would provide access to the reservoir for residents of Harbor Cove Subdivision. The proposed marina would consist of access ramps and 58 floating boat slips. The slips would be anchored by using self-driving piles. To improve water depth for boat access at this facility, approximately 8,500 cubic yards of sediment would be dredged from a 60,000 square foot area.

l. This notice also consists of the following standard paragraphs: B, C1, D2.

Standard Paragraphs

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C2. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. Any of these documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of a notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: June 25, 1997, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 97–17166 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM95–9–003]

Open Access Same-time Information System and Standards of Conduct; Notice of Technical Conference and Clarification of Procedures for Developing Scheduling Requirements

June 25, 1997.

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, and Donald F. Santa, Jr.

Introduction

In order to assess the electric power industry's progress in implementing the requirements of OASIS Phase I, review industry proposals for revisions to these requirements in response to Order No. 889–A, review issues relating to the development of OASIS Phase II requirements, and review how well OASIS is meeting the Commission's goals for open access transmission and the industry's needs for a functioning marketplace, we announce that the Commission's staff will host a technical conference on July 18, 1997 at the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426, starting at 10:00 a.m.

We also take this opportunity to provide some guidance as to the development of electronic scheduling requirements for OASIS Phase II implementation.

Background

The timetable for OASIS Phase I requirements and OASIS Phase II development is discussed in both Order No. 889 and in Order No. 889–A.[1] Order No. 889 became effective on July 9, 1996 with compliance due by January 3, 1997.[2] Order No. 889–A became effective on May 13, 1997. In Order No. 889–A, the Commission requested that the How Working Group address several issues in a report to the Commission due on or before June 30, 1997.[3] The Commission also requested that the industry file a report with the Commission, on or before August 4, 1997, dealing with OASIS Phase II requirements.

Technical Conference

The Commission's staff will convene a technical conference on OASIS Phase I implementation and OASIS Phase II development. The following issues will be discussed in a panel format:

I. *Status of OASIS Phase I Implementation.* The How Working Group, the North American Electric Reliability Council (NERC), and other interested persons are invited to discuss how well OASIS is working and whether transmission providers are meeting their obligations under the OASIS Phase I regulations.

II. *Summary of How Working Group's June 30, 1997 Report.* The How Working Group, the Commercial Practices Working Group,[4] and other interested persons are invited to discuss the recommendations contained in the June 30th report.

III. *OASIS Phase II.* The How Working Group, the Commercial Practices Working Group, NERC, and other interested persons are invited to preview the industry's report on OASIS Phase II requirements (due on or before August 4, 1997) and discuss what steps should be taken to enhance OASIS and thereby fully realize the Commission's open access goals and create a functional marketplace.

Persons wishing to speak on a panel at the technical conference should submit a request to make a statement in Docket No. RM95–9–003. The request must clearly identify the person desiring to speak and must identify anyone whom the speaker represents. The request must also include a brief [not to exceed 2 pages] synopsis of the issue or issues the speaker wishes to address as well as the speaker's position on that issue or issues. All requests must be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 on or before July 3, 1997. A notice listing the speakers and panels for the technical conference will be issued at a later date.

Broadcast of Technical Conference

If there is sufficient interest, the Capitol Connection will provide a live broadcast of the technical conference to interested persons. Persons interested in receiving the broadcast for a fee should contact Shirley Al-Jarani by telephone at the Capitol Connection at 703–993–3100 by no later than July 3, 1997.

In addition, National Narrowcast Network's Hearings-On-The-Line service covers all FERC meetings live by telephone so that interested persons can listen to the proceedings from any telephone without special equipment. Call 202–966–2211 for details. Billing is based on time on-line.

Scheduling

A vitally important issue in the development to the OASIS Phase II requirements is electronic scheduling of transactions. In Order No. 889, the Commission asked the industry to discuss adding scheduling to the OASIS requirements in the report on OASIS Phase II requirements. In Order No. 889–A, we further explained that the inclusion of scheduling as part of the OASIS requirements would be addressed in Phase II.

The Commission's understanding is that NERC, on its own initiative, has taken the lead in developing procedures for the electronic scheduling of transactions. The Commission appreciates NERC's efforts to develop an industry-wide electronic scheduling system. As with the transmission reservation system (covered by the OASIS Phase I requirements), proposed requirements and technical standards for an industry-wide electronic scheduling system are subject to the Commission's jurisdiction and review. The Commission must approve the requirements and technical standards to ensure that they comply with the Commission's comparable, open access policy. As with transmission reservations, a standards industry-wide system for electronic scheduling is needed to support the standards of conduct, functional unbundling, and open access transmission.

The Commission accepted the industry's proposal for a phased implementation of OASIS. Scheduling was put off until Phase II because of the expected practical difficulties involved, and due to the Commission's interest in having the basic OASIS requirements implemented as expeditiously as possible. The proposed scheduling standards must be filed with the Commission for review and approval before they go into effect.

The Commission believes that transmission reservation and scheduling are closely related. We are concerned that customers should not be required to learn to use two different systems to reserve capacity and to schedule power. Moreover, electronic scheduling should be readily available to all segments of the electric power industry. Like the Phase I OASIS, the system should be inexpensive and easy to use. We invite NERC and other interested persons to discuss development and

[1] *See* Open Access Same-Time Information System and Standards of Conduct, Order No. 889, FERC Stats. & Regs. ¶31.037, 61 FR 21,737, 21,762–63 (1996), *order on reh'g*, Order No. 889–A, FERC Stats. & Regs. ¶31,049, 62 FR 12,484, 12,501–03 (1997), *reh'g pending.*

[2] Extended from November 1, 1996, *see* Open Access Same-Time Information System and Standards of Conduct, *order granting request for extension of time*, 76 FERC ¶61,305 (1996).

[3] This report originally was due by June 2, 1997. However upon consideration of a request from the How Working Group, the Commission granted an extension, until June 30, 1997, for submittal of the report.

[4] This is an industry-created and industry-based group, facilitated by NERC, comprised of representatives of various industry segments working together on issues concerning electric industry commercial practices. This group is a successor to the OASIS What Working Group.

implementation issues concerning electronic scheduling during the discussion of OASIS Phase II at the technical conference.

FOR FURTHER INFORMATION CONTACT:

Marvin Rosenberg (Technical Information), Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–1283

William C. Booth (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–0849

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 97–17167 Filed 6–30–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5851–7]

Office of Research and Development; DKK Corporation: Application for Equivalent Method Determination

AGENCY: Environmental Protection Agency.

ACTION: Notice of application.

SUMMARY: The Environmental Protection Agency (EPA) is announcing that DKK Corporation has submitted an equivalency application for model GFS–32 Ambient Air SO_2 Ultraviolet Fluorescent Analyzer.

FOR FURTHER INFORMATION CONTACT: Berne I. Bennett, Human Exposure and Atmospheric Sciences Division (MD77–B), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–2366.

SUPPLEMENTARY INFORMATION: Notice is given that an application has been received from DKK Corporation, Kichijoji-Kitamachi-shi, Tokyo, 180, Japan, proposing that model GFS–32 Ambient Air SO_2 Ultraviolet Fluorescent Analyzer be designated as an equivalent method under 40 CFR Part 53. If after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be published in the **Federal Register** in accordance with 40 CFR part 53.

Henry L. Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 97–17185 Filed 6–30–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5851–5]

Notice of Open Meeting of the Environmental Financial Advisory Board on August 7–8, 1997

The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold an open meeting of the full Board on August 7–8, 1997. The meeting will be held at the World Trade Club's International Room in Suite 300 of the World Trade Center (Ferry Building at Market St. and the Embarcadero), San Francisco, California. The August 7 session will run from 9:00 a.m. to 5:00 p.m., while the August 8 session will run from 8:30 a.m. to 11:30 a.m.

EFAB is chartered with providing analysis and advice to the EPA Administrator on environmental finance. The purpose of this meeting is to discuss work products under EFAB's current strategic action agenda and to develop an action agenda to direct the Board's activities over the remainder of this year and into 1998. Environmental financing topics expected to be discussed include: cost effective environmental management, community-based environmental protection, brownfields redevelopment, Drinking Water State Revolving Funds, and small business access to capital.

The meeting will be open to the public, but seating is limited. For further information, please contact Eugene Pontillo, U.S. EPA on 202–260–6044, or Joanne Lynch, U.S. EPA on 202–260–1459.

Dated: June 20, 1997.

David Ziegele,

Deputy Comptroller.

[FR Doc. 97–17187 Filed 6–30–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5851–1]

Accidental Release Prevention Requirements: Risk Management Program Under Section 112(r)(7) of the Clean Air Act as Amended; Clean Air Act Advisory Committee: Accident Prevention Subcommittee's Electronic Submission Workgroup Final Recommendations Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Clean Air Act section 112(r) required EPA to publish regulations focusing on the prevention of chemical accidents. On June 20, 1996, EPA published the final rule for risk management programs.

An estimated 66,000 facilities are subject to this regulation based on the quantity of regulated substances they have on-site. Facilities that are subject will be required to implement a risk management program at their facility, and submit a summary of this information ''in a method and format'' to a central location as specified by EPA prior to June 21, 1999.

The Accident Prevention Subcommittee of the CAA Advisory Committee created the Electronic Submission Workgroup in October 1996 to make recommendations on the method and format of RMP submissions. The ''Electronic Submission Workgroup Final Recommendations Report'' contains recommendations on the technical and practical issues associated with creating a national repository of electronic Risk Management Plans. The report includes recommendations on how the regulated community will report their Risk Management Plans, and how state and local governments, EPA and the public will have access to this information.

ADDRESSES:

Electronic Access. This document can be accessed in electronic formation through the Internet (at http://www.@epa.gov/swercepp/rmp-wg.html).

Order Copies. To order paper copies of this report, please fax a request to the Emergency Planning and Community Right-to-Know Information Hotline at 703–412–3333 or call at 800–412–9877, or 703–412–9810 in the Washington D.C. metropolitan area.

Docket. This document is in Docket A–91–73 Category VIII–A and available for public inspection and copying between 8:00 a.m. and 5:30 p.m.,

Monday through Friday, including all non-Governmental holidays, at EPA's Air and Radiation Docket and Information Center, room M1500, U.S. Environmental Protection Agency (6102), 401 M Street S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For further information on the Electronic Submission Workgroup and its report contact Karen Shanahan, Electronic Submission Workgroup Chair, by telephone at (202) 260–2711, FAX at (202) 260–7906, via E-mail: shanahan.karen@epamail.epa.gov, or US EPA (5104), 401 M. St., SW, Washington DC 20460.

SUPPLEMENTARY INFORMATION: Written comments may be submitted to EPA by July 18, 1997. Please address comments to Karen Shanahan at the above address.

Additional information on the Accident Prevention Subcommittee and Electronic Submission Workgroup are available on the Internet at: http://www.epa.gov/swercepp/rmp-wg.html

If you would like to automatically receive future information on the Accident Prevention Subcommittee and the Electronic Submission Workgroup by E-mail, please send an E-mail to Karen Shanahan at: shanahan.karen@epamail.epa.gov requesting to be put on the E-mail list for these groups; include your name, business name, address and phone number.

Dated: June 25, 1997.

Karen Shanahan,

Designated Federal Official.

[FR Doc. 97–17181 Filed 6–30–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5851–3]

Notice of Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given of a proposed administrative settlement concerning the Cemetery Lane Superfund Site in Howard County, Maryland, with Howard County (''Respondent''). The settlement requires Respondent to pay a total of $125,000 to the Hazardous Substances Superfund. The settlement includes an EPA covenant not to sue the Respondent pursuant to section 107 of CERCLA, 42 U.S.C. § 9607. Section 122(h) of CERCLA, 42 U.S.C. § 9622(h), provides EPA with authority to enter into administrative cost recovery settlements.

For thirty days following the date of publication of this document, the Agency will receive written comments relating to the settlement. The Agency will reconsider the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at USEPA Region III, 841 Chestnut Street, Philadelphia, PA 19107.

DATES: Comments must be provided on or before July 31, 1997.

ADDRESSES: A copy of the proposed settlement may be obtained from Marcia Preston (3RC21) in EPA's Region III Office, 841 Chestnut Building, Philadelphia, PA 19107, (telephone: 215/566–2697). Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, and should refer to: *In the Matter of Cemetery Lane,* Elkridge, Howard County, Maryland, U.S. EPA Docket No. III–97–75–DC.

FOR FURTHER INFORMATION CONTACT: Marcia Preston (Mail Code 3RC21) (215) 566–2679, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

SUPPLEMENTARY INFORMATION: Notice of Administrative Cost Recovery Settlement:

In accordance with section 122(i)(1) of CERCLA, notice is hereby given of a proposed administrative settlement concerning the Cemetery Lane Superfund Site, in Howard County, Maryland. Subject to review by the public pursuant to this document, the agreement has met with the approval of the Attorney General or her designee, the United States Department of Justice.

The Respondent has agreed to pay $125,000, subject to the contingency that EPA may elect not to complete the settlement if comments received from the public during this comment period disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. This settlement was reached through means of an alternative dispute resolution process.

Money collected from this settlement will be used to reimburse the Superfund for past response costs incurred at or in connection with the Site. These costs were incurred when EPA conducted a removal at the Site in 1990 and 1991. The removal action consisted chiefly of the offsite disposal of contaminated drums and soil found at the Site.

EPA is entering into this agreement under the authority of sections 122(h) and 107 of CERCLA.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 97–17180 Filed 6–30–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–400112A; FRL–5729–9]

Ethylene Glycol; Risk Assessment Peer Review; Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of risk assessment peer review; extension of comment period.

SUMMARY: In the **Federal Register** of May 7, 1997, EPA issued a notice of its ongoing peer review process for evaluating its risk assessments. Several EPA risk assessments will be submitted for external peer review including the screening level assessment for ethylene glycol that was conducted for purposes of section 313 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11023. In response to a request, EPA is extending the comment period by 60 days until September 5, 1997. The comment period for the notice was scheduled to close on July 7, 1997.

DATES: Comments should be submitted by September 5, 1997.

ADDRESSES: Submitted information should be provided in triplicate to: OPPT Docket Clerk, TSCA Document Receipt Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G099, Washington, DC 20460, Attention: Docket Control Number OPPTS-400112.

Comments and data may also be submitted electronically by following the instructions under Unit III. of this document. No confidential business information (CBI) should be submitted through e-mail.

Information claimed as confidential must be clearly marked as CBI. If CBI is claimed, three additional sanitized copies must also be submitted.

Nonconfidential versions of information on this notice will be placed in the public record and will be available for public inspection. Submitted information should include the docket control number for the document, OPPTS-400112, and the name of the EPA contact for this document.

FOR FURTHER INFORMATION CONTACT: Vanessa Vu, Director, Risk Assessment Division (7403), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202-260-1241, e-mail: vu.vanessa@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

In response to EPA's Risk Characterization Policy (memorandum of March 21, 1995 from Carol M. Browner, EPA Administrator) the Agency's Science Policy Council (SPC) is sponsoring a series of colloquia to provide internal peer review of several EPA risk assessments as case studies. After the internal peer review is complete, the SPC plans to have several of these case studies externally peer reviewed. As part of this process, EPA's Office of Prevention, Pesticides, and Toxic Substances will submit the screening level assessment of ethylene glycol that was conducted for purposes of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. 11023. This assessment was published in the **Federal Register** of May 7, 1997 (62 FR 24925). As part of its announcement of the peer review process, EPA invited the public to submit any scientific information that may impact the human health risk assessment of ethylene glycol. EPA is mainly seeking information directly pertaining to the human health and exposure analyses in this risk assessment conducted for the purposes of EPCRA. The notice originally provided that the comment period would close on July 7, 1997.

II. Extension of Comment Period

On May 29, 1997, EPA received a request from the Chemical Manufacturers Association (CMA) Ethylene Glycol Panel (Panel) to extend the comment period for 60 days. In their request, the Panel noted that, because the May 7 **Federal Register** notice did not specify the type of information in which EPA was interested, the original 60–day comment period was insufficient to thoroughly analyze the risk assessment and provide the Agency with any additional information for consideration.

EPA has considered CMA's comments and has determined that extending the comment period is appropriate, and will not cause a significant delay in the peer review process. Therefore, EPA is extending the comment period until September 5, 1997.

III. Public Record

The official record for this notice, as well as the public version, has been established for this document under docket control number OPPTS-400112 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of any special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–400112. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection.

Dated: June 24, 1997.

Joseph A. Carra,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 97–17177 Filed 6–30–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection title ''Appraisal Standards.''

DATES: Comments must be submitted on or before September 2, 1997.

ADDRESSES: Send written comments to Steven F. Hanft, Assistant Executive Secretary (Regulatory Analysis), Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. (Fax number (202) 898–3838; Internet address: comments@fdic.gov).

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Steven F. Hanft, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collection of information:

Title: Appraisal Standards.

OMB Number: 3064–0103.

Frequency of Response: Occasional.

Affected Public: Any business or other for-profit institution requiring the services of an appraiser for any real estate related financial transaction, including loans or investments.

Estimated Number of Respondents: 328,600.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden: 82,125 hours.

General Description of Collection: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), directs the FDIC to prescribe appropriate standards for the performance of real estate appraisals in connection with Federally related transactions under this jurisdiction. The information collection activities attributable to 12 CFR Part 323 are a direct consequence of the statutory requirements and the legislative intent.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether

the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection including the validity of the methodology and assumptions used: (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.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 26th day of June, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–17172 Filed 6–30–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 62 FR 33080, June 25, 1997.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 3:30 p.m., June 25, 1997.

CHANGES IN THE MEETING: The following topic was withdrawn from the open portion of the meeting:

- Designation of Elective Directorships for the 1997 Election of FHLBank Directors.

- This change was made on less than seven days notice to the public and no earlier notice of this change in the subject matter of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 97–17367 Filed 6–27–97; 12:39 p.m.]

BILLING CODE 6725–01–P

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. The notices also will 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 July 16, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Fred and Rayma Joy Wenig, Lincoln, Missouri; to acquire an additional .58 percent, for a total of 33.91 percent, of the voting shares of Lincoln Bancshares, Inc., Lincoln, Missouri, and thereby indirectly acquire The Farmers Bank of Lincoln, Lincoln, Missouri.

Board of Governors of the Federal Reserve System, June 26, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–17174 Filed 6–30–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will 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 July 25, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1 Century Acquisition Corporation, Hurst, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Century Capital Financial, Inc., Kilgore, Texas, and thereby indirectly acquire Century Capital Financial, Inc., Kilgore, Texas, and City National Bank, Kilgore, Texas. Comments on this application must be received not later than July 21, 1997.

2 Davis Bancorporation, Inc., Davis, Oklahoma; to acquire 17.04 percent; First Centralia Bancshares, Inc., Centralia, Kansas, to acquire 30.67 percent; Morrill Bancshares, Inc., Sabetha, Kansas, to acquire 34.08 percent, and Onaga Bancshares, Inc., Overland Park, Kansas, to acquire 17.04 percent, of the voting shares of Century Acquisition Corporation, Hurst, Texas, and thereby indirectly acquire City National Bank, Kilgore, Texas. Comments on this application must be received not later than July 21, 1997.

3. First National Bank Shares, LTD., Great Bend, Kansas; to acquire 20 percent of the voting shares of BankWest (a de novo bank), Castle Rock, Colorado.

4. RCB Holding Company, Claremore, Oklahoma; to acquire 100 percent of the voting shares of Northeastern Oklahoma Bancshares,Inc., Inola, Oklahoma, and thereby indirectly acquire at least 80 percent of the voting shares of Bank of Inola, Inola, Oklahoma.

5. Stockmens Financial Corporation, Rushville, Nebraska; to acquire 20 percent of the voting shares of BankWest (a de novo bank), Castle Rock, Colorado.

B. Federal Reserve Bank of San Francisco (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Santa Barbara Bancorp, Santa Barbara, California; to acquire 100 percent of the voting shares of Citizens State Bank of Santa Paula, Santa Paula, California.

Board of Governors of the Federal Reserve System, June 26, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–17173 Filed 6-30-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Thursday, July 3, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of a proposal to apply sections 23A and 23B of the Federal Reserve Act to certain subsidiaries of banks engaged in activities impermissible for the bank itself.

2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: June 26, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–17133 Filed 6–26–97; 10:43 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: Approximately 10:45 a.m., Thursday, July 3, 1997, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 26, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–17134 Filed 6–26–97; 10:43 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–97–15]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Information Collection Procedures for Evaluating Toxicological Profiles—New—The Agency for Toxic Substances and Disease Registry (ATSDR) prepares toxicological profiles in accordance with guidelines developed with guidelines developed by ATSDR and EPA and each profile is revised and republished as necessary, but no less often than every three years. The principal audiences for the toxicological profiles are health professionals at the federal, state, and local levels, interested private sector organizations and groups, and members of the public.

This is a request for approval to collect information in the profiles from users on: (a) Affiliation of users of the profiles, (b) clarity of discussion in the profiles, (c) consistency of information in the profiles, (d) completeness of information in the profiles, and (e) utility of information in the profile.

The information will be used in an effort to maintain customer satisfaction concerning use of the profiles by these multi-disciplinary users. This will also ensure that we continue to provide a client-oriented product. This effort will be accomplished through enhancement of the built-in system used for updating existing toxicological profiles and improving the utility of newly developed profiles by use of these user surveys.

The only cost to respondents will be the time to complete the form, which we estimate at less than 15 minutes per respondent. We expect respondents of the toxicological profile survey to come from a wide range of occupational and professional backgrounds and have an average hourly wage of $15. The cost to respondents to evaluate toxicological profiles would then be $3.75 per evaluation. Assuming a 50% response rate and a total of 12000 profiles (questionnaires) per year, the estimated annual cost to respondents is $22,500

Respondents	Number of respondents	Number of responses/respondent	Avg. burden/response	Total burden (in hrs.)
Questionnaire	6000	1	0.25	750

2. Preventive Health and Health Services Block, Annual applications and reports—(0920–0106)—Extension—In 1994, OMB approved the collection of information provided in the grant applications and annual reports for the Preventive Health and Health Services Block Grant (OMB #0920–0106). This approval expires on September 30, 1997. CDC is requesting extension of OMB clearance for this legislatively mandated information collection.

The information collected through the applications from the official State health agencies is required from section 1905 of the Public Health Service Act. This is no change in the proposed information collection from previous years. The information collected from the annual reports is required by section 1906, specifically the requirement for uniform data sets matching the uses of funds. Minor modifications to some individual uniform data sets for chronic diseases, as well as some other program areas, have been made to maintain consistency with performance measures developed as a result of the Government Performance and Results Act. Overall, this request reflects a 25% reduction in the collection burden to the grantees (States). The total cost to all respondents is $137,250, estimated at $25/burden hour.

Respondents	Number of respondents	Number of responses/respondents	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Annual Applications	61	1	30	1830
Annual Reports	61	1	30	1830
Total				5490

Dated: June 25, 1997.

Wilma G. Johnson,

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–17128 Filed 6–30–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–13–97]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 7 days of this notice.

Proposed Project

1. The National Home and Hospice Care Mail Survey (NHHCMS)—(0920–0298)—Revision—The National Home and Hospice Care Survey (NHHCS) was conducted in 1992, 1993, 1994 and 1996. It is part of the Long-Term Care component of the National Health Care Survey. Section 306 of the Public Health Service Act states that the National Center for Health Statistics ''shall collect statistics on health resources * * * [and] utilization of health care, including utilization of * * * services of hospitals, extended care facilities, home health agencies, and other institutions.''—NCHS data are used to examine this most rapidly expanding sector of the health care industry. Data from the NHHCS are widely used by the health care industry and policy makers for such diverse analyses as the need for various medical supplies; minority access to health care; and planning for the health care needs of the elderly. The NHHCS also reveals detailed information on utilization patterns, as needed to make accurate assessments of the need for and costs associated with such care. Data from earlier NHHCS collections have been used by the Congressional Budget Office, the Bureau of Health Professions, the Maryland Health Resources Planning Commission, the National Association for Home Care, and by several newspapers and journals. Additional uses are expected to be similar to the uses of the National Nursing Home Survey. The mail survey version is an abbreviated form used to collect basic trend data in years in which the full NHHCS is not in the field. NHHCMS data cover: baseline data on the characteristics of home health agencies and hospices including number of patients served, ownership, Medicare and Medicaid certification, and services provided. Data collection is planned for the period October 1997—January 1998. Survey design is in process now. The total annual burden hours are 200.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs.)
Hospices and Home Health Care Agencies	1,200	1	0.166

Dated: June 24, 1997.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–17126 Filed 6–30–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–14–97]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

1. Prospective Evaluation of Health-Care Workers Exposed to Blood From Patients Infected with HIV—(0920–0131)—Reinstatement—The HIV Infections Branch, Hospital Infections Program (HIP), Centers for Disease Control and Prevention (CDC) plans to continue surveillance of health-care workers (HCWs) exposed to the blood of persons infected with human immunodeficiency virus (HIV). This prospective evaluation, initiated in August 1983, provides essential scientific information on the risk of HIV transmission in the health care setting. The objectives of the project are to: (1)estimate the risk of HIV infection in HCWs exposed via the percutaneous, mucous-membrane, or skin route to HIV infected blood, according to type of exposure; (2) describe the type of devices and circumstances of the exposures sustained by HCWs; (3) describe the clinical natural history and development of laboratory markers of HIV infection in HCWs enrolled in this project who seroconvert to HIV; and, (4) describe the use of post-exposure chemoprophylaxis by HCWs exposed to HIV infected blood.

The design of this voluntary surveillance includes enrollment of participating institutions (respondents) throughout the United States. In the event that an HCW employed at the facility sustains an eligible exposure to HIV infected blood, the HCW is enrolled and followed prospectively. Epidemiologic data and serum for HIV antibody testing are collected within 30 days after the exposure with follow-up visits and serum samples collected at 6 weeks, 3, 6, and 12 months from the date of the exposure.

The number of respondents is the expected number of institutions participating in the project annually. The number of responses is based on the average number of forms which will be completed during each year. The 250 HCWs enrolled each year will each need three Follow-up forms completed. The number of Reports of Antiviral Prophylaxis is based on the proportion of HCWs expected to be prescribed antiviral prophylaxis (approximately 50%). The total annual burden hours are 198.

Respondent	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Initial Case Report Form	250	1	0.25	63
Follow-up Form	250	3	0.1666	125
Antiviral Prophylaxis Rpt	125	1	0.083	10

2. 1998 Alternative School Youth Risk Behavior Survey (0920–0258)—New—The Division of Adolescent and School Health, in the National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC) requests OMB Clearance to conduct a survey among alternative secondary school students of priority health risk behaviors related to the major preventable causes of mortality, morbidity, and social problems among both youth and adults in the U.S. The OMB clearance currently in effect for Youth Risk Behaviors Survey (YRBS) (0920–0258, expiration 10/97) is a national survey done biennially among students attending regular public, private, and Catholic schools in grades 9–12. This request is to conduct a YRBS in 1998 among a nationally representative sample of students in alternative schools, which have been excluded from the national school-based YRBS in the past. Alternative schools, which represent about 5% of U.S. high schools, serve students primarily who are at risk of not progressing in regular high schools and, as a result, not graduating, as well as students who have already gotten into disciplinary trouble, usually related to drug use or violence. Data on the health risk behaviors of adolescents is the focus of at least 26 national health objectives in *Healthy People 2000: Midcourse Review and 1995 Revisions.* This survey will provide data to help measure these objectives among alternative school students. No other national source of data exists for this population. The data also will have significant implications for policy and program development in alternative schools. The total annual burden hours are 7,628.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Alternative school students	10,000	1	0.75	7,500
Education Officials	256	1	0.5	128

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–17127 Filed 6–30–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 792]

Cooperative Agreement for American Indian/Alaska Native Infectious Disease Programs

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1997 funds for a cooperative agreement to establish Infectious Disease Programs (IDPs) to assist Native American Federally Recognized Tribes (NAFRTs), tribal groups, and Alaska Native Corporations (ANCs) in enhancing their capacity to address emerging and reemerging infectious diseases within their communities. Specifically, this program will assist them in the areas of disease prevention, health promotion, research, and education and training.

CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (For ordering a copy of ''Healthy People 2000,'' see the section **Where to Obtain Additional Information.**)

Authority

This program is authorized under Sections 301, 317(k)(1) and 317(k)(2) of the Public Health Service Act, as amended (42 U.S.C. 241, 247b(k)(1) and 247b(k)(2).

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

The only organizations eligible to apply are all recognized NAFRTs, tribal groups, and ANCs, in accordance with the 1976 Indian Health Care Improvement Act, Pub. L. 94–43. No other applications will be accepted.

Note: Effective January 1, 1996, Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities will not be eligible for the receipt of Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

Availability of Funds

Approximately $150,000 is available in FY 1997 to fund up to two awards. Approximately 50 percent of the funds is allocated for one award to an eligible applicant representing American Indians in the contiguous 48 United States and approximately 50 percent of the funds is allocated for one award to an eligible applicant representing Alaska Natives. It is expected that the average annual award (direct plus indirect) will be approximately $75,000, ranging from $50,000 to 100,000. It is expected that the awards will begin on or about September 29, 1997, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of Department of Health and Human Services (HHS) funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1997 Departments of Labor, HHS, and Education, and Related Agencies Appropriations Act, which became effective October 1, 1996, expressly prohibits the use of 1997 appropriated funds for indirect or ''grass roots'' lobbying efforts that are designed to support or defeat legislation pending before State legislatures. Section 503 of this new law, as enacted by the Omnibus Consolidated Appropriations Act, 1997, Division A, Title I, Section 101(e), Pub. L. No. 104–208 (September 30, 1996), provides as follows:

Sec. 503(a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, * * * except in presentation to the Congress or any State legislative body itself.

Sec. 503(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Background

Infectious diseases remain the leading cause of illness and death worldwide. In the United States, infectious diseases increasingly threaten public health and contribute significantly to morbidity, mortality and the cost of health care. Because of multiple sociocultural characteristics, access to adequate health care, and other factors, infectious diseases are particularly important causes of morbidity and mortality among minority group members in the United States. Incidence of tuberculosis, HIV infection, hepatitis A and B, and *Hemophilus influenzae* type b and pneumococcal invasive diseases are much higher among members of minority groups than in the White population. American Indians and Alaska Natives (AI/AN), the smallest and most linguistically and culturally diverse U.S. ethnic groups, have some of the highest rates of certain infectious diseases, notably respiratory syncytial virus infection, tuberculosis, pneumococcal and *Hemophilus influenzae* type b invasive disease.

Emerging infectious diseases, including those which are new or previously unrecognized, whose incidence in humans has increased within the past two decades or threatens to increase in the near future, and those which are reemerging pose a particular threat to native populations. In 1993, an outbreak of severe respiratory illness

was first described in the southwestern United States leading to the discovery of Hantavirus pulmonary syndrome, which was caused by a previously unrecognized hantavirus. Conditions in many sparsely populated areas, including relative isolation, overcrowded dwellings, and resource-poor environments, tend to promote infectious disease emergence and transmission.

The Department of Health and Human Services (DHHS), primarily through the Indian Health Service (IHS), was responsible for providing Federal health services to American Indians and Alaska Natives. The Indian Health Program became a primary responsibility of DHHS under Pub. L. 83–568, the Transfer Act, in 1954. The 1975 Indian Self-Determination Act, Pub. L. 94–638, built upon IHS policy by giving tribes the option of staffing and managing IHS programs in their communities and provided for funding for improvement of tribal capability to contract under the Act. The 1976 Indian Health Care Improvement Act, Pub. L. 94–43, was intended to elevate the health status of AIs/ANs to a level equal to that of the general population through a program of authorizing higher resource levels in the IHS budget. It appropriated resources which were used to expand health services, build and renovate medical facilities, and construct facilities for water treatment and sanitary disposal. It also established programs designed to increase the number of AI/AN health professionals and to improve health care access for AIs/ANs living in urban areas. In recent years, the operation of health care systems has been assumed by AIs/ANs themselves. Significant progress in the areas of advancing tribal sovereignty, self-governance and self-determination, and improved health status have been documented.

However, much remains to be done before the goal of improving the health status among AIs/ANs to a level comparable to that of the White population is achieved. Based on the results published in the Report of the Secretary's Task Force on Black and Minority Health, CDC established a goal to reduce the excess burden of disability and death experienced by minority populations in the United States. In response to the problem of emerging infections, CDC, in partnership with other Federal agencies, State and local health departments, academic institutions and others, developed a plan for revitalizing the nation's ability to identify, control and prevent illness from emerging infectious diseases. The plan, Addressing Emerging Infectious Disease Threats: A Prevention Strategy for the United States proposes three major surveillance activities, as well as objectives in areas of applied research, prevention and control and infrastructure. It particularly recognizes the special vulnerability of minority and underserved populations to emerging and reemerging infections, and prioritizes these activities in minority populations.

In 1995, CDC began to address the objective of establishing population-based programs to ensure adequate capacity to conduct epidemiologic and laboratory surveillance and response through cooperative agreements with State health departments. This program announcement describes cooperative agreements which would establish infectious disease infrastructure-enhancing programs (IDPs) with NAFRTs and ANCs. These programs (AI/AN IDPs) will help ensure that as AI/AN communities assume responsibility for health care services to Native peoples, they will also have the opportunity to assume responsibility for infectious disease prevention, research, and training activities. IDPs will also assist NAFRTs and ANCs to identify emerging infectious disease prevention research priorities in their communities. Priority setting accomplished through a participatory process, the main goal of this program announcement, will result in prevention research programs that are responsive to high priority, community-validated needs within defined populations. Additionally, it will facilitate tribal consultation and tribal input in CDC activities that impact these communities, as recommended in the Annual Report of the Administration Working Group on American Indians and Alaska Natives: Two Years After the President's Meeting with Tribal Leaders.

Purpose

The purpose of this cooperative agreement is to assist NAFRTs and ANCs to establish AI/AN IDPs. This program will be designed to enhance the capabilities of these entities to: (1) Identify infectious disease prevention research priorities in AI/AN communities; (2) develop, propose, and evaluate a prevention or intervention project, and; (3) within this process, provide infectious disease prevention training, education, and professional work experience opportunities designed to increase the numbers of AI/AN public health professionals. Activities of the AI/AN IDPs will be focused in the areas of vaccine preventable or potentially vaccine-preventable diseases, drug-resistant infections, foodborne and waterborne diseases, or other emerging or reemerging infectious disease problems that are identified as important in the population. The AI/AN IDPs will be located to serve a variety of geographical areas, diverse groups, and difficult to reach populations. They will enlist the participation of community-based organizations, individuals who have recognition in the communities, academic institutions, local health departments and other public (including Federal and State government) and private organizations, and will seek support from other sources in addition to CDC to operate the program.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for addressing activities in A., below, and CDC will be responsible for conducting activities under B., below:

A. Recipient Activities

1. Develop a AI/AN IDP which will:

a. Identify infectious disease prevention priorities in one or more AI/AN communities. Specific activities should include survey(s), interviews, focus groups, and other activities to identify the community's concerns and priorities related to infectious disease(s), such as otitis media, meningitis, or diarrhea, or chronic diseases with an infectious etiology, such as hepatic or cervical cancer or peptic ulcer disease, and emerging or reemerging infectious diseases.

b. Conduct *either* (1) *or* (2) below:

Plan, implement and evaluate:

1. A prevention or intervention program to address an infectious disease prevention priority identified in section ''a.'' above, or focused in another area of vaccine preventable or potentially preventable disease, drug resistant infections, or food or waterborne diseases of importance in the AI/AN community.

or

2. A collaborative project in applied epidemiology or applied laboratory research on an emerging infectious disease priority identified in section ''a.'' above, or another area of importance in AI/AN communities.

2. Collaborate with other appropriate organizations.

a. Develop collaborative relationships with appropriate community-based organizations and/or other entities to accomplish activities under this program.

b. Work to obtain technical and/or financial assistance from other parties to supplement support from CDC.

3. Monitor and evaluate scientific and/or operational accomplishments and progress in achieving the purpose of this program.

4. Provide infectious disease prevention training, education, and professional work experience opportunities designed to increase the number of AIs/ANs in public health, epidemiology, and laboratory professions. Identification and recruitment of AI/AN candidates for training, education and professional work experiences.

5. Disseminate findings, etc.

B. CDC Activities

1 Provide consultation and scientific and technical assistance in general operation of the AI/AN IDP and in designing and conducting individual AI/AN IDP projects.

2. Participate in analysis and interpretation of data from AI/AN IDP projects, facilitate timely dissemination of findings and information stemming from AI/AN IDP projects.

3. Assist in monitoring and evaluating scientific and operational accomplishments of the AI/AN IDP and progress in achieving the purpose and overall goals of this program.

4. As needed, perform laboratory evaluation of specimens and isolates (e.g., molecular epidemiologic studies, evaluation of diagnostic tools) and integrate results with other data from AI/AN IDP(s) projects.

5. Assist in recruitment and support of AI/AN candidates for training, education, and professional work experiences.

CDC collaboration for recipients in Alaska will be provided by the Arctic Investigations Program, National Center for Infectious Diseases (NCID) based in Anchorage, Alaska. CDC collaboration for recipients in other states will be provided by the appropriate NCID division or program that is responsible for the area on which the recipient has focused.

Technical Reporting Requirements

Semiannual progress reports are required and must be submitted no later than 30 days after each semiannual reporting period. The semiannual progress reports must include the following for each program, function, or activity involved: (1) status of the core activity (community-based identification of research priorities); (2) progress toward development and implementation of a prevention or intervention or an applied research project; and, (3) progress toward overall objectives as represented in the Purpose and Recipient Activities sections of this announcement. The final progress report is required no later than 90 days after the end of the project period. All abstracts, presentations, or publications as a result of the work supported in part or whole by the cooperative agreement will be submitted with the progress reports.

An annual financial status report (FSR) must be submitted no later than 90 days after the end of the budget period. The final financial status report is due no later than 90 days after the end of the project period.

An original and two copies of all reports should be submitted to the Grants Management Officer, Procurement and Grants Office, Grants Management Branch, CDC.

Required Format for Applications

All applicants must develop their application in accordance with the PHS Form 5161–1 (revised 7/92), information contained in this cooperative agreement announcement, and the instructions outlined below. In order to ensure an objective, impartial, and prompt review, applications which do not conform to these instructions may be disqualified.

1. All pages must be clearly numbered.

2. A complete index to the application and its appendices must be included.

3. To facilitate photocopying, the original and both copies of the application must be submitted unstapled and unbound. Bound materials will NOT be accepted in the narrative or appendices. Do not include page separators between sections.

4. All materials must be typewritten, single spaced, and in font size of 12 or greater, on 8½″ by 11″ white paper, with at least 1″ margins.

5. All pages must be printed on one side only.

Application Content

The application narrative must not exceed 12 pages (excluding budget, appendices, and the protocols for the core and potential additional projects in the Operational Plan below.) Applications in which the narrative exceeds 12 pages will NOT be accepted. All information requested below, aside from what is requested as appendices, must appear in the narrative. Material or information that should be part of the narrative will not be accepted if placed in the appendices.

The application narrative must contain the following sections in the order presented below:

1. Background:

In this section, demonstrate a clear understanding of the objectives of the IDP. Use this section to explain the background and objectives of this cooperative agreement program, the problem of emerging infectious diseases, and the requirements, responsibilities, problems, constraints and complexities that may be encountered in establishing and operating the IDP, such as widely dispersed populations, language difficulties, difficulties related to travel, etc.

2. Description of Population in Which IDP Will Operate

In this section, clearly define the geographic area and population base in which the IDP will operate, including as much detail as is available and relevant, such as number of persons by age-group, language(s) spoken in the area, major occupations, major tribal affiliation(s). Describe various special populations in the IDP area as they relate to the proposed activities of the IDP, such as elders, women, underserved infants and children.

3. Description of Existing Public Health Infectious Disease Epidemiologic and/or Laboratory Research Capacity:

a. In this section, describe past experience in conducting or collaborating in surveys or behavioral research, applied epidemiologic and applied laboratory research, or prevention research in general. Describe any past experience in conducting or assisting in research, including studies of infections caused by antimicrobial-resistant organisms; foodborne, waterborne, potentially or currently vaccine-preventable diseases; cervical cancer; hepatitis, etc. Include participation in other CDC-sponsored or other surveillance and research programs and participation in investigations of outbreaks of emerging infectious diseases. To demonstrate applicant's ability to develop and maintain strong cooperative relationships with both public and private local and regional medical, public health, laboratory, academic and community-based organizations, describe previous or current collaborative relationships with such parties. Demonstrate applicant's ability to solicit and secure financial and technical support and programmatic collaboration from other public and private organizations for conducting public health research projects.

b. Provide in an appendix (Appendix 1) letters of support from non-applicant participating agencies, institutions, organizations, laboratories, individuals, consultants, community-based organizations, etc. which are indicated in the applicant's operational plan.

Letters of support should clearly indicate their willingness to be participants in, or collaborators with, the IDP, or its activities. Do not include letters of support from CDC personnel. Award of a cooperative agreement implies participation by CDC staff members as indicated in ''CDC activities.''

4. Operational Plan:

a. Present a plan for establishing and operating the population-based IDP which simply and clearly describes the proposed organizational and operating structure/procedures and clearly identifies the roles and responsibilities of all participating agencies, organization, institutions and individuals. Whether or not exempt from DHHS regulations, in any proposed project(s) involving human subjects, describe for each such project in an appendix (Appendix 2) adequate procedures for the protection of human subjects. Also, ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects by including a description of the composition of the proposed study population (for example, addressing the inclusion of women and members of minority groups and their sub-populations in the section that will describe the research design). Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. See the **Other Requirements** section for additional information.

b. Describe applicant's partnerships with necessary and appropriate organizations establishing and operating the proposed IDP and for conducting individual IDP projects. Describe plans or willingness to accommodate training opportunities for researchers-and providers-in-training (e.g., AI/AN college, graduate and medical students, infectious disease fellows).

c. Describe collaboration plans:

1. To collaborate with community-based organizations.

2. Describe plans to solicit and secure financial and technical assistance from other public and private organizations (e.g., schools of public health, centers of excellence, university medical schools, public health laboratories, community-based organizations, other Federal and State government agencies, including the Indian Health Service, research organizations, foundations, etc.) to supplement the core funding from CDC.

d. For the planned prevention activities beyond the initial planning of the IDP, intervention or applied research program, submit in an appendix (Appendix 3), a brief proposal (no more than three pages) and an estimated budget describing how they will be accomplished. The protocols should demonstrate that the applicant understands the concept of active surveillance, epidemiologic studies or pilot prevention or applied research program, and can propose collaborative efforts to conduct these.

5. Personnel Qualification and Management Plan

a. Identify and provide in an appendix (Appendix 4) curriculum vitae for applicant's key professional personnel to be assigned to the IDP and IDP projects. Clearly identify their respective roles in the management and operation of the IDP. Describe their experience in conducting work similar to that proposed in this announcement.

b. Identify and provide in an appendix (Appendix 5) curriculum vitae for key professional personnel from other participating or collaborating institutions, agencies, organizations outside of the applicant's agency that will be working on IDP activities if more than 10 percent effort is anticipated in the first year of the grant. Clearly identify their respective roles.

c. Fully describe all support staff and services to be assigned to the IDP.

d. Describe approach to maintaining sufficiently flexible IDP staffing to accommodate the likelihood that the requirements of IDP projects will change from time to time due to changes in the need for information or the emergence of new diseases.

6. Evaluation Plan

Provide an evaluation plan (which can be less than one page) for monitoring process and outcome-based criteria which evaluates:

a. The timeliness and completeness of the accomplishments of the IDP and its recipient activity. This would specifically include criteria by which the Research Priorities Identification activity and the subsequent activity will be evaluated.

b. Progress in achieving the research, prevention and training goals of the IDP.

7. Appendix

Provide in an appendix (Appendix 6) a detailed line-item budget and accompanying justification consistent with the purposes and objectives of this program. For each line item or object class category, show both Federal and non-Federal (e.g., recipient, State, private) shares of total cost for the IDP. If requesting funds for any contracts, provide the following information for each proposed contract: (1) Name of proposed contractor, (2) breakdown and justification for estimated costs, (3) description and scope of activities to be performed by contractor, (4) period of performance, and (5) method of contractor selection (e.g., sole-source or competitive solicitation).

Evaluation Criteria

The applications will be reviewed and evaluated according to the following Criteria: (Total 100 points).

1. The extent to which the applicant demonstrates in the Background section a clear understanding of this cooperative agreement program, in which the main goal is priority setting, accomplished through a participatory process to identify high priority research and prevention issues and needs within defined AI/AN populations. The extent to which applicant demonstrates a clear understanding of the requirements, responsibilities, problems, constraints and complexities that may be encountered in establishing and operating the IDP by citing these requirements in the Background section and anticipating some of the problems and complexities. (13 points)

2. a. The extent to which the applicant clearly defines the geographic area and population base in which the IDP will operate. The extent to which the applicant defines a population base for the IDP that is large enough and appropriate for the accomplishment of proposed IDP activities. The extent to which the applicant clearly describes various special populations in the IDP area, such as the rural or urban poor, underserved women, infants and children, elders, or subsistence hunters, that could be the focus of one or more IDP projects. (15 points)

b. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation. (2) The proposed justification when representation is limited or absent. (3) A statement as to whether the design of the study is adequate to measure differences when warranted. (4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. (2 points)

3. The extent to which the applicant demonstrates its capacity and ability to collaborate in surveys, behavioral

studies, applied epidemiologic and applied laboratory research, and/or prevention research in emerging infectious diseases. The extent to which applicant demonstrates its ability to solicit and secure financial and technical support and programmatic collaboration from other public and private organizations for conducting public health research projects. The extent to which applicant provides letters of support from non-applicant participating agencies, institutions, organizations, individuals, consultants, etc., indicating their willingness to participate, as represented in applicant's operational plan, in establishing and operating the center. (25 points)

4. a. The extent to which the applicant's proposed plan for collaborating in the establishment and operation of the IDP is detailed and clearly describes the proposed organizational and operating structure/procedures and clearly identifies the roles and responsibilities of all participating agencies, organizations, institutions, and individuals. The extent to which the applicant describes plans for collaboration with CDC in the establishment and ongoing operation of the IDP and its projects. The extent to which the applicant's plan addresses all Recipient Activities listed in this announcement and appears feasible and capable of accomplishing the purpose of the program. If any proposed project involves human subjects, whether or not exempt from the DHHS regulations, the extent to which adequate procedures are described for the protection of human subjects. Note: Objective Review Group (ORG) recommendations on the adequacy of protections include (1) protections appear adequate and there are no comments to make or concerns to raise, (2) protections appear adequate, but there are comments regarding the protocol, (3) protections appear inadequate and/or has concerns related to human subjects, or (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risk are inadequate as to make the entire application unacceptable. (10 points)

b. The extent to which the applicant's plan clearly describes partnerships with appropriate organizations for establishing and operating the proposed IDP and for conducting individual projects. Partner organizations must include community-based organizations (7 points) and may also be academic institutions and other public and private organizations with an interest in addressing public health issues relating to emerging infectious diseases (e.g., other Federal and State government agencies, research organizations, medical institutions, etc.). (3 points—for 10 points total)

c. The extent to which the applicant describes activities beyond the initial planning of the IDP project(s) that are consistent with the Purpose and Recipient Activities stated in this announcement.

The extent to which proposed projects/activities are consistent with expressed community needs and appear feasible. The extent to which proposed projects/activities include appropriate methodology and documentation of plans for recruitment and outreach for study participants. (10 points)

5. The extent to which the applicant identifies its own professional and support staff, and professional and support staff from other agencies, institutions, and organizations, that have the experience, authority and willingness to carry out recipient activities as evidenced by job descriptions, curriculum vitae, organizational charts, etc. The extent to which the applicant describes an approach to maintain a sufficiently flexible staffing pattern. (10 points)

6. The extent to which applicant provides an adequate evaluation plan, which includes time-based and outcome-based criteria. The quality of the proposed plan for monitoring accomplishments of the IDP and of individual IDP project(s). The quality of the proposed evaluation plan for monitoring progress in achieving the purpose and overall goals of this program. (5 points)

7. The extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of cooperative agreement funds. The extent to which both Federal and non-Federal (e.g., State funding) contributions are presented. (not scored)

Executive Order 12372

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. Indian tribes are strongly encouraged to request tribal government review of the proposed application. If SPOCs or tribal governments have any process recommendations on applications submitted to CDC, they should forward them to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–18, Room 305, Atlanta, Georgia 30305. The due date for State process recommendations is no later than 30 days after the application deadline date. The granting agency does not guarantee to ''accommodate or explain'' for State process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and are funded by the cooperative agreement will be subject to review by the Office of Management and the Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and form provided in the application kit.

Women, Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) and Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black, and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exists that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, dated Friday, September 15, 1995.

Application Submission and Deadline

The original and two copies of the application Form PHS–5161–1 (Revised 7/92) must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, Georgia 30305, on or before August 15, 1997. No applications or additional materials will be accepted after the deadline.

1. *Deadline:* Applications will be considered as meeting the deadline if they are either: a. Received on or before the deadline date; or b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

To receive additional written information, call (404) 332–4561. You will be asked to leave your name, address, and telephone number. Please refer to Announcement Number 792. You will receive a complete program description, information on application procedures and application forms. If you have questions after reviewing the contents of all the documents, the business management technical assistance may be obtained from Gladys T. Gissentanna, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6801, facsimile (404) 842–6513.

Programmatic technical assistance may be obtained from Earl Long, Ph.D., National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Mailstop C–12, 1600 Clifton Road, NE., Atlanta, GA, 30333, telephone 404–639–2456. You may obtain this announcement from one of two Internet sites on the actual publication date: CDC's homepage at http://www.cdc.gov or at the Government Printing Office homepage (including free on-line access to the **Federal Register** at http://www.access.gpo.gov). Other CDC Announcements are also listed on the Internet on the CDC homepage.

Please refer to Announcement Number 792 when requesting information regarding this program.

Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report, Stock No. 017-001–00474–0) or ''Healthy People 2000'' (Summary Report, Stock No. 017–001–00473–1) referenced in the **Introduction** through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Potential applicants may obtain a copy of ''Addressing Emerging Infectious Disease Threats: A Prevention Strategy for the United States'' via the CDC homepage (http://www.cdc.gov/ncidod/publications/eid—plan/home.htm) or through the Centers for Disease Control and Prevention (CDC), National Center for Infectious Diseases, Office of Planning and Health Communication—EP, Mailstop C–14, 1600 Clifton Road, Atlanta, GA 30333. Requests may also be sent by facsimile to (404) 639–3039.

Dated: June 25, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–17124 Filed 6–30–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 774]

Young Women at Risk: Prevention of Unplanned Pregnancies, HIV, and Other Sexually Transmitted Diseases

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1997 funds for cooperative agreements for the prevention of unplanned pregnancies, human immunodeficiency virus (HIV), and other sexually transmitted diseases (STDs) among young women aged 15–25 years, in the United States (U.S.). Applied research programs that design, implement, and evaluate interventions to reduce unprotected sexual intercourse among young women and their male partners will be supported under this cooperative agreement. Applications are sought that focus on the dynamics of heterosexual relationships and the factors that may contribute to successful risk reduction. Research should assess factors that affect sexual decision-making, disease and pregnancy prevention behavior, such as the nature and the effect of implicit or explicit communication between heterosexual partners about sex and protective behavior; the importance of gender roles, relationship stage, concordance of couples' reproductive desires, the balance of power in the relationship; and the influence of other network, family, and sociocultural factors.

The CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to priority areas of Family Planning, HIV Infection, and Sexually Transmitted Diseases. (To order a copy of Healthy People 2000, see the section ''Where To Obtain Additional Information.'')

Authority

This program is authorized under the Public Health Services Act, Section

301(a) [42 U.S.C. 241(a)], Section 317(k)(2) [42 U.S.C. 247b(k)(2)], and Section 318(b)(3) [42 U.S.C. 247c(b)(3)], as amended.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants are the official public health, family planning, and substance abuse agencies of the States, the District of Columbia and Puerto Rico, as well as local governments, nonprofit organizations, academic institutions, and other nonprofit health, family planning, substance abuse, or social service providers. All applicants must provide evidence that demonstrates a successful history of working in partnership with interdisciplinary groups of health researchers and local racial and ethnic minority communities on applied social and behavioral science projects.

Note: Effective January 1, 1996, Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities will not be eligible for the receipt of Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

Availability of Funds

Approximately $1.2 million is available in FY 1997 to fund approximately three awards. It is expected that the average award will be $450,000, ranging from $300,000 to $650,000. It is expected that awards will begin on or about September 30, 1997, and will be made for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory performance and the availability of funds.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of Department of Health and Human Services (HHS) funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1997 Departments of Labor, HHS, and Education, and Related Agencies Appropriations Act, which became effective October 1, 1996, expressly prohibits the use of 1997 appropriated funds for indirect or ''grass roots'' lobbying efforts that are designed to support or defeat legislation pending before State legislatures. Section 503 of this new law, as enacted by the Omnibus Consolidated Appropriations Act, 1997, Division A, Title I, Section 101(e), Public Law No. 104–208 (September 30, 1996), provides as follows:

Section 503(a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, * * * except in presentation to the Congress or any State legislative body itself.

Section 503(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Background

Adolescent and young women in racial and ethnic communities are at increased risk for a range of preventable health threats such as unplanned pregnancy, human immunodeficiency virus (HIV) infection, and other sexually transmitted diseases (STDs). Although CDC promotes abstinence as the most effective strategy for prevention of these public health problems, many women will choose to become sexually active during adolescence and young adulthood. An estimated one million adolescents become pregnant every year, and teenagers undergo one-third of the 1.5 million abortions performed in the U.S. each year. There are adverse consequences of having a baby during early adolescence for both the mother and the infant. These include increased risk of low birth weight and developmental problems for the child, as well as detrimental effects on the lifelong physical, educational, and financial well-being of the young mother. These problems are compounded for young women who are living in communities characterized by high rates of violence, illegal drug use, and poverty.

HIV infection and STDs are a significant threat to young people—one out of every eight adolescents contracts an STD, and 20 percent of the acquired immunodeficiency syndrome (AIDS) cases reported are among persons younger than 29 years of age. Because the median time between infection with HIV and the onset of AIDS symptoms is 8 to 10 years, most of these young people were probably infected during their teenage years. Further, the pattern of HIV infection in the U.S. has made a significant shift toward women. The overall slowing in the growth rate of the AIDS epidemic in the U.S. has not been seen among women—the proportion of AIDS cases among women has risen from 11 percent of cases reported in 1989, to 20 percent of cases reported in 1996. AIDS is now the third leading cause of death among U.S. women aged 25–44 years. Heterosexual transmission accounts for at least 40 percent of current AIDS cases among women, and in 1992, surpassed injecting drug use as the most common mode of HIV transmission to U.S. women. The increase in rates of AIDS has especially affected racial and ethnic minority women—78 percent of all women and 85 percent of children diagnosed with AIDS are Black or Hispanic.

Eighty percent of women with AIDS are of childbearing age and 90 percent of AIDS cases reported among children are believed to have been transmitted from the mother. With the recent finding that zidovudine (AZT) given to HIV-positive pregnant women can significantly reduce the risk of perinatal transmission, there is hope of significantly reducing this mode of HIV transmission to children. Still, as of the end of 1996, 7,629 pediatric AIDS cases had been reported. Preventing primary HIV infection among women and helping women who are already infected with HIV to avoid unintended pregnancies will help reduce HIV infection among infants.

In 1991, in response to the growing threat of HIV to women and infants, and in recognition of the need to integrate pregnancy and disease prevention strategies for women at risk, CDC funded cooperative agreements for the prevention of HIV among women and infants (Announcement Number 124).

This project, known as Project CARES (Comprehensive AIDS and Reproductive Health Education Study), provided reproductive health services in nontraditional settings and enhanced counseling services offered by peer para-professionals to women aged 15–44 years. Women at risk for unplanned pregnancy, HIV, and other STDs, as well as women living with HIV infection, participated in a counseling intervention tailored to each woman's readiness to change her sexual risk behavior.

Findings from Project CARES suggest that the male sex partner's influence on condom and other contraceptive use among young women at risk is an important area for further research and intervention. The partner's reproductive desires, length of the relationship, the partner's support for using contraceptives, and communication with one's partner about condom use, are associated with condom and other contraceptive use. Very little research has been done that focuses on the influence of sex partners on each other and the effect of other social and normative factors on the sexual dyad.

Thus, this announcement seeks research that expands the conceptual framework for understanding the sexual behavior of young women at high risk for unplanned pregnancy, HIV, and other STDs, by taking into consideration individual-level, relationship-level, and social-level factors, and to using this foundation to design interventions to reduce sexual risk behavior.

Purpose

These awards will support advancing efforts to prevent unplanned pregnancy, HIV, and other STDs among young women in the U.S. by focusing on sexual behavior as a social or dyadic phenomenon best understood by considering the joint influence of sex partners on behavior. To reach this goal, the program will support applied research that meets the following criteria:

1. Extends or enhances existing social and psychological models of sexual behavior change, and develops and tests new hypotheses and measures to examine the dynamics of heterosexual relationships, taking into consideration the influence of sex partners on each other. Individual-level variables (e.g., perception of partners' attitude toward condom use, etc.), relationship-level variables (e.g., length of relationship, concordance of partners' attitudes toward risk reduction, etc.), and social and cultural-level variables (e.g., culturally prescribed sexual behavior norms for young men and women, etc.) should be assessed.

2. Designs, conducts, and evaluates new intervention strategies, or extensions of existing strategies, to promote safer sexual behavior, including condom and other contraceptive use, among young women (who have chosen not to abstain) and their male sex partners.

All proposed projects must be grounded in social and behavioral science theory and past research, and applicants must provide theoretical, scientific, and programmatic justification for the activities proposed.

The research program is intended to benefit populations of young women (aged 15–25 years) who are currently having sex with men (or who are likely to do so in the future), and who live in communities in which there are elevated rates of social and health problems among the adolescent and young adult population, and who have had, or are at risk for unintended pregnancy, STDs, using crack cocaine or other illegal drugs, trading sex for money, drugs, or other things, sex with partners who have known risks for HIV infection, running away from home, dropping out of school, becoming involved with the juvenile justice system.

Interventions may target young women as described above, and may also include (1) their male sexual partner(s), (2) other young men in the community who are not necessarily current sex partners, or (3) other important peer, family, or social network members. Research and measurement activities may extend beyond those who directly participate in the intervention. For example, applicants who intervene with young women only may propose to limit research questions and outcome evaluation to the individual-level (e.g., perception of partners' attitude, perceived social norms regarding gender-appropriate behavior, etc.), or they may include assessment of male partners or other peer, family, or social network members not directly targeted by the intervention to examine diffusion effects of the intervention and to further understand contextual factors that affect the sexual risk behavior of young women and their male partners.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for conducting activities under B. (CDC Activities).

Recipient Activities

1. Develop a theory-based, and empirically supported, conceptual model of heterosexual risk behavior for young women at risk for unplanned pregnancies, HIV and other STDs that focuses on the dynamics of heterosexual relationships and the factors that may contribute to successful risk reduction including comprehensive measures of key intrapersonal, interpersonal, and sociocultural factors that affect sexual relationships.

2. Validate the conceptual model through the development and testing of measures of key interpersonal, intrapersonal, and/or sociocultural influences, and through the answering of specific research questions, such as, but not limited to, the following:

(a) How do women come to understand and interpret partner attitudes toward family planning, contraception, and STD and HIV prevention?

(b) How are reproductive and disease prevention values communicated between young women and their sex partners, and within their social networks?

(c) How is a couple's sexual behavior affected by their agreement or disagreement on goals for childbearing, contraception, and HIV and other STD prevention?

(d) How do changes in a couple's relationship over time affect their sexual behavior, family planning, contraceptive use, and HIV and other STD prevention behavior?

(e) What are the positive and negative influences of a partner's attitude and behavior on sexual risk behavior? How important are partner influences relative to other personal, family, network, or cultural influences?

(f) How can male partners and other social and family network members support young women in achieving proximal pregnancy and disease prevention goals, and more long-term reproductive health preservation goals?

3. Develop and conduct an intervention based on theory and data that will influence specific intrapersonal, interpersonal and sociocultural factors to reduce unprotected sexual intercourse among young women and their male partners. Examples include, but are not limited to, the following:

(a) Providing theory-based training to help young women negotiate sexual risk reduction.

(b) Identifying and enlisting family, peer, and social networks to support and reinforce sexual risk reduction.

(c) Creating and mobilizing new networks of communication, influence, and support concerning sexual risk reduction.

(d) Providing opportunities for acquisition and practice of

communication skills and risk reduction strategies.

4. Measure the success of interventions with targeted populations in comparison to a control/comparison group (or community) with outcome measures of interpersonal, intrapersonal, and sociocultural changes such as, but not limited to, self-reports, observations, and other measures of:

(a) Cognitive, emotional, and behavioral change among individuals,

(b) Interpersonal changes such as changes in distribution of power in sexual relationships, changes in network characteristics or functioning, and

(c) Cultural and normative changes such as changes in content of media messages on reproductive health, changes in distribution of reproductive health services funds, changes in community attitudes, etc.

5. Work with other cooperative agreement recipients and CDC to develop and refine research questions and methods, conceptual frameworks, measurement and analysis strategies, and intervention protocols so that findings can be used to facilitate national efforts to prevent unplanned pregnancy, HIV, and other STDs among young women at risk. This may require modifying conceptual frameworks, sampling plans, data collection instruments, intervention activities, and other elements of the applicant's proposal to meet the program goals.

6. Collaborate and coordinate efforts with appropriate health, substance abuse, youth-service, community-based, and minority organizations who deliver services or interventions to the targeted populations. Include members of the targeted population in planning, developing, and revising the research and intervention activities whenever appropriate and feasible.

7. Develop a plan for disseminating results of the research to members of the scientific, programmatic, and targeted communities.

CDC Activities

1. Host meetings each year to plan the research program and to promote progress toward national objectives.

2. Provide scientific and technical assistance in the design and development of the research, intervention, and evaluation protocols, selection of measures and instruments, operational plans and objectives, and data analysis strategies.

3. Provide scientific and technical coordination of the general operation of the research project, including data management support.

4. Participate in the analysis of data gathered from program activities and the reporting of results.

5. Conduct site visits to assess program progress.

Technical Reporting Requirements

Semiannual progress reports are required and must be submitted no later than 30 days after each semiannual reporting period. The semiannual progress reports of activities conducted and accomplishments during the previous period should include:

1. A brief program description.

2. A comparison of actual accomplishments to goals and objectives established for the 6-month period.

3. Explanations for all goals or objectives either delayed or not accomplished and a plan of corrective action.

4. Documentation of the applicant's ability to conduct the research and intervention activities, including implementation of the intervention and evaluation protocol activities within the required timelines, recruitment and follow-up of required number of participants, recruitment and maintenance of appropriate personnel, and efficient use of funds.

5. Data on participation in intervention and research activities, including numbers of completed baseline and follow-up (if appropriate) interviews, and recruitment and retention rates, should be presented in tabular form for the 6-month period and cumulatively.

6. Activities planned for the next six months to accomplish the goals and objectives, including the following (as appropriate to the design):

a. Procedures and strategies for tracking and contacting the target population for follow-up interviews within the required time period.

b. Projected numbers of baseline and follow-up interviews to be completed.

c. Intervention activities, and projected numbers of participant contacts.

d. Monitoring/quality assurance.

e. Training (if any).

f. Process evaluation (data collection and entry).

g. Outcome evaluation (interview data collection and entry).

h. Plans for data transfer to data management contractor.

i. Qualitative and quantitative data analysis plans (both process and outcome), including amount of staff resources designated for site specific and cross-site data analysis and paper/presentation preparation.

Report for the first 6-month period should detail progress in accomplishing program objectives. The second report should detail progress in the preceding 6 months and summarize the entire year's accomplishments. The final progress report is required no later than 90 days after the end of the project period. All manuscripts published as a result of the work supported in part or whole by the cooperative agreement will be submitted with the progress reports.

An annual financial status report (FSR) must be submitted no later than 90 days after the end of each budget period. The final financial status report is due no later than 90 days after the end of the project period.

An original and two copies of all reports should be submitted to the Grants Management Officer, Grants Management Branch, CDC.

Application Content

Applications must be developed in accordance with PHS Form 5161–1 (OMB Number 0937–0189), information contained in the program announcement, and the instructions and format provided below.

Applications should describe:

1. How the applicant will assess predictors of sexual risk behavior, including the specific research questions that will be addressed and conceptual models used.

2. The design and evaluation of an intervention to reduce unprotected sexual intercourse between young women and their male sex partners.

3. A feasible and timely strategy for disseminating findings from this research to scientific, public health, and community partners.

The application should include a general introduction, followed by one narrative subsection per application content element in the order in which the elements appear below. Each narrative subsection should be labeled with the element title and contain all of the information needed to evaluate that element of the application (except for curriculum vita, references, and letters of support, that are appropriate for the appendixes).

A. Significance, Impact, and Theoretical Basis of the Proposed Research

The applicant should clearly describe how the proposed research will advance efforts to prevent unplanned pregnancy, HIV, and other STDs among young women in the U.S. Specifically, the application should describe how existing social and psychological models of sexual behavior change will be expanded or extended to take into consideration the influence of both members of a couple on each other, and

should include explicit models (with schematic drawings) that illustrate factors to be modified through intervention and to explain the mechanisms by which outcome effects are believed to arise.

Applicants should discuss how the research and intervention is innovative and represents a new approach to the integration and extension of known theoretical models and intervention strategies to reduce unprotected sexual intercourse among young women and their male sex partners.

Applicants should describe what results are expected from the research; the potential limitations of the results given the complexity of the research focus, the target population, and the applied nature of the evaluation; to whom the findings will be generalizable; and how they can be used to develop national recommendations for reducing unprotected sexual intercourse among young women at risk for unplanned pregnancy, HIV, and other STDs.

B. Research and Intervention Plan

The applicant should describe in detail the proposed research and intervention plan, including:

1. A review of the relevant literature to provide a theoretical, empirical, and programmatic justification for the proposed research.

2. A set of clear and testable research questions and hypotheses that are responsive to the intended purposes of the research sought under this cooperative agreement.

3. A description of all aspects of the study design and methods, including a detailed description of the targeted population and comparison group and how they will be accessed; the sampling strategy, and if applicable, the randomization strategy; the evaluation design (both process and outcome) and how threats to validity will be handled; the plans for instrument development, pilot-testing, interviewer training, data collection, analysis, interpretation, and quality assurance.

4. A description of the intervention including how theory and past research will be operationalized; and a justification for how and why the intervention can be expected to produce the intended effect. Discuss feasibility of the intervention in the selected setting and acceptability and potential sustainability of the intervention for the targeted population.

5. A description of how the intervention implementation process will be measured and how the findings will be used to monitor implementation and provide feedback to staff, and to explicate other findings. Discuss how findings could be used to sustain the intervention or replicate it in other settings.

6. Describe the quality assurance monitoring plan for all research and intervention activities.

7. Describe the plans for data management, analysis, and interpretation; highlight how they are innovative (for example, integrate qualitative and quantitative data); and present a realistic and detailed timeline for the generation of papers, reports, and other products that can be used by program planners and policy makers.

C. Research and Intervention Capacity

1. Demonstrate the feasibility of the proposed research and intervention plan by providing a detailed timeline, with specific products, specifying which staff person will be responsible for which task.

2. Demonstrate the capacity to obtain the participation of, and retain for follow-up if appropriate, adequate numbers of the targeted population for assessment by providing detailed information about the targeted population (characteristics, risk factors, numbers available for intervention in specific settings, etc.), and describe how they will be accessed and previous service or research conducted involving this population (include letters from organizations, journal articles, etc.).

3. Describe the research team and show that the proposed research staff for the project represent an interdisciplinary team of behavioral and social scientists with the scientific training and the previous scientific and practical experience needed to conduct and complete high quality research within the specified timeline, as evidenced by the successful completion of past research in the areas proposed in this application.

4. Demonstrate the adequacy of the proposed staff to carry out all proposed activities (i.e., sufficient in number, percentage of time commitments, behavioral or social scientists in key project positions, and qualifications), and the adequacy of the staff time allocated for specific responsibilities, with at least a 50 percent time Ph.D.-level research director and a 100 percent time project director, through curriculum vita and position descriptions that detail responsibilities. Include a list of all grants and other sources of support (include percent of time on project) for all investigators.

5. Describe the facilities, data processing and analysis capacity, and systems for management of data security and participant confidentiality.

6. Provide assurances that the applicant and all members of the applicant's research and intervention team are willing to work closely with other funded sites and CDC, and are willing to modify research questions, sampling plans, instruments, and protocols. The applicant must assure that no organizational or institutional barriers will impede this process or the successful completion of the research and intervention project. Applicant must also state a commitment to participate with other sites and CDC on data analysis, presentation, and publication of research findings.

D. Collaboration

Describe how academic, program, and community partners will participate in developing, conducting, and evaluating the proposed research. Specifically:

1. Describe the involvement of appropriate key organizations, and members of the targeted population (as evidenced by letters of support describing their role in the proposed scope of work, etc.).

2. Define the responsibilities of these other organizations and individuals.

3. Discuss previous work of the proposed collaborators and request evidence of past successful collaboration and commitment to participation in the proposed project.

E. Dissemination and Sustainability

Provide a clear dissemination plan that includes a plan for the timely sharing of findings with local partners; describes efforts that will be made to secure separate funding to continue prevention activities that are proven to be effective in reducing sexual risk behavior; and includes a plan to work with CDC and other sites to ensure that analysis and production of papers, presentations, and reports give priority to findings that can be used to develop national prevention recommendations for young women at risk for unplanned pregnancy, HIV, and other STDs.

F. Budget with Justification

Provide a detailed budget request and complete line-item justification that is consistent with the proposed activities.

G. Human Subjects

Describe any risks to human subjects and the procedures that will be used to protect human subjects. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

H. Women, Racial, and Ethnic Minorities

Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application.

Typing and Mailing

Applicants are required to submit an original and two copies of the application. The application may not exceed 30 single-spaced pages in length, excluding appendixes. Provide a one-page abstract of the proposal. Number all pages clearly and sequentially and include a complete index to the application and its appendixes. The original and each copy of the application must be submitted unstapled and unbound. Print all material, single-spaced, in a 12-point or larger font on 8 ½'' by 11'' paper, with at least 1'' margins and printed on one side only.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

A. Significance and Impact of the Proposed Research (20 Points)

The extent to which the research proposed will advance efforts to prevent unplanned pregnancy, HIV, and other STDs among young women in the U.S. Specifically, the extent to which:

1. The research proposed will extend or enhance existing social and psychological models of sexual behavior change that take into consideration the influence of both members of a couple on each other.

2. The research and intervention is innovative and represents a new approach to the integration and extension of known theoretical models and intervention strategies to reduce unprotected sexual intercourse among young women and their male sex partners.

3. The research and intervention evaluation will provide results that are scientifically sound, generalizable, and useful for developing national recommendations for reducing unprotected sexual intercourse among young women at risk for unplanned pregnancy, HIV, and other STDs.

B. Research and Intervention Plan (30 Points)

The quality of the proposed research and intervention plan, including:

1. The theoretical, empirical, and programmatic justification for the proposed research.

2. The clarity and testability of the research questions and hypotheses, and the extent to which the questions are responsive to the intended purposes of the research sought under this cooperative agreement.

3. The extent to which the study design and methods, the plans for instrument development, data collection, and analysis are scientifically sound and capable of producing the intended results.

4. The extent to which the intervention represents a careful application of a theoretically, empirically, and programmatically justified prevention approach; can be expected to produce the intended effect; and can be evaluated by using a scientifically rigorous evaluation design and methods.

5. The extent to which the intervention implementation process can be measured and findings used to replicate the intervention in other settings;

6. The extent and rigor of the quality assurance monitoring plan for both research activities and intervention activities.

7. The extent to which the plans for data management, analysis, and interpretation are clear and innovative (for example, integrate qualitative and quantitative data) and will result in the timely generation of papers, reports and other products that can be used by program planners and other interested parties.

8. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation, (b) The proposed justification when representation is limited or absent, (c) A statement as to whether the design of the study is adequate to measure differences when warranted, and (d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

C. Research and Intervention Capacity (25 Points)

1. The feasibility of the proposed research and intervention plan and the adequacy of the timeline with specific products.

2. The applicant's demonstrated capacity to obtain the participation of, and retain for follow-up, adequate numbers of the targeted population for assessment; and the extent of the applicant's familiarity with, access to, and good working relations with, young women at risk (and young men, if applicable), as evidenced by previous service or research involving this population.

3. The extent to which the proposed research staff for the project represent an interdisciplinary team of behavioral and social scientists with the scientific training and the previous scientific and practical experience needed to conduct and complete high quality research within the specified timeline, as evidenced by the successful completion of past research in the areas proposed in this application.

4. The adequacy of the proposed staff to conduct all proposed activities (i.e., sufficient in number, percentage of time commitments, behavioral scientists in key project positions, and qualifications), and the adequacy of the staff time allocated for specific responsibilities, with at least a 50 percent time Ph.D.-level research director and a 100 percent time project director, as evidenced by their curriculum vita and position descriptions.

5. The adequacy of facilities, data processing and analysis capacity, and systems for management of data security and participant confidentiality.

6. The extent to which the applicant is willing to work with other funded sites and CDC to modify research questions, sampling plans, instruments, and protocols, and is committed to working with other sites and CDC on data analysis, presentation, and publication of research findings.

D. Collaboration (15 Points)

The extent to which the applicant includes both academic, program, and community partners in developing, conducting, and evaluating the proposed research. Specifically, the extent to which the applicant has:

1. Involved other appropriate key organizations, and members of the targeted population (as evidenced by letters of support, etc.).

2. Clearly defined the responsibilities of these other organizations and individuals.

3. Previously worked with the proposed collaborators and provided evidence of past successful collaboration and commitment to participation in the proposed project.

E. Dissemination and Sustainability (10 Points)

The extent to which the dissemination plan is clearly articulated and includes the timely sharing of findings with local partners, reasonable efforts to secure separate funding for continuation of effective interventions, and a plan to work with other sites and CDC to ensure that analysis and production of papers, presentations, and reports give priority to findings that can be used to develop national prevention recommendations for young women at risk for unplanned pregnancy, HIV, and other STDs.

F. Budget (Not Weighted)

Extent to which the budget is reasonable, itemized, clearly justified, and consistent with the intended use of the funds.

G. Human Subjects (Not Weighted)

The extent to which the applicant adequately describes the procedures that will be used to protect human subjects, and provides assurance to demonstrate that the project will be subject to initial and continuing review by appropriate institutional review committees.

Content of Noncompeting Continuation Applications

In compliance with 45 CFR 74.51(b)(d), 45 CFR 92.10(b)(4) and 92.40(b), noncompeting continuation applications submitted within the project period need only include:

A. A brief progress report that describes the accomplishments of the previous budget period.

B. Any new or significantly revised items or information (objectives, scope of activities, operational methods, evaluation, etc.) not included in the year 01 application.

C. An annual budget and justification. Existing budget items that are unchanged from the previous budget period do not need rejustification. Simply list the items in the budget and indicate that they are continuation items. Supporting justification should be provided where appropriate.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local governments review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 305, Mail Stop E–18, Atlanta, GA 30305, no later than 30 days after the application deadline date (the appropriation for this financial assistance program was received late in the fiscal year and would not allow for an application receipt date that would accommodate the 60-day State recommendation process period). The granting agency does not guarantee to accommodate or explain State process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements. Under these requirements, all community-based nongovernmental applicants must prepare and submit the items identified below to the head of the appropriate State and/or local health department(s) in the program area(s) that may be impacted by the proposed project no later than the receipt date of the Federal application. The appropriate State or local health department is determined by the applicant. The following information must be provided:

A. A copy of the face page of the application (SF 424).

B. A summary of the project that should be titled Public Health System Impact Statement (PHSIS), not to exceed one page, and should include the following:

1. A description of the population to be served.

2. A summary of the services to be provided.

3. A description of the coordination plans with the appropriate State and local health departments.

If the State or local health official should desire a copy of the entire application, it may be obtained from the Single Point of Contact (SPOC) or directly from the applicant.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 individuals or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committees. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

Racial and Ethnic Minorities

The policy of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) is to ensure that individuals of the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian or Alaskan Native, Asian or Pacific Islander, Black, and Hispanic. Applicants shall ensure that racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity, or sex of participants. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, dated Friday, September 15, 1995.

HIV/AIDS Requirements

Recipients must comply with the document entitled Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions (June 1992) (a copy is in the application kit). To meet the requirements for a program review panel, recipients are

encouraged to use an existing program review panel, such as the one created by the State health department's HIV/AIDS prevention program. If the recipient forms its own program review panel, at least one member must be an employee (or designated representative) of a State or local health department. The names of the review panel members must be listed on the Assurance of Compliance for CDC 0.1113, which is also included in the application kit. The recipient must submit the program review panel's report that indicates all materials have been reviewed and approved.

Application Submission and Deadlines

Preapplication Letter of Intent

A nonbinding letter of intent-to-apply is required from potential applicants. An original and two copies of the letter should be submitted to the Grants Management Officer, Grants Management Branch, CDC (see Applications for the address). It should be postmarked no later than July 15, 1997. The letter should identify the announcement number, name of principal investigator, and specify the activity(ies) to be addressed by the proposed project. The letter of intent does not influence review or funding decisions, but it will enable CDC to plan the review more efficiently, and will ensure that each applicant receives timely and relevant information before the application is submitted. Notification may be provided by facsimile or postal mail to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 305, Mailstop E–18, Atlanta, GA 30305, facsimile (404) 842–6513.

Application

An original and two copies of the application PHS Form 5161–1 (OMB Number 0937–0189) must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 305, Mail Stop E–18, Atlanta, GA 30305, on or before August 15, 1997.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications that do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information, call (404) 332–4561. You will be asked to leave your name, address, and telephone number. Please refer to Announcement #774. You will receive a complete program description, information on application procedures and application forms. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Gladys T. Gissentanna, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mail Stop E–18, Atlanta, GA 30305, telephone (404) 842–6801.

Programmatic technical assistance may be obtained from Christine Galavotti, Ph.D., Division of Reproductive Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4700 Buford Highway, NE., Mail Stop K–34, Atlanta, GA 30341–3724, telephone (770) 488–5245. The announcement will also be available on one of two Internet sites on the publication date: CDC's homepage at <http://www.cdc.gov>, or at the Government Printing Office homepage (including free access to the **Federal Register**) at <http://www.access.gpo.gov>. Other CDC Announcements are also listed on the Internet on the CDC homepage.

Please refer to Announcement Number 774 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000, (Full Report, Stock No.017–001–00474–0) or Healthy People 2000, (Summary Report, Stock No. 017–001–00473–1) referenced in the ''Introduction,'' through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: June 25, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–17123 Filed 6–30–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Goals for Working Safely With Mycobacterium tuberculosis in Clinical, Public Health, and Research Laboratories; Amendment To Extend Comment Period

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Extension of request for comments.

A notice requesting comments from all interested parties concerning goals for working safely with *Mycobacterium tuberculosis* in clinical, public health, and research laboratories was published in the **Federal Register** on April 28, 1997 (62 FR 23066).

This notice is amended as follows: On page 23066, first column, under the heading **DATES,** line 8, the date for submitting written comments to this notice has been extended from June 27, 1997, to July 27, 1997.

All other information and requirements of the April 28, 1997, **Federal Register** notice remain the same.

Dated: June 25, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–17125 Filed 6–30–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HSQ–243–N]

Medicare, Medicaid, and CLIA Programs; Clinical Laboratory Improvement Amendments of 1988 Continuance of Exemption of Laboratories Licensed by the State of Washington

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

ACTION: Notice.

SUMMARY: This notice announces that laboratories located in the State of Washington that possess a valid license under the Medical Test Site Licensure Law, Chapter 70.40 of the Revised Code of Washington (RCW), continue to be exempt from the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA) until April 30, 2001.

DATES: The continuance granted by this notice is effective until April 30, 2001.

FOR FURTHER INFORMATION CONTACT: Val Coppola, (410) 786–3531.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

Section 353 of the Public Health Service Act (PHS Act), as amended by the Clinical Laboratory Improvement Amendments of 1988 (CLIA), requires any laboratory that performs tests on human specimens to meet requirements established by the Department of Health and Human Services (HHS). Under the provisions of the sentence following section 1861(s)(14) and paragraph 1861(s)(16) of the Social Security Act, any laboratory that also wants to be paid for services furnished to Medicare beneficiaries must meet the requirements of section 353 of the PHS Act. Subject to specified exceptions, laboratories must have a current and valid CLIA certificate to test human specimens and to be eligible for payment from the Medicare or Medicaid programs. Regulations implementing section 353 of the PHS Act are contained in 42 CFR part 493.

Section 353(p) of the PHS Act provides for the exemption of laboratories from CLIA requirements in a State that applies requirements that are equal to or more stringent than those of CLIA. The statute does not specifically require the promulgation of criteria for the exemption of laboratories in a State. The decision to grant CLIA exemption to laboratories within a State is at the discretion of HCFA, acting on behalf of the Secretary of HHS.

Various regulations in 42 CFR part 493 subpart E implement section 353(p) of the PHS Act. Section 493.513 provides that HCFA may exempt from CLIA requirements, for a period not to exceed 6 years, all State licensed or approved laboratories in a State if the State meets specified conditions. Section 493.513(k) provides that we will publish a notice in the **Federal Register** announcing the names of States whose laboratories are exempt from meeting the requirements of part 493, describing the basis for granting the exemption, describing how the laboratory requirements are equal to or more stringent than those of CLIA, and specifing a term of approval not to exceed 6 years. On December 23, 1994 (59 FR 66314), we published a notice in the **Federal Register** announcing that the State of Washington had applied for exemption of its laboratories from CLIA requirements; that the evaluation of this application demonstrated that all requirements for exemption were met; and that Washington was granted an exemption.

II. Requirements for Granting CLIA Exemption

In order to determine whether we should grant or continue an existing CLIA exemption to laboratories within a State, we conduct a detailed and in-depth comparison of State and CLIA requirements to determine whether the State meets the requirements at § 493.513. In summary, the State must:

- Have laws in effect that provide for requirements that are equal to or more stringent than CLIA requirements;
- Have an agency that licenses or approves laboratories that meet State requirements which meet or exceed CLIA requirements, and, therefore, meet the condition level requirements of the CLIA regulations;
- Meet the requirements and be approved in accordance with § 493.515, Federal review of laboratory requirements of State laboratory programs;
- Demonstrate that it has enforcement authority and administrative structures and resources adequate to enforce its laboratory requirements;
- Permit HCFA or HCFA agents to inspect laboratories within the State;
- Require laboratories within the State to submit to inspections by HCFA or HCFA agents as a condition of licensure;
- Agree to pay the cost of the validation program administered by HCFA and the cost of the State's pro rata share of the general overhead to develop and implement CLIA as specified in §§ 493.645(b) and 493.646; and
- Take appropriate enforcement action against laboratories found by HCFA or HCFA agents not to be in compliance with requirements comparable to condition level requirements.

As specified in our regulations at § 493.515, our review of a State laboratory program includes (but is not necessarily limited to) an evaluation of:

- Whether the State's requirements for laboratories are equivalent to or more stringent than the condition level requirements;
- The State's inspection process requirements to determine:
  - —The comparability of the full inspection and complaint inspection procedures to those of HCFA;
  - —The State's enforcement procedures for laboratories found to be out of compliance with its requirements; and
  - —The ability of the State to provide HCFA with electronic data and reports with the adverse or corrective actions resulting from proficiency testing (PT) results that constitute unsuccessful participation in HCFA-approved PT programs and with other data HCFA determines to be necessary for validation and assessment of the State's inspection process requirements;
- The State's agreement with HCFA to ensure that the agreement obligates the State to:
  - —Notify HCFA within 30 days of the action taken against any CLIA-exempt laboratory that has had its licensure or approval withdrawn or revoked or been in any way sanctioned;
  - —Notify HCFA within 10 days of any deficiency identified in a CLIA-exempt laboratory in cases when the deficiency poses an immediate jeopardy to the laboratory's patients or a hazard to the general public;
  - —Notify each laboratory licensed by the State within 10 days of HCFA's withdrawal of the exemption;
  - —Provide HCFA with written notification of any changes in its licensure (or approval) and inspection requirements;
  - —Disclose any laboratory's PT results in accordance with a State's confidentiality requirements;
  - —Take the appropriate enforcement action against laboratories found by HCFA not to be in compliance with requirements comparable to condition level requirements and report these enforcement actions to HCFA;
  - —Notify HCFA of all newly licensed laboratories, including the specialties and subspecialties for which any laboratory performs testing, within 30 days; and
  - —Provide HCFA, as requested, inspection schedules for validation purposes.

III. Evaluation of the Washington Request for Continued CLIA Exemption

Washington has applied to HCFA for continued exemption of its laboratories from CLIA requirements.

We evaluated the request for continuation of the Washington CLIA exemption for equivalency against the three major categories of CLIA rules: the

implementing regulations, the enforcement regulations, and the deeming/exemption requirements.

We evaluated the application to verify Washington's assurance of continued compliance with the following subparts of part 493: Subpart A, General Provisions; Subpart E, Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program; Subpart H, Participation in Proficiency Testing for Laboratories Performing Tests of Moderate Complexity (Including the Subcategory), High Complexity, or Any Combination of These Tests; Subpart M, Personnel for Moderate and High Complexity Testing; Subpart P, Quality Assurance for Moderate or High Complexity Testing, or Both; Subpart Q, Inspection; and Subpart R, Enforcement Procedures.

Washington was found to continue to meet the requirements of Subparts A, E, H, M, P, Q, and R.

IV. Validation Inspections

The Federal validation inspections of CLIA-exempt laboratories, as specified in § 493.517, were conducted on a representative sample basis as well as in response to any substantial allegations of noncompliance (complaint inspections). The outcome of those validation inspections has been and will continue to be HCFA's principal tool for verifying that the laboratories located in and licensed by the State are in compliance with CLIA requirements.

HCFA staff of the Laboratory Survey Section, Division of Health Standards and Quality in the HCFA Regional Office in Seattle, Washington have conducted validation inspections of a representative sample (approximately 5 percent) of the laboratories inspected by the Washington Office of Laboratory Quality Assurance (LQA). The validation inspections were of the concurrent type; that is, HCFA surveyors accompanied Washington's surveyors, each inspecting against his or her agency's respective regulations. Analysis of the validation data revealed no significant differences between the State and Federal findings. The Washington inspection process covers all appropriate CLIA conditions and the State laboratory licensure requirements were found to meet or exceed CLIA requirements. The HCFA survey staff found the State inspectors highly skilled and qualified. The LQA is maintaining its workload at the proper level to assure that all laboratories within the State will be inspected in a 24-month cycle. All parameters monitored by HCFA staff to date indicate that the LQA is meeting all requirements under the CLIA exemption. This Federal monitoring will continue as an on-going process.

The CLIA exemption of laboratories located in and licensed by Washington may be removed if we determine the outcome and comparability review of validation inspections are not acceptable as described under § 493.521 or if Washington fails to pay the required fee every 2 years as required under § 493.646.

V. Laboratory Data

In accordance with § 493.513(d)(2)(iii), Washington will continue to agree to provide us with changes to a laboratory's specialties or subspecialties based on the State's survey. Washington also will provide us with changes in a laboratory's certification status, such as a change from a regular certificate to a certificate of waiver.

VI. Required Administrative Actions

CLIA is intended to be a totally user-fee funded program. The registration fee paid by laboratories is intended to cover the cost of the development and administration of the program. However, when a State's application for exemption is approved, we may not charge a fee to laboratories in the State. The State's share of the costs associated with CLIA must be collected from the State. Section 493.645 specifies that HHS will assess fees such that the costs of administering the CLIA program will be shared by all States including those that are CLIA exempt.

Washington must pay for:

- Costs of Federal inspection of laboratories in the State to verify that standards are enforced in an appropriate manner. The average Federal hourly rate is multiplied by the total hours required to perform Federal validation surveys within the State.
- Costs incurred for Federal investigations and surveys triggered by complaints that are substantiated. We will bill Washington on a semiannual basis.
- Washington's proportionate share of the costs associated with establishing, maintaining, and improving the CLIA computer system, a portion of those services from which Washington received direct benefit or contributed to the CLIA program in the State. Thus, Washington is being charged for a portion of HCFA's direct and indirect costs as well as a portion of the costs incurred by the Centers for Disease Control and Prevention (CDC).

In order to estimate Washington's proportionate share of the general overhead costs to develop and implement CLIA, we determined the ratio of laboratories in the State to the total number of laboratories nationally. Approximately 1.6 percent of the registered laboratories are in Washington. We determined that 1.6 percent of the applicable CDC and HCFA costs should be borne by Washington.

Washington has agreed to pay us the State's pro rata share of the overhead costs and anticipated costs of actual validation and complaint investigation surveys. A final reconciliation for all laboratories and all expenses will be made. We will reimburse the State for any overpayment or bill it for any balance.

VII. Approval

HCFA grants continuance of the CLIA exemption for all specialties and subspecialties to all laboratories located in and licensed by the State of Washington effective July 1, 1997 to April 30, 2001.

VIII. Regulatory Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a notice such as this would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all laboratories to be small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice announces the continuance of the exemption of laboratories licensed by the State of Washington from the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). The State has established that the quality of laboratory services continues to meet standards equivalent to or more stringent than those of the CLIA program and also has established that it has a comparable program to monitor and evaluate compliance with the standards. The effect of the continued exemption from CLIA requirements is that laboratories will remain under State, rather than Federal, regulation, with no discernible difference in the

operations of the programs. Consequently, we anticipate that our continuation of Washington's CLIA exemption will not affect the laboratories or the quality and availability of services provided.

Therefore, we have determined, and the Secretary certifies, that this notice will not result in a significant impact on a substantial number of small entities and will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

Authority: Section 353(p) of the Public Health Service Act (42 U.S.C. 263a).

Dated: May 30, 1997.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 97–17193 Filed 6–30–97; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Mapping Alcoholism Related Genes by Linkage Disequilibrium in Choctaw American Indians With Mixed Ancestry

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, which provides for an opportunity for public comment on proposed data collection projects, the National Institute on Alcohol Abuse and Alcoholism (NIAAA), National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

The Laboratory of Neurogenetics (LN), Division of Intramural Clinical and Biological Research, NIAAA, intends to conduct the study for 'Mapping Alcoholism Related Genes by Linkage Disequilibrium in Choctaw American Indians with Mixed Ancestry'.

The LN is authorized by Section 452 of Part G of Title IV of the Public Health Service Act (42 U.S.C. 288) as amended by the NIH Revitalization Act of 1993 (Pub. Law 103–43). The information proposed for collection in this study will be used by the NIAAA to expand the Choctaw Indian study by sampling people and families that exhibit a spectrum of Indian and non-Indian ancestry. This is possible because the Choctaw have approximately 100,000 enrolled members and 95% of them have some degree of non-Indian heritage. It is now recognized that admixed populations are useful for linkage analysis using a variety of techniques, including Mapping using Admixture Linkage Disequilibrium and Transmission Disequilibrium Test. This extension of NIAAA research on Choctaw American Indians will utilize the population structure in a unique way to determine the genetic basis of alcoholism and related psychiatric phenotypes. It will complement the current family and epidemiological approaches. In combination, these different approaches will yield one of the most comprehensive studies yet performed. Moreover, this study recognizes the true population structure and utilizes it to analytical advantage.

The annual burden estimates are as follows:

Type and number of respondents	Responses per respondent	Total responses	Hours	Total hours
Clients—700	1	700	4.0	2800
Total Number of Respondents		700		
Total Number of Responses		700		
Total Hours		2800		

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, Park Bldg. Room 451, 12420 Parklawn Drive MSC 8110, Rockville, Maryland 20852.

FOR FURTHER INFORMATION: 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, NIAAA, Park Bldg. Room 451, 12420 Parklawn Drive MSC 8110, 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 September 2, 1997.

Dated: June 23, 1997.

Martin K. Trusty,

Executive Officer, NIAAA.

[FR Doc. 97–17199 Filed 6–30–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Transmission and Linkage Analysis of Alcoholism in a Southwestern American Indian Tribe; Collection of EEG Phenotypes Associated With Alcoholism

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, which provides for an opportunity for public comment on proposed data collection projects, the National Institute on Alcohol Abuse and Alcoholism (NIAAA), National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

The Laboratory of Neurogenetics (LN), Division of Intramural Clinical and Biological Research, NIAAA, intends to conduct the study for 'Transmission and Linkage Analysis of Alcoholism in a Southwestern American Indian Tribe; Collection of EEG Phenotypes Associated with Alcoholism.'

The LN is authorized by Section 452 of Part G of Title IV of the Public Health Service Act (42 U.S.C. 288) as amended by the NIH Revitalization Act of 1993 (Pub. Law 103–43). The information proposed for collection in this study will be used by the NIAAA to determine resting EEG and ERP phenotypes in large American Indian families, correlate this information with psychiatric diagnoses from previous studies, and perform linkage analysis in order to map the genes for these phenotypes which to appear to confer vulnerability to alcoholism in Caucasians. There are obvious great advantages in studying the large families the NIAAA already contacted, psychiatrically interviewed, and genotyped. The NIAAA hypothesizes that this EEG family study will enable elucidation of the transmission and linkage of alcoholism vulnerability in this tribe. The intent is to identify subgroups of American Indian alcoholics who may be more responsive to particular treatment of prevention strategies.

The annual burden estimates are as follows:

Type and number of respondents	Responses per respondent	Total responses	Hours	Total hours
Clients—400	1	400	2.25	900
Total Number of Respondents		400		
Total Number of Responses		400		
Total Hours		900		

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, Park Bldg. Room 451, 12420 Parklawn Drive MSC 8110, Rockville, Maryland 20852.

FOR FURTHER INFORMATION: 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, NIAAA, Park Bldg. Room 451, 12420 Parklawn Drive MSC 8110, 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 September 2, 1997.

Dated: June 19, 1997.

Martin K. Trusty,

Executive Officer, NIAAA.

[FR Doc. 97–17200 Filed 6–30–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 Drug Abuse (NIDA) Special Emphasis Panel meetings:

Purpose/Agenda: To evaluate and review grant applications and contract proposals.

Name of Committee: NIDA Special Emphasis Panel.

Date: July 15, 1997.

Time: 9 a.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Mr. Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Rockville, MD 20857, Telephone (301) 443–1644.

Name of Committee: NIDA Special Emphasis Panel.

Date: July 22, 1997.

Time: 2 p.m.

Place: Office of Extramural Program Review, National Institute on Drug Abuse, NIH, 5600 Fishers Lane, Room 10–42, Rockville, MD 20857 (Telephone Conference).

Contact Person: William C. Grace, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Rockville, MD 20857, Telephone (301) 443–2755.

The meetings 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, 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: June 24, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–17196 Filed 6–30–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of SEP: Support Services for the Perinatology/Research Branch (Teleconference).

Date: July 29, 1997.

Time: 10:00 a.m. (EST)—adjournment.

Place: 6100 Executive Boulevard, 6100 Building—Room 5E01, Rockville, Maryland 20852.

Contact Person: Anne Krey, Scientific Review Administrator, NICHD, 6100

Executive Boulevard, 6100 Building, Room 5E01, Rockville, Maryland 20852, Telephone: 301–496–1485.

Purpose: To evaluate and review contract proposals.

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. The discussions of these proposals could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.864, Population Research and No. 93.865, Research for Mothers and Children, National Institutes of Health)

Dated: June 24, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–17197 filed 6–30–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Drug Abuse (NIDA) on July 9–10, 1997, from 9:00 a.m. to 5:00 p.m., at the Division of Intramural Research, NIDA, Johns Hopkins Bayview Campus, Bldg. C, 2nd Floor, 5500 Nathan Shock Drive, Baltimore, Maryland 21224.

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 intramural research review cycle.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public for the review, discussion, and to evaluate intramural research programs, projects, productivity, and performance of individual staff scientists, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and a roster of committee members may be obtained from Ms. Camilla L. Holland, NIDA Committee Management Officer, National Institutes of Health, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, Maryland 20857 (301/443–2755).

Substantive program information may be obtained from Mr. Brian Butters, Division of Intramural Research, NIDA, Johns Hopkins Bayview Campus, Bldg. C, 2nd Floor, 5500 Nathan Shock Drive, Baltimore, Maryland 21224 (410/550–1538).

Dated: June 26, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–17198 Filed 6–30–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. FR–4200–N–82]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: September 2, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Marion F. Connell, Telephone number (202) 708–6409 (this is not a toll-free number) for copies of the proposed form and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Minimum Property Standards for Housing OMB Control Number: 2502–0321.

Description of the need for the information and the proposed use: These standards establish the acceptability of properties for mortgage insurance and will further the goal of a decent and a suitable living environment for every American family. These standards will protect the Department's interest by requiring certain features of design and construction not normally required by State and local codes. These requirements will insure the durability of housing for the life of the mortgage.

Agency form numbers: N/A.

Members of affected public: Consumers, banks and building code officials.

An estimation of the total number of hours needed to prepare the information collection is 10,800, the number of respondents is 1,350, frequency of response is once a year and the hours of response is 8 hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Sec. 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 20, 1997.

Stephanie A. Smith,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 97–17156 Filed 6–30–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Policy on Giant Panda Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service gives notice that the comment period on the proposed policy for

issuance of permits for import of giant panda will be reopened to obtain comments on new information that should be considered in determining the final policy.

DATES: Public comment received on or before September 29, 1997, will be considered by the Service.

ADDRESSES: Comments may be submitted to the Chief, Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Kenneth Stansell, Chief, Office Management Authority, at the above address, or call (703) 358–2093; fax (703) 358–2280.

SUPPLEMENTARY INFORMATION: The Service published a proposed policy on issuance of permits for giant panda imports on March 30, 1995 (60 FR 16487). The comment period was reopened in a notice published June 27, 1995 (123 FR 33224) in response to a request from the American Zoo and Aquarium Association. Subsequent to the closure of this comment period, two events took place in which new information was received that should be considered in finalizing this policy. The events and resulting information are as follows:

(1) During the 36th Meeting of the CITES Standing Committee Meeting, January 30–February 2, 1996, discussions of giant panda loans resulted in the CITES Secretariat issuing Notification No. 932 which recommended conditions under which giant panda loans should occur.

(2) Dr. U.S. Seal, of the Conservation Breeding Specialist Group (CBSG), Species Survival Commission, The World Conservation Union (IUCN), and others, conducted a Captive Management Planning Workshop in Chengdu, China, December 10–13, 1996. The workshop was organized by the Chinese Association of Zoological Gardens and the Ministry of Construction in collaboration with the CBSG. The Service received a copy of the report resulting from the workshop.

Copies of the CITES Notification and the report on the Captive Management Planning Workshop are available from the address listed above. Interested organizations and the public are invited to comment on the documents as they relate to the previously published proposed policy. In addition, comments submitted during the previous comment periods, including those from the Chinese Ministry of Forestry and the Ministry of Construction, are also available upon request. The Service will consider all comments received during the previous two comment periods and this comment period in drafting a final policy.

Authority: This notice was prepared under the authority of the Endangered Species Act of 1973, as amended (16 U.S. C. 1531 *et seq.*).

Dated: June 23, 1997.

Robert G. Streeter,

Director.

[FR Doc. 97–17135 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Environmental Impact Statement (DEIS) for Grizzly Bear Recovery in the Bitterroot Ecosystem

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: To further the recovery of the grizzly bear (*Ursus arctos horribilis*), the Fish and Wildlife Service announces the availability of the DEIS for Grizzly Bear Recovery in the Bitterroot Ecosystem (BE). The DEIS evaluates a proposal to establish an experimental population rule and reintroduce grizzly bears into the Bitterroot Ecosystem in east central Idaho and western Montana. The proposed rule to establish the nonessential experimental population is published elsewhere in this **Federal Register**. Four alternatives, including the No Action Alternative, are discussed in the DEIS.

The BE consists of approximately 44,400 square miles in 10 central Idaho and four western Montana counties, of which 76 percent is in Federal surface ownership. A Citizen Management Committee would be delegated management implementation responsibility for the experimental population. Reintroduction could result in grizzly bear recovery in the BE in a minimum of 50 years. A recovered grizzly bear population (approximately 280 bears) would kill about 6 cattle and 22 sheep and up to 504 wild ungulates per year. Nuisance bear incidents could average 59 per year. Economic analyses indicate grizzly bear recovery in the BE would lead to total net economic benefits of $40.4 to $60.6 million per year.

DATES: Copies of the DEIS will be mailed to interested parties on the mailing list on July 1, 1997, and the proposed rule to establish the nonessential experimental population is published elsewhere in this **Federal Register**. Those interested persons not on the DEIS mailing list may request a copy from the project leader at the address below. It is anticipated that the Environmental Protection Agency will publish a notice on this DEIS in the **Federal Register** on July 11, 1997, which will start a 90-day review period. Public comment on the DEIS is solicited pursuant to the National Environmental Policy Act regulations (40 CFR 1503.1). All agencies and individuals are urged to provide comments and suggestions for improving the DEIS and the proposed experimental population rule. All comments received by October 9, 1997, will be considered in preparation of the Final EIS and rule.

Public hearings on the DEIS will be scheduled at a later date for the cities of Boise, Lewiston, and Salmon, Idaho; and Helena, Missoula, and Hamilton, Montana. The location, dates and times of these hearings will be announced in the **Federal Register** at least 15 days prior to the first hearing, and in local newspapers.

ADDRESSES: Written comments should be addressed to Dr. Christopher Servheen, U.S. Fish and Wildlife Service Project Leader, Bitterroot Grizzly Bear EIS, P.O. Box 5127, Missoula, Montana 59806.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator (see **ADDRESSES** above), at telephone (406) 243–4903.

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 25, 1997.

Terry T. Terrell,

Deputy Regional Director, Denver Colorado.

[FR Doc. 97–17260 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1990–01]

Florida Canyon Mine Proposed Expansion and Comprehensive Reclamation Plan, Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Draft Environmental Impact Statement and the initiation of a 60-day comment period.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is give that the Winnemucca Field Office of the Bureau

of Land Management (BLM) has prepared, by third party contractor, a Draft Environmental Impact Statement on Florida Canyon Mining Incorporated's Florida Canyon Mine Expansion and Comprehensive Reclamation Plan. This document because available June 20, 1997, and public comment will be accepted for a 60 day period beginning then.

DATES AND ADDRESSES: Written comments on the Draft Environmental Impact Statement must be received by the close of business August 18, 1997, to ensure consideration. Public meetings to receive oral and written comments have been scheduled for the following dates, times, and places: July 15, 1997, 7 pm, at the Pershing County Community Center, 820 6th St., Lovelock, Nevada; July 16, 1997, 7 pm, at the Winnemucca Field Office, 5100 E. Winnemucca Blvd., Winnemucca, Nevada.

A copy of the Draft Environmental Impact Statement can be obtained from: Bureau of Land Management, Winnemucca Filed Office, ATTN: Ken Loda, Project NEPA Coordinator, 5100 E. Winnemucca Boulevard, Winnemucca, Nevada 89445.

The Draft Environmental Impact Statement is also available for inspection at the following additional locations: Bureau of Land Management, Nevada State Office, 850 Harvard Way, Reno, Nevada; Humboldt County Library, Winnemucca, Nevada; Pershing County Library, Lovelock, Nevada; Lander County Library, Battle Mountain, Nevada; and the University of Nevada Library in Reno, Nevada.

FOR FURTHER INFORMATION CONTACTT: Ken Loda, Project NEPA Coordination at the above Winnemucca Filed Office address or telephone (702) 623–1500.

SUPPLEMENTARY INFORMATION: The Draft Environmental Impact Statement analyzes the potential environmental impact that could result from the implementation of the proposed mine expansion and comprehensive reclamation plan. Alternatives analyzed are the north extension of the heap leach pad alternative and the no action alternative.

The mine is located on public and private lands adjacent to Interstate Highway 80, approximately 35 miles northeast of Lovelock, Nevada and 38 miles southwest of Winnemucca, Nevada. Approximately 860 acres would be disturbed by the proposed mine expansion, of which 447 are public and 413 private. The proposed project would include expansion of the open pit and north and south waste rock storage areas; development of the new south heap leach pad; haul road; solution ponds; solution corridor/road; plant; monitoring wells/road; crusher site; diversion channels and sediment ponds; growth media stockpiles; exploration roads and drill sites; water supply pipelines; realignment of the Johnson Canyon access road; and a revised comprehensive reclamation plan for the mine. Approval would extend the life of the mine five years.

Dated June 24, 1997.

Ron Wenker,

District Manager.

[FR Doc. 97–17074 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–070–5101–CO12]

Notice of Availability of the Draft Environmental Impact Statement (EIS) on the Plateau Creek Pipeline Replacement Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Draft Environmental Impact Statement (EIS) on the Plateau Creek Pipeline Replacement Project.

SUMMARY: Pursuant to section 102 (2) (C) of the National Environmental Policy Act of 1969 (NEPA), the Grand Junction Resource Area office, Grand Junction District, had an Environmental Impact Statement prepared to address impacts of the Plateau Creek Pipeline Replacement project proposed by the Ute Water Conservancy District (Ute Water). The project is a raw water conveyance system proposed on private and public lands in Mesa County, Colorado to replace a deteriorated and under sized pipeline currently approved under BLM ROW grant C 081282.

Copies of the EIS and the Technical Memoranda will be available at the Mesa County Public Library in Grand Junction, Colorado, at the Grand Junction Resource Area, 2815 H Road, Grand Junction, Colorado 81506 at the BLM, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215 and at the Ute Water Conservancy District, 560 25 Road, Grand Junction, Colorado.

DATES: Written comments will be accepted until 4:00 PM, MST, on August 29, 1997. A public meeting will be held from 5:00–8:00 p.m. on August 12, 1997, at the Two Rivers Convention Center, 159 Main Street, Grand Junction, Colorado.

ADDRESS: Comments should be sent to the Grand Junction Area Manager, Bureau of Land Management, 2815 H Road, Grand Junction, CO 81506, ATTN: Plateau Creek Pipeline Replacement Project.

FOR FURTHER INFORMATION CONTACT: Dave Stevens, (970) 244–3009.

SUPPLEMENTARY INFORMATION: The existing Plateau Creek Pipeline is an essential part of the Ute Water system which provides water to more than 60,000 Grand Valley residents. The Ute Water service area includes most of the Grand Valley area surrounding the City of Grand Junction, Colorado, and extends from east of the Town of Palisade to within 5 miles of the Colorado-Utah stateline. Ute Water is a political subdivision of the State of Colorado formed under the Water Conservancy Act of 1937, and is considered to be a quasi-municipal entity. In order for Ute Water to meet its commitment of providing a reliable, cost effective, high quality water source, replacement of the pipeline is necessary. Water is conveyed via a 24-inch-diameter pipeline approximately 14 miles along Plateau Creek Canyon and adjacent to Interstate Highway 70 to Ute Water's treatment plant located on Rapid Creek, near the Town of Palisade. As of 1994, the pipeline was no longer able to provide an adequate flow rate to meet the peak day customer demands. The pipeline is presently subject to frequent breaks due to deteriorated pipe condition, and is unreliable due to its location within geologic hazards and stream erosion areas.

The Bureau of Land Management and Ute Water had performed scoping to: (1) identify interested stakeholders and agencies, (2) define key issues, and (3) identify initial project alternatives for preparation of an Environmental Assessment. The initial filing of the Notice of Intent was on March 14, 1995. On the basis of subsequent information and comments provided to the BLM it was determined that issues and concerns would best be analyzed in an EIS.

During the initial scoping, 16 alternatives were developed. These include seven alternatives along the Plateau Creek corridor, three different alternatives involving use of water from nearby utilities, a Colorado River pump station alternative, two alternatives for supplying water from the Kannah Creek watershed, two alternatives for supplying water from the Whitewater Creek watershed, and a No Action alternative. Groundwater alternatives and conservation actions are also addressed in the EIS. Four of the

initially considered alternatives, selected on the basis of screening criteria described in Section 404(b) of the Clean Water Act, and the National Environmental Policy Act. These are:

Alternative A—Replacement of the pipeline in a modified alignment parallel to Plateau Creek such that impacts to all resources are minimized.

Alternative B—Replacement of the pipeline parallel to Plateau Creek mainly within the existing state highway 65 and 330 rights-of-way.

Alternative C—Replacement of the pipeline in either alignment A with a smaller pipeline. This alternative includes provisions for construction of a booster pump station at the mouth of Plateau Canyon to be built at a future date to meet long-term demands.

Alternative D—A ''no federal action'' alternative (Denial of the proposed action or reasonable alternatives).

Major issues identified during the scoping include: (1) wetlands and riparian areas, (2) threatened and endangered species, (3) Prime and Unique Farmlands, (4) water depletion issues, and (5) impacts to State Highway 65.

Mark T. Morse,

District Manager

[FR Doc. 97–17348 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–00; N–61499]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and public purpose lease/conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The West Charleston Baptist Church proposes to use the land for a church facility to include a child care center.

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 7: Lots 22, 27–30
Containing 25.00 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right of prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. Easements in accordance with the City of Las Vegas/Clark County Transportation Plan for roads, public utilities and flood control purposes.

2. Those rights for public road purposes which have been granted to Clark County by Permit No. N–59722 under the Act of October 21, 1976 (43USC1761). Detailed information concerning this action is available for review at the Office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the District Manager, Las Vegas District, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a church facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a church facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: June 23, 1997.

Michael F. Dwyer,

District Manager, Las Vegas, NV.

[FR Doc. 97–17076 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Public Scoping Meetings Regarding Management Plan of Black Rock Desert; Nevada, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent and scoping period.

SUMMARY: To prepare for the development of a Black Rock region management plan, a series of public scoping meetings will be held in July, 1997. These meetings will be conducted as workshops so that BLM and the concerned public can analyze the many varied issues of the Black Rock Desert region, leading to development of various management alternatives for the resources. These resources include lengthy, pristine sections of the Applegate/Lassen, Noble and Fremont National Historic Trails, related hot springs, private property, visual settings, the Playa and its edge or transition areas, distinctive plant and animal habitats, and mineral potential. Plan goals include (1) Managing the varied resources while providing for a wide range of dispersed recreational activities and opportunities in a prudent manner; (2) Providing economic opportunities and other human values within a sustainable, healthy ecosystem.

DATES: See Supplementary Information section for meeting dates and locations. All comments must be submitted in writing and postmarked no later than August 14, 1997.

ADDRESSES: Comments should be addressed to Ron Wenker, District Manager, Winnemucca Field Office,

5100 E. Winnemucca Blvd., Winnemucca, Nevada 89445.

FOR FURTHER INFORMATION CONTACT: Mike Bilbo or Lynn Clemons, Outdoor Recreation Planners, at the above Winnemucca Field Office address or telephone (702) 623–1500.

SUPPLEMENTARY INFORMATION: In 1994 the Bureau of Land Management (BLM), Winnemucca District, began developing a management plan for the Black Rock/High Rock Canyon region of Northwestern Nevada. Due to internal BLM reorganization and other priorities, the planning process was delayed. With increased public use in the region, both casual and permitted, and possible resulting impacts to natural and cultural resources, it has become paramount to bring the planning effort back to the forefront and continue this initiative to completion. The initial 1994 scoping was conducted by mail to gain a sense of the many varied issues in the region.

The upcoming public meetings may also result in identification of new issues or concerns. Based on the initial 1994 scoping, BLM interdisciplinary team meetings, and public comments received since that time, several issues were identified, including the following: condition of national historic trail segments and hot springs impacted by off-road/off-highway vehicles and camping, increase in large-scale events and commercial and non-commercial activities, lack of appropriate facilities and interpretive means for public education and resource protection, appropriate visual resource management, and the best ways to involve interested parties, local governments, groups and individuals in region use and management. The Black Rock Desert Management Plan will also be developed as an environmental assessment, and may lead to Paradise-Denio and Sonoma-Gerlach Management Framework Plans (MFPs) amendments. These MFPs are the land use plans for the BLM in Winnemucca.

Meetings: The meetings will last from 7 p.m. to 10 p.m. They will be held on the following dates:

July 8, 1997—Yosemite Conference Room, Red Lion Inn, 1401 Arden Way, Sacramento, California;

July 9, 1997—Conference Room B, BLM State Office, 850 Harvard Way, Reno, Nevada;

July 10, 1997—Gerlach Community Center, 410 Cottonwood Street, Gerlach, Nevada;

July 11, 1997—Pershing County Community Center, 820 Sixth Street, Lovelock, Nevada; and

July 14, 1997—BLM Surprise Resource Area Office, 602 Cressler Street, Cedarville, California.

Dated: June 24, 1997.

Ron Wenker,

District Manager.

[FR Doc. 97–17075 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Information Collection; Submission to OMB

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice and request for comments.

Notice of Submission to OMB, Opportunity for Public Comment. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507) and 5 CFR part 1320, Reporting and Recordkeeping Requirements, the National Park Service (NPS) invites public comments on a request for renewal of approval for the information collection requirements associated with permits implementing provisions of agency regulations, pertaining to the use of public lands (OMB Control 1024–0026). Standard Form 10–114, Special Use Permit, is the primary form used to document certain privileges, benefits and other special uses that are allowed various persons, organizations or agencies, but that are not equally available to all members of the general public. This permit is intended to be used in conjunction with the agency guideline pertaining to special park uses (D.O.–53).

There were no public comments received as a result of publishing in the **Federal Register** (61 FR 14162) a 60-day notice of intention to request clearance for this information collection request.

DATES: Public comments will be accepted for thirty days from the date of publication in the **Federal Register** (July 31, 1997).

ADDRESSES: Send comments to Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Department of the Interior, Office of Management and Budget, Washington, DC 20503. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Dennis Burnett, Ranger Activities Division, National Park Service, 18th and C Streets, NW., Washington, DC 20240. Telephone 202–208–7675.

SUPPLEMENTARY INFORMATION: The objectives of the special use permit system are to assure that, requests for special park uses are evaluated by park managers, in accordance with applicable statutory law and NPS regulations; that a consistent set of standards and permitting criteria are used throughout the agency; and to the extent possible, that a single permitting document be used to grant a variety of privileges and benefits, and to document the many activities covered under this program. Use of a single permit streamlines and reduces the costs of administering the NPS information collection program. Use of the special use permit will also significantly reduce the information collection burden on affected persons through the use of a standardized and timesaving format.

The Special Use Permit is an extension of the NPS statutory responsibilities to protect the park areas it administers and to manage the public use thereof (16 U.S.C. 1 & 3). NPS regulations codified in 36 CFR parts 1 through 7, 12 and 13, are designed to implement statutory mandates that provide for resource protection and public enjoyment. Several regulations contain information collection requirements previously approved by the OMB (1024–0026) that were designed to evaluate requests for access and/or approval to engage in otherwise restricted or limited activities within park areas.

Title: Public Information Collection—Special Park Uses.

Estimated annual reporting burden: 496,944.

Estimated average burden hours per response: 17 minutes.

Estimated average number of respondents: 137,693.

NPS is soliciting comments regarding: (1) Whether the collection of information is necessary for the proper performance of the functions of NPS, including whether the information will have practical utility; (2) the accuracy of the burden estimate including the validity of the method and assumptions used; (3) the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden, including through the use of automated collection or other forms of information

technology; or (5) any other aspect of this collection of information.

Diane M. Cooke,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 97–17211 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Information Collection Requirements; Backcountry Use Permit

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice and request for comments.

Notice of Submission to OMB, Opportunity for Public Comment. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration. Backcountry Use Permit.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507) and 5 CFR part 1320, Reporting and Recordkeeping Requirements, the National Park Service (NPS) invites public comments on a request for renewal of approval for the information collection requirements associated with permits implementing provisions of agency regulations, pertaining to the use of public lands (OMB Control 1024–0022). Standard Form 10–404, Backcountry Use Permit, is the primary form used to implement a backcountry reservation system and provide access into backcountry areas where limits are imposed in accordance with regulations. Such permitting enhances resource protection, hazard warnings and search and rescue efforts.

There were no public comments received as a result of publishing in the **Federal Register** (61 FR 14162) a 60-day notice of intention to request clearance for this information collection request.

DATES: Public comments will be accepted on or before July 31, 1997.

ADDRESSES: Send comments to Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Department of the Interior, Office of Management and Budget, Washington, DC 20503. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Dennis Burnett, Ranger Activities Division, National Park Service, 18th and C Streets, Washington, DC 20240. Telephone 202–208–7675.

SUPPLEMENTARY INFORMATION: The objectives of the backcountry use permit system is to provide campers desiring access to backcountry areas of national parks with continuing opportunities for solitude, while enhancing resource protection and providing a means of disseminating public safety messages regarding backcountry travel. In 1976, the NPS initiated a backcountry registration system in accordance with regulations found at 36 CFR 1.5, 1.6 and 2.10. This system assures campers of finding routes and campsites which are not crowded beyond their capacity. The quality of both the recreational experience and the physical setting thereby remain uncompromised.

NPS backcountry program managers, by designating access routes and overnight camping locations, can redistribute campers in response to user impact, high fire danger, flood, wind or other weather related hazards, bear activity or other situations that may temporarily close a portion of the backcountry. The NPS may also use the permit system as a means of ensuring that each backcountry user receives up-to-date information on backcountry sanitation procedures, food storage, wildlife activity, trail conditions and weather projections so that concerns for visitor safety are met.

The Backcountry Use Permit is an extension of the NPS statutory responsibilities to protect the park areas it administers and to manage the public use thereof (16 U.S.C. 1 & 3). NPS regulations codified in 36 CFR parts 1 through 7, 12 and 13, are designed to implement statutory mandates that provide for resource protection and public enjoyment. Several regulations contain information collection requirements previously approved by the OMB (1024–0022).

Title: Public Information Collection—Backcountry Permit.

Estimated annual reporting burden: 16,500.

Estimated average burden hours per response: 4 minutes.

Estimated average number of respondents: 206,300.

NPS is soliciting comments regarding: (1) Whether the collection of information is necessary for the proper performance of the functions of NPS, including whether the information will have practical utility; (2) the accuracy of the burden estimate including the validity of the method and assumptions used; (3) the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden, including through the use of automated collection or other forms of information technology; or (5) any other aspect of this collection of information.

Diane Cooke,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 97–17212 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Draft General Management Plan/Development Concept Plan/Environmental Impact Statement

AGENCY: National Park Service, Stones River National Battlefield, Tennessee.

ACTION: Notice.

SUMMARY: This Draft General Management Plan/Development Concept Plan/Environmental Impact Statement (GMP/DCP/EIS) describes three alternatives for cultural and natural resource management, visitor use, and interpretation, and related facility development in Stones River National Battlefield. Alternative 1 (the National Park Service's (NPS) proposed action) would improve interpretation and the ability of the visitor to experience a ''sense of place'' within the battlefield; and it would also preserve a larger area of the battlefield that has retained historic landscape integrity. This would be accomplished by protection of more resources through boundary expansion, new exhibits in the visitor center, establishment of a new automobile tour route within the expanded park boundary, and new interpretive wayside exhibits. Alternative 2 would improve interpretation and the visitor experience within the authorized boundary of the park.

This would be accomplished by providing new exhibits in the visitor center, establishing a new automobile tour route within the park, and providing new wayside exhibits. Alternative 3 (continuation of existing conditions) would represent no significant change in interpretation and the way the park is being managed and no change in the authorized park boundary. Under all alternatives, there would be an emphasis on working with local agencies, groups, and landowners to preserve and protect lands that retain historic landscape integrity within the original battlefield, but outside the park boundary. Environmental impacts that

would result from implementation of the alternatives are addressed in the document. Impact topics include cultural and natural resources, interpretation and visitor use, socioeconomic environment, and NPS operations.

DATES: The Draft GMP/DCP/EA will be available for review from June 11, 1997, until August 12, 1997. Written comments must be received by the Superintendent at the following address or postmarked no later than August 12, 1997. Public meetings will be held on the following dates and times:

June 25, 1997 at 7 p.m. to 9 p.m.—Stones River National Battlefield Visitor Center

June 26, 1997 at 2 p.m. to 4 p.m. and 7 p.m. to 9 p.m.—Chamber of Commerce, 501 Memorial Boulevard, Murfreesboro, Tennessee

ADDRESSES: A limited number of copies are available from the Superintendent at the following address.

FOR FURTHER INFORMATION CONTACT: Superintendent, Stones River National Battlefield, 3501 Old Nashville Highway, Murfreesboro, Tennessee 37129, Telephone (615) 893–5901.

Dated: June 16, 1997.

Jerry Belson,

Regional Director, Southeast Region.

[FR Doc. 97–17191 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 21, 1997. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by July 16, 1997.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Benton County

Carl's Addition Historic District, Benton County MPS), Along S. College, W. Alpine, and S. Wright Sts. Bounded by Sager Cr. and W. Twin Springs Ave., Siloam Springs, 97000791

COLORADO

Boulder County

Columbia Cemetery, Along 9th St., bounded by Pleasant and College Aves., Boulder, 97000792

Moffat County

First National Bank Building, 502–506 Yampa Ave., Craig, 97000793

FLORIDA

Dade County

Boca Chita Key Historic District, NW section of Boca Chita Key, roughly bounded by Biscane Bay and a stone wall, Miami vicinity, 97000795

Polk County

Auburndale Citrus Growers Association Packing House, 214 Orange St., Auburndale, 97000794

MICHIGAN

Mackinac County

Young, Lawrence Andrew, Cottage, Jct. of Fort Hill and Huron Rd., Mackinac Island, 97000800

MISSISSIPPI

Rankin County

Cocke—Martin—Jackson House, Brandon MPS), 107 Pleasant St., Brandon, 97000799

Pearl Street Historic District, (Brandon MPS), 200–204 Pearl St., Brandon, 97000798

Rankin County Confederate Monument, (Brandon MPS), Jct. of Government and North Sts., Brandon, 97000797

Rankin County Courthouse, (Brandon MPS), 301 Town Sq., Brandon, 97000796

NEW JERSEY

Cape May County

Leaming, Thomas, House, 1845 US 9 N, Middle Township, 97000801

Hunterdon County

Cokesbury Historic District, Along Cokesbury-Califon Rd., Rt. 639, Water St. and McCatharn Rd., Clinton Township, 97000802

OKLAHOMA

Caddo County

Provine Service Station, (Route 66 in Oklahoma MPS), 0.5 mi. E of jct. of I–40 and OK 58, Hydro vicinity, 97000803

TENNESSEE

Lawrence County

Crockett Theater, 205 N. Military St., Lawrenceburg, 97000804

UTAH

Summit County

Echo School, 3441 S. Echo Rd., Echo, 97000805

WISCONSIN

Dane County

Waubesa School, 3579 Sigglekow Rd., Blooming Grove Township, 97000806

[FR Doc. 97–17192 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Pajaro Valley Water Management Agency's Water Supply Project, Santa Cruz and Monterey Counties, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement and notice of scoping meetings.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA), the Bureau of Reclamation (Reclamation) proposes to prepare a draft environmental impact statement (DEIS) for Pajaro Valley Water Management Agency's (PVWMA) Water Supply Project. The PVWMA's Water Supply Project involves the use of diverse imported water supplies, including Central Valley Project (CVP) water supplies, within the PVWMA's service area (along the Central California Coast) for agricultural irrigation purposes and for the management of seawater intrusion into the Pajaro Valley groundwater basin. The action also includes the use of San Felipe Project facilities for the conveyance of imported water supplies to proposed PVWMA facilities and physical connection of an imported water supply to the San Felipe Project. Analysis of the use of imported water suppliers will be programmatic and will include water from diverse sources such as: State water project transfer, water rights purchase, and CVP transfer, contract, or contract assignment and purchase. This action will be evaluated in accordance with the legislative requirements of the Central Valley Project Improvement Act, the Warren Act, NEPA, and other relevant regulations. PVWMA is also preparing two environmental impact reports (EIR's) on the project, pursuant to the California Environmental Quality Act (CEQA).

DATES: Scoping meetings are proposed for the project. However, the schedule and location for these meetings have not as yet been determined. There will be ample notice given in the local papers of the times and locations of all scoping meetings.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Edmondson, Bureau of Reclamation, South-Central California Area Office, 2666 N. Grove Industrial Drive, Suite 106, Fresno, CA 93727; telephone (209) 487–5049.

SUPPLEMENTARY INFORMATION: The PVWMA has identified and evaluated several water supply alternatives to meet its future water supply needs and manage seawater intrusion into the Pajaro Valley groundwater basin. These alternatives were evaluated in the Final Program Environmental Impact Report for the Basin Management Plan, under CEQA, State Clearing House No. 9302–3035, and certified in 1993. The findings and recommendations of this document will be incorporated by reference in preparation of site-specific analysis of the Water Supply Project components. The alternatives to be considered for this DEIS include:

- A long-term water supply contract for CVP water.
- The purchase and assignment of long-term CVP water supply contracts from willing sellers.
- Transfer of CVP water supply to PVWMA.
- The acquisition of imported water supplies from non-CVP sources sources possibly including the California State Water Project and purchase of water rights south of the Delta.
- No Action.

The alternatives to be considered at a site-specific level include:

- Use of San Felipe Project for conveyance of imported supplies and No Action.
- Physical connection of the proposed imported water supply pipeline to the San Felipe Project and No Action.

The imported water supply component of the water supply project will allow PVWMA to meet its projected annual water supply needs from various imported and local sources, including water conservation, managed groundwater pumping, development of local supplies, and importation of new supplies. Imported water supplies will be conveyed using the San Felipe Project facilities and the existing turnout on the San Felipe Project.

The PVWMA is preparing two EIR's. One EIR will analyze development of local water supply projects and a distribution system. The other EIR will analyze construction of an import water supply pipeline and a change in the place of use for CVP and other imported water rights.

The PVWMA held scoping meetings on the above water supply project environmental review documents on February 11, 12, and 13, 1997.

Dated: June 23, 1997.

Susan Kelly,

Acting Area Manager, South-Central California Area Office.

[FR Doc. 97–17236 Filed 6–30–97; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–399]

Certain Fluid-Filled Ornamental Lamps; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337.

SUMMARY: Notice is hereby given that a complaint and motion for temporary relief were filed with the U.S. International Trade Commission on May 22, 1997, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Haggerty Enterprises, Inc., 5921 West Dickens Avenue, Chicago, Illinois 60639–4032. A supplement to the complaint and motion was filed on June 20, 1997.

The complaint, as supplemented, alleges a violation of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain fluid-filled ornamental lamps by reason of infringement of U.S. Trademark Registration Nos. 1,611,140 and 852,625. The complaint also alleges that there exists an industry in the United States with respect to the articles protected by the registered trademarks. The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

The motion for temporary relief requests that the Commission issue a temporary exclusion order and temporary cease and desist orders prohibiting the importation into and the sale within the United States after importation during the course of the Commission's investigation of certain fluid-filled ornamental lamps that infringe U.S. Trademark Registration Nos. 1,611,140 and 852,625.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: Kent R. Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2579.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR § 210.10. The authority for provisional acceptance of the motion for temporary relief is contained in section 210.58, 19 CFR § 210.58.

Scope of Investigation: Having considered the complaint and the motion for temporary relief, the U.S. International Trade Commission, on June 25, 1997, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain fluid-filled ornamental lamps by reason of infringement of U.S. Registered Trademark Nos. 1,611,140 and 852,625, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) Pursuant to section 210.58 of the Commission's Rules of Practice and Procedure, 19 CFR § 210.58, the motion for temporary relief under subsection (e) of section 337 of the Tariff Act of 1930, which was filed with the complaint, is provisionally accepted and referred to the presiding administrative law judge for investigation.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Haggerty Enterprises, Inc., 5921 West Dickens Avenue, Chicago, Illinois 60639–4032.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint and motion for temporary relief are to be served:

Lipan Industrial Co., Ltd., 10F, No. 312, Chung Shiao E. Rd., Sec. 4, Taipei, Taiwan;

Gemmy Industries Corporation, 2111 W. Walnut Hill Lane, Irving, Texas 75038;

Kay-Bee Center Inc., 100 West Street, Pittsfield, Massachusetts 01201;

Walgreen Company, 200 Wilmont Road, Deerfield, Illinois 60015;

Six G's Inc., 175 W. Washington Street, Chicago, Illinois 60602;

Adams Apple Distributing Company LP, 5100 N. Ravenswood Avenue, Chicago, Illinois 60640;
A-Mic Corporation, 20268 Paseo Robles, Walnut, California 91789;
Charlotte Buchanan, d/b/a Glamorama, 3414 Fremont Avenue N., Seattle, Washington 98103;
Fortune Products Inc., 2824 Old Hartford Rd., Lake Stevens, Washington 98258;
J.J.M. Novelties, 12106 Boca Grande Avenue, New Port Richey, Florida 34654;
Original Lighting Inc., 4025 Richmond Avenue, Houston, Texas 77027;

(c) Kent R. Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401–L, Washington, D.C. 20436, shall be the Commission investigative attorney, party to this investigation; and

(4) For the investigation and temporary relief proceedings instituted, the Honorable Sidney Harris is designated as the presiding Administrative Law Judge.

Responses to the complaint, the motion for temporary relief, and the notice of investigation must be submitted by the named respondents in accordance with sections 210.13 and 210.59 of the Commission's Rules of Practice and Procedure, 19 CFR §§ 210.13 and 210.59. Pursuant to sections 201.16(d) and 210.13(a) and 210.59 of the Commission's Rules, 19 CFR §§ 201.16(d), 210.13(a), 210.59, such responses will be considered by the Commission if received not later than 10 days after the date of service by the Commission of the complaint, the motion for temporary relief, and the notice of investigation. Extensions of time for submitting responses to the complaint, motion for temporary relief, and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint, in the motion for temporary relief, and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint, the motion for temporary relief, and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint, the motion for temporary relief, and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: June 26, 1997.

By order of the Commission.

Donna R. Koehnke.

Secretary.

[FR Doc. 97–17227 Filed 6–30–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–749 (Final)]

Persulfates From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of persulfates provided for in subheadings 2833.40.60 and 2833.40.20 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective July 11, 1996, following receipt of a petition filed with the Commission and the Department of Commerce by FMC Corporation, Chicago, IL. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of persulfates from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 23, 1997 (62 FR 3526). The hearing was held in Washington, DC, on May 14, 1997, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 25, 1997. The views of the Commission are contained in USITC Publication 3044 (June 1997), entitled ''Persulfates from China: Investigation No. 731–TA–749 (Final).''

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

Issued: June 23, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–17228 Filed 6–30–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Civil Rights Division

Coordination and Review Section; Agency Information Collection Activities, Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Complaint Form, Coordination and Review Section, Civil Rights Division, Department of Justice.

The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** on April 9, 1997, at 62 FR 17202, allowing for a 60-day public comment period. No comments were received by the Department of Justice.

The purpose of this notice is allow an additional 30 days for public comments until July 31, 1997. This process is conducted in accordance with 5 CFR 1320.10.

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, Attention: Department of Justice Desk Office, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1534.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one of more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including 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.

Overview of this information collection:

(1) *Type of Information Collection:* Existing collection in use without an OMB control number.

(2) *Title of the Form/Collection:* Compliant Form, Coordination and Review Section, Civil Rights Division, Department of Justice.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No form number. Coordination and Review Section, Civil Rights Division, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or Households.

The information collected is used to find jurisdiction to investigate the alleged discrimination, to seek whether a referral is necessary, and to provide information needed to initiate investigation of the complaint. Respondents are individuals alleging discrimination.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 500 responses; ½ hour per response. The information will be submitted by the respondent only once. Thus, there will be approximately 500 total yearly responses at ½ hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 250 annual burden hours.

If additional information is required, contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC, 20530.

Dated: June 25, 1997.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 97–17119 Filed 6–30–97; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 96–37]

Joseph M. Piacentile, M.D.; Revocation of Registration

On June 25, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Joseph M. Piacentile, M.D., (Respondent) of Yardley, Pennsylvania and Basking Ridge, New Jersey, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificates of Registration, BP1786853 and BP2526056, pursuant to 21 U.S.C. 824 (a)(4) and (a)(5), and deny any pending applications for renewal of such registrations as a practitioner under 21 U.S.C. 823(f).

By letter dated July 15, 1996, Respondent, proceeding *pro se*, filed a request for a hearing, and following prehearing procedures, a hearing was held in New York, New York on November 20, 1996, before Administrative Law Judge Gail A. Randall. At the hearing, the Government called a witness to testify and introduced documentary evidence. Respondent made a brief opening statement, but did not testify under oath nor offer any documentary evidence. After the hearing, Government counsel and Respondent submitted proposed findings of fact, conclusions of law and argument. On March 26, 1997, Judge Randall issued her Opinion and Recommended Ruling, recommending that Respondent's DEA Certificates of Registration be revoked. Neither party filed exceptions to her decision, and on May 5, 1997, Judge Randall transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Ruling of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent is currently registered with DEA in both Pennsylvania and New Jersey. In January 1985, the Department of Health and Human Services, Office of the Inspector General initiated an investigation of Electro Therapeutics (ETI) after receiving hundreds of complaints from Medicare patients concerning medical equipment they had received from ETI. Respondent was the President of ETI and was responsible for ETI's sales force.

ETI distributed transcutaneous electrical nerve stimulator units (TENS units), TENS accessory kits, and lymphedema pumps. Both the TENS unit and the lymphedema pump must be prescribed by a physician in order for Medicare to pay for the equipment. Further, Medicare requires that a physician assess a patient's use of a TENS unit for 30 days prior to authorizing the purchase of the device. In addition, Medicare had very specific diagnoses criteria. If a patient did not have a condition covered by one of these criteria, Medicare would not authorize the purchase of the unit. TENS accessory kits also required a prescription, and were only authorized for distribution every three months.

Between 1984 and September 1987, ETI billed Medicare $49 million for this equipment, $22 million of which was actually paid to ETI for over 22,000 separate beneficiaries. In an attempt to verify the validity of claims submitted by ETI to Medicare, agents interviewed a number of the Medicare beneficiaries who had received equipment from ETI and physicians whose signatures had served as authorization for the distribution of the medical equipment. The investigation revealed that ETI distributed these units by either sending out sales representatives to ''health fairs'' held at supermarkets, senior citizen centers or banks, or through arrangements with specific geriatric physicians whereby the sales representatives would demonstrate the use of the equipment at the physicians' offices. ETI would then obtain a physicians's signature on a prescription, telling the physician that the patient wanted the equipment.

However, the patients were told that the equipment was a free gift from Medicare. After learning that Medicare was in fact billed for the equipment, the patients complained because they stated that had they known there would be a charge for the equipment, they would not have accepted it. The investigation

further revealed that the patients were not assessed for 30 days by a physician before ETI submitted a claim to Medicare for the purchase of the equipment, but that ETI personnel were altering the dates on the prescriptions. It was also determined that ETI personnel were giving patients three to four TENS accessary kits at a time, and altering the dates on the prescriptions that accompanied the Medicare claim forms.

Given the volume of claims, the agents were unable to investigate the validity of each and every claim. It was determined however, that $3.7 million of the $22 million that was reimbursed by Medicare were false claims that had been altered by ETI personnel. It was the case agent's opinion that 99% of the $22 million in claims were medically unnecessary, as the equipment was provided to patients who did not have a condition that would have caused reimbursement by Medicare.

Following the investigation, Respondent pled guilty in the United States District Court for the Southern District of New York to one count of conspiracy to make false statements in claims against Medicare, in violation of 18 U.S.C. 371, and to one count of income tax evasion, in violation of 26 U.S.C. 7201. As a result of his conviction, by letter dated December 15, 1994, the Department of Health and Human Services, Office of Inspector General, notified Respondent that he was excluded from participating in the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs for a period of fifteen years pursuant to 42 U.S.C. 1320a–7(a). Subsequently, on May 28, 1996, Respondent and the Inspector General of the Department of Health and Human Services entered into a stipulation, whereby Respondent would be excluded, effective January 4, 1995, from participation in the Medicare and Medicaid programs for a period of thirteen years, or until January 4, 2008. In addition, the stipulation included a provision whereby Respondent agreed not to further contest ''now or in the future'' his exclusion from the Medicare and Medicaid programs.

On October 31, 1995, Respondent entered into a Consent Order with the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, State Board of Medical Examiners (New Jersey Board). The new Jersey Board found that Respondent had engaged in conduct which represented ''crimes of moral turpitude,'' and ordered that Respondent's license to practice medicine and surgery in New Jersey be suspended for 21 months, the first three months to be served as an active suspension, and the remaining 18 months to be served as a period of probation. On May 11, 1995, the Commonwealth of Pennsylvania, Department of State, State Board of Medicine (Pennsylvania Board) and Respondent entered into a Consent Agreement. The Pennsylvania Board ordered, among other things, that Respondent's license to practice medicine and surgery in Pennsylvania be suspended for a period of two years, six months of which to be an active suspension, and the remaining 18 months suspension to be stayed in favor of probation subject to various conditions.

The Deputy Administrator may revoke or suspend a DEA Certificate of Registration under 21 U.S.C. 824(a), upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(2) Has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State relating to any substance defined in this subchapter as a controlled substance;

(3) Has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or has had the suspension, revocation, or denial of his registration recommended by competent State authority;

(4) Has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section; or

(5) Has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a–7(a) of Title 42.

As noted by Judge Randall, the Order to Show Cause and the statement of the issue agreed to by the parties both alleged that subsections (4) and (5) of 21 U.S.C. 824(a) provide the basis for the revocation of Respondent's DEA Certificates of Registration. However, the Government did not present any evidence nor argue in its post-hearing filing that Respondent's continued registration would be inconsistent with public interest pursuant to 21 U.S.C. 824(a)(4). Therefore, the Acting Deputy Administrator agrees with Judge Randall's conclusion ''that the Government has waived the position that a basis for revocation exists under 21 U.S.C. § 824(a)(4) in this matter.'' Consequently, subsection (5) of 21 U.S.C. 824(a) provides the sole basis for the revocation of Respondent's DEA Certificates of Registration.

Pursuant to 42 U.S.C. 1320a–7(a), Respondent has been excluded from the Medicare and Medicaid programs for 13 years, or until January 4, 2008. The Government argues that based upon this exclusion, Respondent's registrations should be revoked. Respondent did not dispute that he has been excluded from the Medicare and Medicaid programs. He did not offer any evidence into the record regarding why his registration should not be revoked. Instead, Respondent argued that the Government had failed to meet its burden of proof that Respondent's continued registration would be inconsistent with the public interest.

As discussed above, the issue of whether Respondent's continued registration would be inconsistent with the public interest was not pursued by the Government as a basis for revocation. Instead, the Government has presented evidence that Respondent has been excluded from the Medicaid and Medicare programs pursuant to 42 U.S.C. 1320a–7(a). Therefore, the Government has met its burden of proving that grounds exist under 21 U.S.C. 824(a)(5) for revoking Respondent's DEA Certificates of Registration. Respondent did not present any evidence as to why his registrations should not be revoked based upon his exclusion from such programs. Respondent did argue that ''DEA had effectually suspended his prescribing privileges, by withholding his renewal, without the benefit of a Court ruling, to the detriment of his patients and their well-being. This constitutes punishment without due process and should be considered by the Court.'' However, as Judge Randall noted, ''the record contains no evidence, such as a denied application for renewal, to support this factual assertion.''

Judge Randall stated that ''given the lack of rehabilitation evidence, I conclude that circumstances do not exist to deviate from the statutory purpose in this case,'' and recommended that Respondent's DEA Certificates of Registration be revoked. The Acting Deputy Administrator concludes that given the serious nature of the offenses which led to Respondent's convictions, and ultimately to his exclusion from the Medicare and Medicaid programs, and the lack of any evidence of Respondent's rehabilitation or remorse,

Respondent's registrations should be revoked.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificates of Registration BP1786853 and BP2526056, issued to Joseph M. Piacentile, M.D., be, and they hereby are, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registrations, be, and they hereby are, denied. This order is effective July 31, 1997.

Dated: June 24, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–17152 Filed 6–30–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

June 20, 1997.

The Department of Labor has submitted the following information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by July 8, 1997. A copy of the ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5096, extension 143).

Comments and questions about the ICR listed below should be forwarded to the Office of the Information and Regulatory Affairs, Attention: OMB Desk Officer for the Bureau of Labor Statistics, Office of Management and Budget, Room 1035, Washington, D.C. 20503 ((202) 395–7316).

The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: Bureau of Labor Statistics.

Title: Standard Industrial Classification (SIC) Forms.

OMB Number: 1220–0032 (revision).

Agency form number	Total respondents	Frequency	Total responses	Average time per response	Estimated total burden
BLS 3023–VS	5,984,250	Every 3 Yrs	1,994,750	.083 Hour	165,564 Hurs.
BLS 3023–VM	114,590	Every 3 Yrs	38,197	.75 Hour	28,647 Hours.
BLS 3023–CA	53,000	Annually	53,000	.167 Hour	8,851 Hours.
BLS 3023–P		Every 5 Yrs			
Totals			2,085,947		203,062 Hours.

Total Burden Coast (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Description: The ES–202 Report, produced for each calendar quarter, is a summary of employment, wage, and contribution data submitted to State Employment Security Agencies (SESAs) by employers subject to State Unemployment Insurance (UI) laws.

Also included in each State report are similar data for Federal Government employees covered by the Unemployment Compensation for Federal Employees Program. These data are submitted by all 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands and then summarized for the nation by the Bureau of Labor Statistics (BLS).

The ES–202 program is a comprehensive and accurate source of monthly employment and quarterly wage data, by industry, at the National, State, and county levels. It provides a virtual census on nonagricultural employees and their wages. In addition, about 47 percent of the workers in agriculture are covered. As the most complete universe of monthly employment and quarterly wage information by industry, county, and State, the ES–202 series has broad economic significance in evaluating labor trends and major industry developments, in time series analysis and industry comparisons, and in special studies such as analysis of wages by size of firm.

The program provides data necessary to both the Employment and Training Administration (ETA) and the SESAs in administering the employment security program. These data accurately reflect the extent of coverage of the State Unemployment Insurance laws and are used to measure UI revenues and disbursements; National, State, and local area employment; and total and taxable wage trends. Further, the information is used in actuarial studies; it is used in determination of experience ratings, maximum benefit levels, and areas needing Federal assistance; and it helps ensure the solvency of Unemployment Insurance funds.

The ES–202 data also are used by a variety of BLS programs. They serve, for example, as the basic source of benchmark information for employment by industry and by size of unit in the Current Employment Statistics (BLS–790) Program and the Occupational Employment Statistics (OES) Survey Program. They are used as the basic source of place-of-work employment data for non-metropolitan areas in the Local Area Unemployment Statistics (LAUS) Program. The Quarterly Unemployment Insurance Name and Address File, developed in conjunction with the ES–202 Report, serves as a national sampling frame for many BLS establishment surveys. The Bureau of Economic Analysis of the Department of Commerce uses ES–202 wage data as a base for estimating a large portion of the wage and salary component of national personal income and gross national product. These estimates are

instrumental in determining Federal allocation of revenue-sharing funds to State and local governments. Finally, the ES–202 is one of the best sources of detailed employment and wage statistics used by business and public and private research organizations. To assure the continued accuracy of these published economic statistics in terms of industrial classification, the information supplied by the employers must be periodically reviewed and updated during the Annual Refiling Survey (ARS). For this purpose, the Industry Verification Statement (both Single and Multiple Worksite) forms, and the Industry Classification Statement (both All Industry and Public Administration) forms are used in conjunction with the Unemployment Insurance tax reporting system in each State. The information collected on these forms is used to review the current Standard Industrial Classification (SIC) code assigned to each establishment. The SIC codes for establishments whose business activity has changed since the last review are updated to reflect the change. As a result of these updates, the industry detail data that BLS and State agencies publish reflect changes that occur in the industrial composition of the economy.

If the industrial coding review process were not performed, the reliability of estimates for industrial and occupational employment, hours and earnings, producer prices, productivity, and industry wage data would be considerably reduced. All of these programs and their uses (as well as others) are dependent on accurate industrial coding in the design and maintenance of their samples. Inaccurate industrial coding also can adversely affect payments that businesses and/or employees received from contracts that use industrial earnings data for estimating escalating labor costs.

In addition to obtaining industry data from employers, the Industry Verification Statement forms and the Industry Classification Statement forms are designed to obtain information on the type of ownership (private industry or Federal, State, or local government) and geographic location. The ownership data are of greater importance since current coding procedures classify establishments engaged in similar activities into the same industry code regardless of ownership. The geographic information is used to assign or verify the location of the establishment. Both ownership and geographic data must be reviewed periodically, and updated if necessary, to provide a complete and current industry/area database by ownership. We plan to continue the review of employers' SIC, ownership and geographic codes on a three-year cycle for the entire Unemployment Insurance (UI) universe of accounts, presently numbering approximately 7.2 million units. Each year approximately on-third of these reporting units, and every five years all accounts classified in public administration, will be reviewed. Data for the ES–202 Program and Unemployment Insurance Name and Address Files are classified according to industry categories listed in the SIC Manual (SICM).

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–17189 Filed 6–30–97; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

June 20, 1997.

The Department of Labor has submitted the following information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by July 8, 1997. A copy of the ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5096, extension 143).

Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attention: OMB Desk Officer for the Bureau of Labor Statistics, Office of Management and Budget, Room 1035, Washington, D.C. 20503 ((202) 395–7316).

The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: Bureau of Labor Statistics.

Title: Multiple Worksite Report (MWR) and Report of Federal Employment and Wages (RFEW).

Agency Form Number: BLS 3020.

OMB Number: 1220–0134. (revision)

Frequency: Quarterly.

Affected Public: Business or other for-profit institutions, not for-profit institutions, Federal Government, and State, local, or tribal government.

Number of Respondents: 117,911.

Estimated Time Per Respondent: 22.2 minutes.

Total Burden Hours: 174,508 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Description: The ES–202 Program is a Federal/State cooperative effort which compiles monthly employment and quarterly wage data. These data are collected from State Quarterly Contribution Reports submitted to State Employment Security Agencies (SESAs) by employers subject to State Unemployment Insurance (UI) laws. The ES–202 Report, produced for each calendar quarter, is a summary of these employer (micro-level) data by industry at the county level. Similar data for Federal Government employees covered by the Unemployment Compensation for Federal Employees (UCFE) Program are also included in each State report. These data are submitted by all 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands to the Bureau of Labor Statistics (BLS) which then summarizes the macro-level data to produce totals for the States and the Nation. The ES–202 Report provides a virtual census of nonagricultural employees and their wages, with about 47 percent of the workers in agriculture covered as well.

As part of the ES–202 Program, the States also send micro-level employment and wages data, supplemented with the names and addresses of the employers, to BLS. These States' data are used to create the BLS sampling frame, known as the Business Establishment List. This file represents one of the best sources of detailed industrial and geographical data on employers and is used as the sampling frame for most BLS surveys. The Business Establishment List

includes the individual employer employment and wages data along with associated business identification information that is maintained by each State to administer the UI program as well as the UCFE program.

For employers having only a single physical location (worksite) in the State and, thus, operating under a single assigned industrial and geographical code, the data from the States' UI accounting file are sufficient for statistical purposes. Such data, however, are inadequate for statistical purposes for those employers having multiple establishments or engaged in different industrial activities within the State. In such cases, the employer's Quarterly Contributions Report reflects only Statewide employment and wages and is not disaggregated by establishment or worksite. Although this level of data is sufficient for many purposes of the UI Program, more detailed information is required to create a sampling frame and meet the needs of several ongoing Federal/State statistical programs. As a result of the Multiple Worksite Report, improved establishment business identification data elements have been incorporated into and maintained on the Business Establishment List. Establishment identification data elements that are included in the Business Establishment List are a physical location address, secondary name (division, trade name, subsidiary, etc.), and reporting unit description (store number, plant name or number, etc.) for each worksite of multi-establishment employers.

Employers with more than one establishment reporting under the same UI account number within a State are requested to complete the Multiple Worksite Report if the sum of the employment in all of their secondary establishments is ten or greater. The primary worksite is defined as the establishment with the greatest number of employees. Upon receipt of the first Multiple Worksite Report form, each employer is requested to supply business location identification information. Thereafter, this reported information is computer-printed on the Multiple Worksite Report each quarter. The employer is requested to verify the accuracy of this business identification information and only provide the employment and wages for each worksite for the quarter. By using a standardized form, the reporting burden on many large employers, especially those engaged in multiple economic activities at various locations across numerous States, has been reduced.

Comparable to the Multiple Worksite Report, the function of the Report of Federal Employment and Wages is to collect employment and wage data for each installation of a Federal agency. The Report of Federal Employment and Wages aids in the development and maintenance of business identification information by installation. The Report of Federal Employment and Wages was modeled after the Multiple Worksite Report and is used only to collect data from Federal agencies covered by the Unemployment Compensation for Federal Employees (UCFE) program.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–17190 Filed 6–30–97; 8:45 am]

BILLING CODE 4510–24–M

MERIT SYSTEMS PROTECTION BOARD

Appointment of Members to the Performance Review Board

AGENCY: Merit Systems Protection Board.

ACTION: Notice of appointment of members to the Performance Review Board.

SUMMARY: This notice publishes the names of the new and current members of the Performance Review Board as required by 5 U.S.C. 4314(c)(4).

Lonnie L. Crawford will continue as Chairman of the Performance Review Board. John Seal has been appointed as a new member. In addition, Mary L. Jennings, Denis Marachi, Darrell L. Netherton, and Gary Davis will continue to serve on the PRB.

EFFECTIVE DATES: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Marsha Scialdo Boyd, Director, Human Resources Management Division, U.S. Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419.

Dated: June 25, 1997.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 97–17118 Filed 6–30–97; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–089)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas H. Jones, Patent Counsel, NASA Management Office–JPL, 4800 Oak Grove Drive, Mail Stop 180–801, Pasadena, CA 91109; telephone (818) 354–5179.

NASA Case No. NPO–19418–2–CU: Modulated Source Interferometry;

NASA Case No. NPO–20095–1–CU: Priority Queues for Computer Simulations;

NASA Case No. NPO–19769–1–CU: Automated Inventory and Asset Tracking and Monitoring System

Dated: June 16, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–17094 Filed 6–30–97; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–7102]

Consideration of License Renewal Request for the Shieldalloy Metallurgical Corporation Facility in Newfield, NJ, and Opportunity for Hearing

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of consideration of license renewal request for the Shieldalloy Metallurgical Corporation facility in Newfield, New Jersey and opportunity for hearing.

The U.S. Nuclear Regulatory Commission is considering renewal of Source Material License SMB–743 (SMB–743), issued to Shieldalloy Metallurgical Corporation, (the licensee) for continued operation of its processing facility in Newfield, New Jersey. The facility processes a mineral concentrate (pyrochlore) to recover niobium. However, the pyrochlore also contains, by weight, more than 0.05 percent natural uranium and thorium, which are source materials and require an NRC license under 10 CFR part 40. During the manufacturing process, the radioactive materials are concentrated in a high temperature slag and bag house dust which are stored on-site. The licensee originally requested renewal of its license on June 19, 1985, and subsequently revised its application by letter dated September 15, 1995.

Prior to approving the renewal application, NRC will have made

findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment. The renewal of the license will be documented in the issuance of a renewed SMB–743 license.

The NRC hereby provides notice that this is a proceeding on an application for renewal of a license falling within the scope of Subpart L. ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to Section 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of the **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Docketing and Services Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington DC 20555. Attention: Docketing and Services Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205 (g);

3. The requester's concerns in the area of licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205 (c).

In accordance with 10 CFR § 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail to:

1. The applicant, Shieldalloy Metallurgical Corporation to the attention of Mr. Scott Eves, West Boulevard, P.O. Box 768, Newfield, NJ 08344; and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Any hearing that is requested and granted will be held in accordance with the NRC's Informal Hearing Procedures for Adjudications in Material Licensing Proceedings in 10 CFR Part 2, Subpart L.

For further details with respect to this action, the licensee's renewal request dated September 15, 1995, and an NRC staff assessment of financial assurance aspects of the renewal (SECY–96–210), dated October 1, 1996, are available for inspection at the NRC's Public Document Room, 2120 L Street N.W., Washington, D.C. 20555. Questions should be referred to NRC's project manager for the Shieldalloy, Newfield facility, Heather Astwood, at (301) 415–5819. License No: SMB–743.

Dated at Rockville, Maryland, this 25th day of June, 1997.

For the Nuclear Regulatory Commission.

Michael F. Weber,

Chief Licensing Branch, Division of Fuel Cycle Safety and Safeguards, NMSS

[FR Doc. 97–17141 Filed 6–30–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–206, 50–361 AND 50–362]

Southern California Edison Company; San Diego Gas and Electric Company; the City of Riverside, CA; the City of Anaheim, CA; San Onofre Nuclear Generating Station, Unit Nos. 1, 2 and 3; Consideration of Corporate Restructuring

Notice is hereby given that the United States Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving an application concerning the proposed corporate restructuring of Enova Corporation, parent company for San Diego Gas & Electric Company (SDG&E), one of the co-owners of the San Onofre Nuclear Generating Station, Units 1, 2 and 3, along with Southern California Edison Company, The City of Riverside, California, and The City of Anaheim, California. By letter dated December 2, 1996, SDGE, through Richard A. Meserve of Covington & Burling, counsel for SDG&E, informed the Commission of a proposed corporate restructuring of SDG&E's parent company, Enova Corporation, whereby Enova would combine with Pacific Enterprises, with each becoming a subsidiary of a newly created holding company, Mineral Energy Company (New Holding Company). SDG&E will remain a subsidiary of Enova. SDG&E will remain co-holder of licenses for San Onofre Units 1, 2 and 3. Under the restructuring, SDG&E's preferred stock and debt will not be affected and will remain securities and obligations of SDG&E. After the restructuring, SDG&E will continue to be a public utility providing the same utility services as it did immediately prior to the reorganization. According to the proposed plan, there will be no significant change in ownership, management, or sources of funds for operation, maintenance, or decommissioning of the San Onofre power stations due to the corporate restructuring.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of control of a license after notice to interested persons. Such approval is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to this proposed action, see the letter dated December 2, 1996 by Richard A. Meserve of Covington & Burling. This document is available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., Washington, DC, and at the local public document room located at the Main Library, University of California, Irvine, California.

Dated at Rockville, Maryland, this 19th day of June 1997.

Mel B. Fields,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–17142 Filed 6–30–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–206, 50–361, and 50–362]

San Onofre Nuclear Generating Station, Unit Nos. 1, 2 and 3; Southern California Edison Company, et al; Environmental Assessment And Finding Of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving an application concerning the corporate restructuring of Enova Corporation, parent company of San Diego Gas and Electric Company (the co-licensee), co-holder of Possession Only License No. DPR–13, and Facility Operating License Nos. NPF–10 and NPF–15, along with Southern California Edison Company,

The City of Riverside, California, and The City of Anaheim, California (the co-licensees) issued for operation of the San Onofre Nuclear Generating Station (SONGS), Units 1, 2, and 3, located in San Diego County, California.

Environmental Assessment

Identification of the Proposed Action

The proposed action would consent to the transfer of control of the licenses to the extent effected by the proposed restructuring of Enova Corporation (Enova), parent company of San Diego Gas & Electric Company (SDG&E), whereby Enova would combine with Pacific Enterprises (Pacific), with each becoming a subsidiary of a newly created holding company, Mineral Energy Company (New Holding Company). SDG&E would continue to be a wholly-owned subsidiary of Enova and would continue to be a co-licensee of the San Onofre Nuclear Generating Station, Units 1, 2 and 3. The proposed action is in accordance with the request made by SDG&E through its counsel Richard A. Meserve of Covington & Burling in a letter dated December 2, 1996.

The Need for the Proposed Action

The proposed action is required to enable Enova to restructure as described above. Enova and Pacific have submitted that restructuring will improve their ability to compete in the rapidly evolving energy marketplace.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed corporate restructuring and concludes that there will be no physical or operational changes to SONGS. The corporate restructuring will not affect the qualifications or organizational affiliation of the personnel who operate the facilities, as SDG&E will continue to be responsible for its portion of the operation of SONGS, Units 1, 2 and 3.

The Commission has evaluated the environmental impact of the proposed action and has determined that the probability or consequences of accidents would not be increased by the restructuring, and that post-accident radiological releases would not be greater than previously determined. Further, the Commission has determined that the corporate restructuring would not affect routine radiological plant effluents and would not increase occupational radiological exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the restructuring would not affect nonradiological plant effluents and would have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are identical.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the San Onofre Nuclear Generating Station, Unit 1, dated October 1973, and the San Onofre Nuclear Generating Station, Units 2 and 3, dated April 1981, and its Errata dated June 5, 1981.

Agencies and Persons Contacted

In accordance with its stated policy, on May 29, 1997, the staff consulted with the California State official, Mr. Steve Hsu of the Radiologic Health Branch of the State Department of Health Services, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the letter dated December 2, 1996, by Richard A. Meserve of Covington & Burling (Counsel for SDG&E), which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Main Library, University of California, Irvine, California.

Dated at Rockville, Maryland, this 19th day of June 1997.

For The Nuclear Regulatory Commission.

Mel B. Fields,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–17144 Filed 6–30–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation (Wolf Creek Generating Station, Unit 1); Exemption

I

On June 4, 1985, the Commission issued Facility Operating License No. NPF–42 to Wolf Creek Nuclear Operating Corporation (the licensee) for the Wolf Creek Generating Station, Unit 1 (WCGS). The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

II

Subsection (a) of 10 CFR 70.24, ''Criticality Accident Requirements,'' requires that each licensee authorized to possess special nuclear material (SNM) shall maintain in each area where such material is handled, used, or stored, an appropriate criticality monitoring system. In accordance with Subsection (a)(1) of 10 CFR 70.24, coverage of all such areas at WCGS shall be provided by two criticality detectors. However, exemptions may be requested pursuant to 10 CFR 70.24(d), provided that the licensee believes that good cause exists for the exemption. In particular, Regulatory Guide 8.12, Revision 2, ''Criticality Accident Alarm System,'' states that it is appropriate to request an exemption from 10 CFR 70.24 if an evaluation determines that a potential for criticality does not exist, as for example where geometric spacing is used to preclude criticality.

By letter dated September 19, 1995, and supplement dated March 21, 1997, the licensee requested an exemption from the requirements of 10 CFR 70.24. A previous exemption from the provisions of 10 CFR Part 70.24 for the storage of SNM, including reactor fuel assemblies [maximum amount of 2,400 kg of U–235 in uranium enriched to no more than 3.50 weight percent (w/o)], was granted to Wolf Creek Nuclear

Operating Corporation (WCNOC) in NRC Materials License No. SNM–1929. The materials license was issued on May 9, 1984, and expired upon conversion of the construction permit to an operating license on June 4, 1985. In this request the licensee proposes to handle and store unirradiated fuel in the fuel handling building and in the new fuel section of the spent fuel pool without having a criticality monitoring system with two separate criticality detectors or performing the emergency drills as required by 10 CFR 70.24.

The basis for the exemption is that the potential for accidental criticality is precluded because of the geometric spacing of fuel in the new fuel storage facility and spent fuel pool and administrative controls imposed on fuel handling procedures from the time the fuel is removed from approved shipping containers, until it is placed in specially designed storage racks.

SNM is present at WCGS principally in the form of nuclear fuel, although other quantities of SNM are present in the incore nuclear instrumentation, health physics sources, and in quality control radiography sources. However, the small quantity of SNM present in these latter items precludes any criticality concerns.

A new fuel storage facility (NFSF) is located within the fuel building, and provides onsite dry storage for 66 new fuel assemblies (approximately one-third core), arranged in three double rows (2x11) of ports. Each port will hold just one fuel assembly. The ports within each double row are on 21-inch centers and there is a nominal 28-inch aisle between each pair of rows. The spacing between new fuel assemblies in the storage racks is sufficient to maintain the array in a subcritical condition even under accident conditions where unborated water is assumed present. For the flooded condition, assuming new fuel with a maximum enrichment of 4.5 w/o U–235 in place, the effective multiplication factor (k_{eff}) does not exceed 0.95. The effective multiplication factor does not exceed 0.98 assuming optimum moderation by low-density sources of moderator such as aqueous foam or mist. The NFSF is protected from the effects of natural phenomena, including earthquakes, tornadoes, hurricanes, floods, and external missiles. The NFSF is designed to perform its intended function and maintain structural integrity after a safe shutdown earthquake (SSE) or following a postulated hazard, such as fire, internal missiles, or pipe break. The new fuel storage racks are designed for the following loads and combinations thereof: dead loads, live loads (fuel assemblies), crane uplift load (up to 5000 pounds), SSE loads and operating basis earthquake (OBE) loads. The new fuel storage racks are designed to seismic Category I criteria, and are anchored to the seismic Category I floor and walls of the NSFS.

The new fuel is stored in an enclosed vault with reinforced concrete walls and a steel plate top. Hinged covers are provided directly over each fuel storage position. The covers and fuel racks are sized to prevent insertion of a fuel assembly into other than its prescribed location. The steel protective cover protects the storage racks from possible dropped objects and has been determined capable of sustaining the maximum fuel assembly drop. The new fuel storage racks, loaded with fuel, are designed to resist distortion or buckling. Drainage is provided to prevent accumulation of water within the NFSF.

New fuel shipping containers only carry two new fuel assemblies. The procedure used for new fuel receipt requires the use of the monorail auxiliary hoist on the cask handling crane for lifting operations. A special new fuel handling tool is required to be attached to the monorail auxiliary hoist to lift each fuel assembly from the shipping container. This new fuel handling tool can only be attached to the top nozzle of one fuel assembly at a time. The attached fuel assembly is moved to either the new fuel storage racks or the new fuel elevator if the assembly is going to be stored in the spent fuel facility. Both of these storage positions will only accommodate one fuel assembly in a designed location. Therefore, the design of the new fuel storage rack, the fuel handling equipment, and the administrative controls are such that subcriticality is assured under normal and accident conditions.

The spent fuel pool is divided into two separate and distinct regions, which for the purpose of criticality considerations may be considered as separate pools. Region I, reserved for core offloading and new fuel storage, has the capacity for a minimum of 200 assemblies. Wolf Creek Technical Specification 5.6.1.1.a limits the enrichment of new fuel to 4.45 w/o U–235. The spent fuel pool is designed to store fuel in a geometric array that precludes criticality (k_{eff} no greater than 0.95), even in the event of complete loss of the soluble boron in the pool water. Fuel movements are procedurally controlled and designed to preclude conditions involving criticality concerns. Moreover, previous accident analyses have demonstrated that a fuel handling accident (i.e., a dropped fuel element) will not create conditions which exceed design specifications. In addition, the Technical Specifications and the Wolf Creek Final Safety Analysis Report specifically address the new fuel enrichment limits (4.45 w/o uranium-235), refueling operations and limit the handling of fuel to ensure against an accidental criticality and to preclude certain movements over the spent fuel pool and the reactor vessel.

Notwithstanding the fact that procedures and controls prevent an inadvertent criticality during fuel handling, area radiation monitors, as described in Section 12.3.4 of the Wolf Creek UFSAR, are located near the spent fuel pool, new fuel storage vault, and cask handling area. These monitors are provided in accordance with GDC 63 and 10 CFR 70.24 to serve as criticality alarm monitors, and they conform to the requirements of 10 CFR Part 70, Regulatory Guides 8.5 and 8.12, and Standards ANSI/ANS–8.3–1979 and USAS N2.3–1967. These monitors will remain in place and will continue to provide prompt warning of high radiation in the unlikely event of an inadvertent criticality accident.

Workers qualified to work in radiologically-controlled areas are trained, as part of Plant Access Training, to immediately evacuate an area in which an area radiation monitor is alarming and to notify the control room following evacuation. Personnel currently qualified to respond to potential fuel handling accidents receive additional training, which directs them to identify the affected area, place fuel in a safe location, evacuate the affected area, and minimize the spread of airborne radiation.

In summary, the training provided to personnel involved in fuel handling operations, the design of the fuel handling equipment, the administrative controls, the technical specifications on new and spent fuel handling and storage and the design of the new and spent fuel storage racks preclude inadvertent or accidental criticality.

Based upon the information provided, there is reasonable assurance that irradiated and unirradiated fuel will remain subcritical. Furthermore, there is reasonable assurance that, should an inadvertent criticality occur, the licensee will detect such a criticality and workers will respond properly. Procedures, monitors, and training constitute good cause for granting an exemption to 10 CFR 70.24. In addition, the licensee has verified that a separate radiation monitoring system remains available to meet the requirements of 10 CFR Part 50, Appendix A, General

Design Criterion 63, to detect excessive radiation levels and to initiate appropriate safety actions in fuel storage and handling areas. Therefore, the staff concludes that the licensee's request for an exemption from the requirements of 10 CFR 70.24 is acceptable and should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 70.14, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest.

Therefore, the Commission hereby grants Wolf Creek Nuclear Operating Corporation an exemption as described in Section II above from 10 CFR 70.24, ''Criticality Accident Requirements.''

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (61 FR 9207).

This exemption is effective upon issuance.

For The Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 24th day of June 1997.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–17145 Filed 6–30–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of June 30, July 7, 14, and 21, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 30

Thursday, July 3

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

Week of July 7—Tentative

Tuesday, July 8

10:30 a.m. Affirmation Session (Public Meeting) (if needed)

Week of July 14—Tentative

Thursday, July 17

2:30 p.m. Meeting with NRC Executive Council (Public Meeting) (Contact: James L. Blaha, 301–415–1703)

4:00 p.m. Affirmation Session (Public Meeting) (if needed)

Week of July 21—Tentative

There are no meetings scheduled for the week of July 21.

Note: The schedule for Commission Meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill, (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: June 26, 1997.

Annette Vietti-Cook,

Assistant Secretary of the Commission.

[FR Doc. 97–17286 Filed 6–27–97; 10:35 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38764; File No. SR–PHLX–97–26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Regarding Customized Options on the European Currency Unit

June 24, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 17, 1997, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to amend Rule 1009 in order to provide that options on the European Currency Unit (''ECU'') now are available only as customized options trade pursuant to Exchange Rule 1069. The text of the proposed rule change follows (italicized text is new):

Rule 1009. Criteria for Underlying Stocks

(a) No change.

(b) No change.

(c) The British pound, the German mark, the Swiss franc, the Canadian dollar, the French franc, the Australian dollar, the Japanese yen, the U.S. dollar, the Italian lira (only available for trading as a customized foreign currency option pursuant to Rule 1069), the Spanish peseta (only available for trading as a customized foreign currency option pursuant to Rule 1069) and the European Currency Unit (*only available for trading as a customized foreign currency option pursuant to Rule 1069*), or any cross-rate based on any two of the aforementioned foreign currencies other than the U.S. dollar, may be approved as underlying foreign currencies for options transactions by the Exchange, subject to any approval criteria the Exchange may deem necessary or appropriate in the interests of maintaining a fair and orderly market or for the protection of investors. In the event that any of the sovereign governments or the European Economic Community's European Monetary System issuing any of the above-mentioned currencies should issue a new currency intended to replace one of the above-mentioned currencies as the standard unit of the official medium of exchange of such government, such new currency also may be approved as an underlying foreign currency for options transactions by the Exchange, subject to any approval criteria the Exchange may deem necessary or appropriate in the interests of maintaining a fair and orderly market or for the protection of investors. Options trading in such new currency may occur simultaneously with options trading in any of the above-mentioned currencies; provide, however, that the Exchange shall withdraw its approval of options transactions in the currency which is intended to be replaced by such new

currency as expeditiously as it deems consistent with the maintenance of a fair and orderly market or the protection of investors.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

On April 11, 1997, the specialist in the ECU option resigned and no other Foreign Currency Option participant organization applied to be the specialist in such currency options. The Exchange thus determined to delist the non-customized ECU contract on the Exchange and offer only customized ECU options traded pursuant to Exchange Rule 1069 beginning on Monday, April 14, 1997. As of that date, no open interest in ECU options existed. The Exchange convened its Emergency Committee, pursuant to Exchange Rule 98, on April 10, 1997 in order to authorize this course of action which was later ratified by the Board of Governors on April 14, 1997.

Exchange Rule 1009 which sets forth all of the currencies approved for options trading thereon presently includes the ECU. This rule change will add the explanatory notation to the text of subsection (c) that the ECU is now an approved currency only for customized options. Customized options on the ECU have been trading on the Phlx since November 1994; thus, this filing merely will codify the fact that non-customized ECU options will not be offered anymore. The effect of this change is that ECU options will not be continuously quoted, nor will a specialist be appointed to trade them. Markets will be made by Registered Options Traders (both assigned and non-assigned) in response to a Request for Quotation. Further, no trading rotations will be held and a 50 contract minimum transaction size is applicable now to all ECU options traded on the Phlx.[3]

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act[4] in general, and in particular, with Section 6(b)(5),[5] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Sef-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange, and therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (e) of Rule 19b–4 thereunder.[7] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such change, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Person, 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 in 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 Phlx. All submissions should refer to File No. SR–Phlx–97–26 and should be submitted by July 22, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–17168 Filed 6–30–97; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Phlx Rule 1069.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4.

[8] 17 CFR 200.30–(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2957]

State of Mississippi

Holmes County and the contiguous Counties of Attala, Carroll, Humphreys, LeFlore, Madison, and Yazoo in the State of Mississippi constitute a disaster area as a result of damages caused by flooding which occurred on June 10, 1997. Applications for loans for physical damage may be filed until the close of business on August 21, 1997 and for economic injury until the close of business on March 20, 1998 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	8.000
Homeowners without credit available elsewhere	4.000
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 295706 and for economic injury the number is 952200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 20, 1997.

Paul N. Weech,

Acting Administrator.

[FR Doc. 97–17202 Filed 6–30–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2958]

State of West Virginia

Wyoming County and the contiguous Counties of Boone, Logan, McDowell, Mercer, Mingo, and Raleigh in the State of West Virginia constitute a disaster area as a result of damages caused by flash flooding, mud slides and wind driven rain which occurred on June 1 and 2, 1997. Applications for loans for physical damage may be filed until the close of business on August 21, 1997 and for economic injury until the close of business on March 20, 1998 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
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 295806 and for economic injury the number is 952300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 20, 1997.

Ginger Lew,

Acting Administrator

[FR Doc. 97–17203 Filed 6–30–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Investment Company; Computation of Alternative Maximum Annual Cost of Money to Small Businesses

13 CFR 107.855 limits the maximum annual Cost of Money (as defined in 13 CFR 107.50) that may be imposed upon a Small Business in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term ''Debenture Rate'', which is defined in 13 CFR 107.50 in terms that require SBA to publish, from time to time, the rate charged on ten-year debentures sold by Licensees to the public.

Accordingly, Licensees are hereby notified that effective the date of publication of this Notice, and until further notice, the Debenture Rate, plus the 1 percent annual fee which is added to this Rate to determine a base rate for computation of maximum cost of money, is 8.07 percent per annum.

13 CFR 107.855 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to Section 308(i) of the Small Business Investment Act of 1958, as amended, regarding that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

(Catalog of Federal Domestic Assistance Program No. 59.011, small business investment companies)

Dated: June 25, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–17201 Filed 6–30–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week of June 20, 1997

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–97–2621
Date Filed: 6/16/97
Parties: Members of the International Air Transport Association
Subject:
PTC2 ME–AFR 0005 dated June 13, 1997
Middle East-Africa Expedited Reso 002L
Intended effective date: August 1, 1997

Docket Number: OST–97–2630
Date Filed: 6/18/97
Parties: Members of the International Air Transport Association
Subject:
PTC2 ME 0010 dated June 20, 1997
Within Middle East Expedited Reso 002a
Intended effective date: July 15, 1997

Docket Number: OST–97–2631

Date Filed: 6/18/97
Parties: Members of the International Air Transport Association
Subject:
PTC31 S/CIRC 0021 dated June 6, 1997
South Pacific Resolutions r1–29
Corrections—PTC31 S/CIRC 0023 dated June 10, 1997, PTC31 S/CIRC 0024 dated June 13, 1997
Minutes—PTC31 S/CIRC 0025 dated June 17, 1997
Tables-PTC31 S/CIRC Fares 0008 dated, June 13, 1997
Intended effective date: October 1, 1997

Docket Number: OST–97–2642
Date Filed: 6/20/97
Parties: Members of the International Air Transport Association
Subject:
COMP Mail Vote 876
Special Amending Reso EC Member States
r–1–010cc r–2–002 r–3–002ww
Intended effective date: July 1, 1997

Paulette V. Twine,
Chief, Documentary Services.
[FR Doc. 97–17213 Filed 6–30–97; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending June 20, 1997

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–97–2626.
Date Filed: June 17, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 15, 1997.
Description: Application of United Parcel Service Co., pursuant to 49 U.S.C. 41102 and subpart Q of the regulations, requests an amendment to its certificate of public convenience and necessity for Route 569 authorizing it to engage in scheduled foreign air transportation of cargo (property and mail) between the United States and Mexico so as to add the following new segment: Between the terminal point Houston, Texas, and the terminal points Guadalajara, Mexico: and Between the terminal point San Antonio, Texas, and the terminal point Mexico City, Mexico.

Docket Number: OST–97–2628.
Date Filed: June 18, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 16, 1997.
Description: Joint Application of Air UK (Leisure) Limited and Leisure International Airways Limited, pursuant to 49 U.S.C. 41303 and subpart Q of the regulations, request the transfer of Old Leisure's foreign air carrier permit to New Leisure authorizing it to engage in the charter foreign air transportation of persons and property between a point or points in the United Kingdom and a point or points in the United States.

Docket Number: OST–97–2634.
Date Filed: June 18, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 16, 1997.
Description: Application of Icelandair (Flugleidir Hf.), pursuant to 49 U.S.C. 41302 and subpart Q of the regulations, requests the Department to amend its foreign air carrier permit to authorize the carrier to engage in scheduled foreign air transportation of persons, property and mail from points behind Iceland, via Iceland and intermediate points, to a point or points in the United States and beyond; to engage in charter air transportation between any point or points in Iceland and any point or points in the United States; to engage in charter air transportation between any point or points in the United States and any point or points in a third country or countries as part of a continuous operation that includes service to Iceland; and to engage in other charter air transportation in accordance with the Departments' regulations contained in 14 CFR part 212.

Paulette V. Twine,
Chief, Documentary Services.
[FR Doc. 97–17214 Filed 6–30–97; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Petition for Rulemaking

This notice sets forth the reasons for the denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under 49 U.S.C. 30142 and 49 CFR part 552 to initiate rulemaking to amend the Federal Bumper Standard at 49 CFR part 581.

The Coalition of Small Volume Automobile Manufacturers, Inc. (COSVAM), which describes itself as a non-profit association comprised of small volume motor vehicle manufacturers (producing less than 5,000 vehicles per year), petitioned NHTSA to amend the Federal Bumper Standard. The amendment sought by COSVAM would provide an exemption from the standard's requirements if compliance with those requirements would cause a manufacturer substantial economic hardship.

As conceived by COSVAM, the exemption would only be available to manufacturers who did not manufacture in, and/or import into, the United States in the previous calendar year more than 10,000 vehicles. COSVAM contended that NHTSA's requirements impose a proportionately greater burden on small volume manufacturers due to their limited resources and low production. Additionally, COSVAM contended that small volume manufacturers have more limited access to technology than their larger counterparts, and must sustain enormous costs for research and development and other expenses allocated on a ''per vehicle'' basis, given the small number of vehicles over which these costs must be spread.

COSVAM noted that 49 U.S.C. 30113 authorizes NHTSA to exempt motor vehicles from compliance with a Federal motor vehicle safety standard based, in part, on a finding that ''compliance with the standard would cause substantial economic hardship to a manufacturer * * *.'' 49 U.S.C. 30113(b)(3)(B)(i). The organization noted that comparable language is not found in 49 U.S.C. 32502, the statute that mandated the issuance of the Federal Bumper Standard. That section instead provides that an exemption from the standard may be granted, for good cause, to ''(1) a multipurpose passenger vehicle; or (2) a make, model, or class of a passenger motor vehicle manufactured for a special use, if the standard would interfere unreasonably with the special use of the vehicle.'' 49 U.S.C. 32502(c) (1) and (2).

COSVAM contended that the vehicles produced by its members are manufactured for a special use, specifically for ''unusual, collector niche, or special purposes.'' The organization described these vehicles as typically being used as ''week-end cars,'' as opposed to being given everyday use. COSVAM further

contended that ''compliance with the bumper standard interferes unreasonably with such 'special use' when compliance causes 'substantial economic hardship' to the (small volume manufacturer).'' Elaborating on this concept, the organization observed that ''(i)f the (small volume manufacturer) produces no vehicles (or fewer vehicles) because of the burdens of the standard, and thus incurs substantial economic hardship, the 'special usage' of the vehicles by the vehicles' owners is diminished or 'unreasonably interfered with.'''

COSVAM's final contention was that adoption of an exemption from the bumper standard will be a ''significant step towards international harmonization from the perspective of the (small volume manufacturer).''

After a full and careful analysis of COSVAM's petition and its supporting rationale, NHTSA has decided to deny the petition. The agency notes that 49 U.S.C. 32502, the statute under which the bumper standard was issued, provides no basis for exempting vehicles on the grounds of economic hardship. Even if such a basis did exist, the agency notes that COSVAM did not provide any financial information demonstrating how compliance with the bumper standard causes substantial economic hardship to small volume manufacturers.

More significantly, COSVAM did not demonstrate that vehicles produced by small volume manufacturers are manufactured for a special use. The agency believes that an exotic car licensed and used on public roads cannot be considered a ''special use'' vehicle. Absent the showing of such a special use, and that compliance with the bumper standard would unreasonably interfere with that special use, there is no basis for exempting a vehicle from the standard under 49 U.S.C. 32502(c)(2).

NHTSA can only exempt a manufacturer from a bumper standard for reasons specified in section 32502(c). There is no implied authority for the agency to grant exemptions in situations not covered by that section. Courts have strictly construed the statutes administered by NHTSA in determining the scope of the agency's exemption granting authority. See, e.g., *Nader* v. *Volpe*, 475 F. 2d 916 (D.C. Cir., 1973), holding that the agency's authority to grant temporary exemptions from the Federal motor vehicle safety standards is limited to the explicit wording of the statute authorizing such exemptions, now codified at 49 U.S.C. 30113.

Finally, NHTSA does not believe that adoption of the requested exemption from the bumper standard will further the goals of international harmonization. Those goals are directed, in part, at reducing non-tariff barriers to trade, such as those that result from differences in test standards that apply to vehicles sold in various markets. Compliance with the bumper standard does not impose such an impediment to trade because it would not restrict the entry of a compliant vehicle into other markets.

For the reasons discussed above, NHTSA has concluded that it has no authority to amend 49 CFR part 581 to exempt small volume manufacturers from the bumper standard, as requested in COSVAM's petition.

Accordingly, that petition is denied.

Issued on June 25, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–17106 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Fourth Quarterly Performance Review Meeting on the Contract ''Detection of Mechanical Damage in Pipelines'' (Contract DTRS–56–96–C–0010)

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of meeting.

SUMMARY: RSPA invites the pipeline industry, in-line inspection (''smart pig'') vendors, and the general public to the fourth quarterly performance review meeting of progress on the contract ''Detection of Mechanical Damage in Pipelines.'' The meeting is open to anyone, and no registration is required. This contract is being performed by Battelle Memorial Institute (Battelle), along with the Southwest Research Institute, and Iowa State University. The contract is a research and development contract to develop electromagnetic in-line inspection technologies to detect and characterize mechanical damage and stress corrosion cracking. There will be a presentation on the status of the contract tasks, including a summary of the activity and progress during the past quarter and the projected activity for the next quarter.

DATES: The fourth quarterly performance review meeting will be held on July 24, 1997, beginning at 1:00 p.m. and ending around 5:00 p.m.

ADDRESSES: The quarterly review meeting will be held at the Adam's Mark Columbus Hotel, 50 Third Street, Columbus, Ohio 43215. The hotel's telephone number is (614) 228–5050.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, Contracting Officer's Technical Representative, Office of Pipeline Safety, telephone: (202) 366–4556, FAX: (202) 366–4566, e-mail: lloyd.ulrich@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

RSPA is conducting quarterly public meetings on the status of its contract ''Detection of Mechanical Damage in Pipelines'' (Contract DTRS–56–96–C–0010) because in-line inspection research is of immediate interest to the pipeline industry and in-line inspection vendors. RSPA will continue this practice throughout the contract, which may be up to three years. The meetings will allow disclosure of the results to all interested parties and will provide an opportunity for interested parties to ask Battelle questions concerning the research.

The first meeting was conducted on October 22, 1996, in Washington, DC. The second quarterly review meeting was held on January 14, 1997 in Houston, Texas, in parallel with a meeting of the Gas Research Institute's (GRI) Nondestructive Evaluation Technical Advisory Group to enable significant participation by pipeline operators and inspection vendors. The third quarterly review meeting was held in Washington on May 5, 1997 in advance of the May 6–7, 1997, meetings of RSPA's two technical advisory committees, the Technical Pipeline Safety Standards Committee for gas pipelines and the Technical Hazardous Liquid Pipeline Safety Standards Committee for hazardous liquid pipelines. This, the fourth meeting is being held in Columbus at the end of another meeting of the Gas Research Institute's (GRI) Nondestructive Evaluation Technical Advisory Group.

The research contract with Battelle is a cooperative effort between GRI and DOT, with GRI providing technical guidance.[1] It is anticipated that every other meeting will be conducted in Washington, DC. Future meetings may be conducted in San Antonio, Texas (Southwest Research Institute); Ames, Iowa (Iowa State University); or Chicago, Illinois (Gas Research Institute). Each of the future meetings

[1] See the notice of the first quarterly performance review meeting (61 FR 53484; Oct. 11, 1996) for information on the Memorandum of Understanding between DOT and GRI.

will be announced in the **Federal Register** at least two weeks prior to the meeting.

Attendance is open to all and does not require advanced registration nor advanced notification to RSPA. We specifically want that segment of the pipeline industry involved with in-line inspection to be aware of the status of this contract. To assure that the industry is well represented at these meetings, we have invited the major domestic in-line inspection company (Tuboscope-Vetco Pipeline Services) and the following pipeline industry trade associations: American Petroleum Institute, Interstate Natural Gas Association of America, and the American Gas Association. Each has named an engineering/technical representative.

II. The Contract

The Battelle contract is a research and development contract to evaluate and develop in-line inspection technologies for detecting mechanical damage and cracking, such as stress-corrosion cracking (SCC), in natural gas transmission and hazardous liquid pipelines. Third-party mechanical damage is one of the largest causes of pipeline failure, but existing in-line inspection tools cannot always detect or accurately characterize the severity of some types of third-party damage that can threaten pipeline integrity. Although SCC is not very common on pipelines, it usually appears in high-stressed, low-population-density areas and only when a limited set of environmental conditions are met. Several attempts have been made to develop an in-line inspection tool for SCC, but there is no commercially successful tool on the market.

Under the contract, Battelle will evaluate and advance magnetic flux leakage (MFL) inspection technology for detecting mechanical damage and two electromagnetic technologies for detecting SCC. The focus is on MFL for mechanical damage because experience shows MFL can characterize some types of mechanical damage and can be successfully used for metal-loss corrosion under a wide variety of conditions. The focus for SCC is on electromagnetic technologies that can be used in conjunction with, or as a modification to, MFL tools. The technologies to be evaluated take advantage of the MFL magnetizer either by enhancing signals or using electrical currents that are generated by the passage of an inspection tool through a pipeline.

The contract includes two major tasks during the base two years of the contract. Task 1 is to evaluate existing MFL signal generation and analysis methods to establish a baseline from which today's tools can be evaluated and tomorrow's advances measured. Then, it will develop improvements to signal analysis methods and verify them through testing under realistic pipeline conditions. Finally, it will build an experience base and defect sets to generalize the results from individual tools and analysis methods to the full range of practical applications.

Task 2 is to evaluate two inspection technologies for detecting stress corrosion cracks. The focus in Task 2 is on electromagnetic techniques that have been developed in recent years and that could be used on or as a modification to existing MFL tools. Three subtasks will evaluate velocity-induced remote-field techniques, remote-field eddy-current techniques, and external techniques for sizing stress corrosion cracks.

A Task 3 is being considered for an option year to the contract. Task 3, if done, will verify the results from Tasks 1 and 2 by tests under realistic pipeline conditions. Task 3 will (1) extend the mechanical damage detection, signal decoupling, and sizing algorithms developed in the basic program to include the effects of pressure, (2) verify the algorithms under pressurized conditions in GRI's 4,700 foot, 24-inch diameter Pipeline Simulation Facility (PSF) flow loop, and (3) evaluate the use of eddy-current techniques for characterizing cold working within mechanical damage.

A drawback of present pig technology is the lack of a reliable pig performance verification procedure that is generally accepted by the pipeline industry and RSPA. The experience gained by the pipeline industry and RSPA with the use of the PSF flow loop in this project will provide a framework to develop procedures for evaluating pig performance. Defect detection reliability is critical if instrumented pigging is to be used as an in-line inspection tool in pipeline industry risk management programs.

The ultimate benefits of the project could be more efficient and cost-effective operations, maintenance programs to monitor and enhance the safety of gas transmission and hazardous liquid pipelines. Pipeline companies will benefit from having access to inspection technologies for detecting critical mechanical damage and stress-corrosion cracks. Inspection tool vendors will benefit by understanding where improvements are beneficial and needed. These benefits will support RSPA's long-range objective of ensuring the safety and reliability of the gas transmission and hazardous liquid pipeline infrastructure.

Issued in Washington, D. C. on June 25, 1997.

Richard B. Felder ,

Associate Administrator for Pipeline Safety.

[FR Doc. 97–17170 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–508X]

Land Conservancy of Seattle and King County—Abandonment Exemption—in King County, WA

On June 11, 1997, The Land Conservancy of Seattle and King County (TLC) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903–05 [1] to abandon a line of railroad known as the Sammamish or Issaquah Branch, extending from milepost 7.30 near Redmond to the end of the line at milepost 19.75 in Issaquah, which traverses U.S. Postal Service ZIP Codes 98027, 98029, 98052 and 98053, a distance of 12.45 miles, in King County, WA. TLC has indicated that there are no stations on the line.

TLC states that the line contains approximately 1 mile of federally granted right-of-way. Any documentation in TLC's possession will be made available promptly to those requesting it.

In this proceeding, TLC is proposing to abandon a line that constitutes its entire rail system. In issuing abandonment authority for a railroad line that constitutes the carrier's entire system, the Board does not impose labor protection, except in specifically enumerated circumstances. *See Northampton and Bath R. Co.—Abandonment,* 354 I.C.C. 784, 785–86 (1978) (*Northampton*). Therefore, if the Board grants the petition for exemption, in the absence of a showing that one or more of the exceptions articulated in *Northampton* are present, under Board policy no labor protective conditions would be imposed.

[1] TLC seeks exemptions from the offer of financial assistance (OFA) requirements of 49 U.S.C. 10904 and the public use requirements of 49 U.S.C. 10905. Exemptions from 49 U.S.C. 10904–05 have been granted from time to time, but only when the right-of-way is needed for a valid public purpose and there is no overriding public need for continued rail service.

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by September 29, 1997.

Unless an exemption is granted, as sought, from the OFA provisions of 49 U.S.C. 10904, any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $900 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 and any request for trail use/rail banking under 49 CFR 1152.29 will be due no later than July 21, 1997. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).[2]

All filings in response to this notice must refer to STB Docket No. AB–508X and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Charles H. Montange, 426 NW 162d Street, Seattle, WA 98177.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact SEA. EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: June 23, 1997.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams,

Secretary.

[FR Doc. 97–17149 Filed 6–30–97; 8:45 am]

BILLING CODE 4915–00–P

[2] TLC submits, as Exhibit A to its petition, a trail use request executed by King County Department of Parks and Recreation (King County Parks). Because King County Parks is a state government entity, the filing fee is waived. 49 CFR 1002.2(e)(1).

DEPARTMENT OF THE TREASURY

Fiscal Service

Renegotiation Board Interest Rate; Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning July 1, 1997 and ending on December 31, 1997, the prompt payment interest rate is 6.75% (6¾ per centum) per annum.

ADDRESSES: Comments or inquiries may be mailed to Cynthia Winters, Team Leader, Debt Accounting Branch, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328. A copy of this Notice will be made available for downloading from the http://www.publicdebt.treas.gov.

DATES: This notice announces the interest rate applicable for the July 1, 1997 to December 31, 1997 period.

FOR FURTHER INFORMATION CONTACT: Stephanie Brown, Debt Accounting Branch Manager, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328, (304) 480–5171, Cynthia Winters, Team Leader, Debt Accounting Branch, Office of Public Debt Accounting, Bureau of the Public Debt, (304) 480–5174, or Elizabeth S. Gracia, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–5198.

SUPPLEMENTARY INFORMATION: Although the Renegotiation Board is no longer in existence, other Federal Agencies are required to use interest rates computed under the criteria established by the Renegotiation Act of 1971 Section 2, Public Law 92–41, 85 Stat. 97. For example, the Contract Disputes Act of 1978 Sec. 12, Public Law 95–563, 92 Stat. 2389 and the Prompt Payment Act of 1982 Section 2, Public Law 97–177, 96 Stat. 85 provide for the calculation of interest due on claims at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. 3902(a).

Therefore, notice is hereby given that, pursuant to the above mentioned sections, the Secretary of the Treasury has determined that the rate of interest applicable for the purpose of said sections, for the period beginning July 1, 1997 and ending on December 31, 1997, is 6¾ per centum per annum.

Dated: June 26, 1997.

Donald V. Hammond,

Deputy Fiscal Assistant Secretary.

[FR Doc. 97–17307 Filed 6–30–97; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Fiscal Service

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Surety Companies Acceptable on Federal Bonds Termination of Authority: Christiania General Insurance Corporation of New York.

SUMMARY: Dept. Cir. 570, 1996–Rev., Supp. No. 13).

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to Christiania General Insurance Corporation of New York, of Tarrytown, New York, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 61 FR 34286, July 1, 1996.

With respect to any bonds currently in force with Christiania General Insurance Corporation of New York, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, bonds that are continuous in nature should not be renewed.

The Treasury Department Circular 570 may be viewed and downloaded through the Internet (http://www.fms.treas.gov/c570.html) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6887. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00499–7.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782.

Dated: June 25, 1997.

Charles F. Schwan III,

Acting, Assistant Commissioner, Financial Information, Financial Management Service.

[FR Doc. 97–17158 Filed 6–30–97; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Surety companies acceptable on Federal bonds termination of authority: Gramercy Insurance Company.

SUMMARY: (Dept. Circ. 570, 1996–Rev., Supp. No. 12).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to Gramercy Insurance Company, of Wilmington, Delaware, under the United States Code, Title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 61 FR 34293, July 1, 1996.

With respect to any bonds currently in force with Gramercy Insurance Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, bonds that are continuous in nature should not be renewed.

The Treasury Department Circular 570 may be viewed and downloaded through the Internet (http://www.fms.treas.gov/c570.html) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6887. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00499–7.

Questions concerning this notice may be directed to the U.S.Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782.

Dated: June 25, 1997.

Charles F. Schwan III,

Acting, Assistant Commissioner, Financial Information.

[FR Doc. 97–17157 Filed 6–30–97; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Surety Companies Acceptable on Federal Bonds Termination of Authority: Houston General Insurance Company.

SUMMARY: (Dept. Circ. 570, 1996–Rev., Supp. No. 14).

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to Houston General Insurance Company, of Fort Worth, Texas, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective June 13, 1997.

The Company was last listed as an acceptable surety on Federal bonds at 61 FR 34295, July 1, 1996.

With respect to any bonds currently in force with Houston General Insurance Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, bonds that are continuous in nature should not be renewed.

The Treasury Department Circular 570 may be viewed and downloaded through the Internet (http://www.fms.treas.gov/570.html) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6887. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00499–7.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (202/FTS) 874–6507.

Dated: June 25, 1997.

Charles F. Schwan III,

Acting, Assistant Commissioner, Financial Information, Financial Management Service.

[FR Doc. 97–17159 Filed 6–30–97; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5735 and Schedule P (Form 5735)

AGENCY: Internal Revenue Service (IRS), Treasury.

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 IRS is soliciting comments concerning Form 5735, Possessions Corporation Tax Credit (Under Sections 936 and 30A), and Schedule P (Form 5735), Allocation of Income and Expenses Under Section 936(h)(5).

DATES: Written comments should be received on or before September 2, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 10224.

SUPPLEMENTARY INFORMATION:

Title: Possessions Corporation Tax Credit (Under Sections 936 and 30A), and Allocation of Income and Expenses Under Section 936(h)(5).

OMB Number: 1545–0217

Form Number: Form 5735 and Schedule P (Form 5735)

Abstract: Form 5735 is used to compute the possessions corporation tax credit under sections 936 and 30A. Schedule P (Form 5735) is used by corporations that elect to share their income or expenses with their affiliates. The forms provide the IRS with information to determine if the corporations have correctly computed the tax credit and the cost-sharing or profit-split method of allocating income and expenses.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,371

Estimated Time Per Respondent: 23 hr., 52 min.

Estimated Total Annual Burden Hours: 32,713

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: June 24, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–17219 Filed 6–30–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3468

AGENCY: Internal Revenue Service (IRS), Treasury.

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 IRS is soliciting comments concerning Form 3468, Investment Credit.

DATES: Written comments should be received on or before September 2, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Investment Credit.

OMB Number: 1545–0155.

Form Number: 3468.

Abstract: Taxpayers are allowed a credit against their income taxes for certain expenses they incur for their trades or businesses. Form 3468 is used to compute this investment tax credit. The information collected is used by the IRS to verify that the credit has been correctly computed.

Current Actions: Line 7c (Adoption Credit) was added to the form to reflect this new credit, effective for tax years beginning after December 31, 1996. The new credit will become part of the computation of the tax liability limitation on the investment credit.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, farms, and not-for-profit institutions.

Estimated Number of Respondents: 360,000.

Estimated Time Per Respondent: 18 hr.

Estimated Total Annual Burden Hours: 6,480,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: June 24, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–17220 Filed 6–30–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8613

AGENCY: Internal Revenue Service (IRS), Treasury.

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, Pub. Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8613, return of Excise Tax on Undistributed Income of Regulated Investment Companies.

DATES: Written comments should be received on or before September 2, 1997. to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Return of Excise Tax on Undistributed Income of Regulated Investment Companies.

OMB Number: 1545–1016.

Form Number: 8613.

Abstract: Form 8613 is used by regulated investment companies to compute and pay the excise tax on undistributed income imposed under Internal Revenue Code section 4982. IRS uses the information to verify that the correct amount of tax has been reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,500.

Estimated Time Per Respondent: 11 hr., 4 min.

Estimated Total Annual Burden Hours: 16,605.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: June 24, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–17221 Filed 6–30–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2220

AGENCY: Internal Revenue Service (IRS), Treasury.

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, Pub. Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2220, Underpayment of Estimated Tax by Corporations.

DATES: Written comments should be received on or before September 2, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Underpayment of Estimated Tax by Corporations.

OMB Number: 1545–0142.

Form Number: 2220.

Abstract: Form 2220 is used by corporations to determine whether they are subject to the penalty for underpayment of estimated tax and, if so, the amount of the penalty. The IRS uses the information on Form 2220 to determine if the corporation had an underpayment of tax to which the estimated tax penalty applies and, if so, whether the amount of the penalty was computed correctly.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 702,000.

Estimated Time Per Respondent: 30 hr., 34 min.

Estimated Total Annual Burden Hours: 21,463,187.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comment:

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.

Approved: June 23, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–17222 Filed 6–30–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4626

AGENCY: Internal Revenue Service (IRS), Treasury.

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, Pub. Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4626, Alternative Minimum Tax—Corporations.

DATES: Written comments should be received on or before Septeber 2, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Alternative Minimum Tax—Corporations.

OMB Number: 1545–0175.

Form Number: 4626

Abstract: Form 4626 is used by corporations to calculate their alternative minimum tax under section 55 of the Internal Revenue Code. The IRS uses the information on the form to determine whether the tax has been computed correctly.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 48 hr., 33 min.

Estimated Total Annual Burden Hours: 4,855,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: June 23, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–17223 Filed 6–30–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974, New Routine Use Statement Amendment of System; Notice

AGENCY: Department of Veterans Affairs.

ACTION: Notice; New routine use.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), Notice is hereby given that the Department of Veterans Affairs (VA) is adding a new routine use statement to a system of VA records.

DATES: Interested persons are invited to submit written comments, suggestions, or objections regarding the new routine use. All relevant material received before July 31, 1997, will be considered. All written comments received will be available for public inspection in the Office of Regulations Management, Room 1158, 810 Vermont Avenue, NW, Washington, DC 20420 between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. If no public comment is received during the 30 day review period allowed for public comment, or unless otherwise published in the **Federal Register** by VA, the routine use included herein is effective July 31, 1997.

ADDRESSES: Written comments concerning the new routine use may be mailed to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Mrs. Judith Caden, Assistant Director Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 273–7368.

SUPPLEMENTARY INFORMATION: In the course of administering the VA loan guaranty program, VA occasionally must rely on the services of outside parties to perform work which requires the use of data contained in VA system of records 55 VA 26. For example, VA has recently worked with the Federal Home Loan Mortgage Corporation (Freddie Mac) in developing a VA specific mortgage scorecard for use by lenders. This scorecard enabled VA and Freddie Mac to pursue a pilot program to see if VA home loans could be processed using the automated underwriting features of Freddie Mac's Loan Prospector program. In building the scorecard, it was necessary for VA to provide Freddie Mac with access to information concerning the loan characteristics of a number of recent VA loans. Freddie Mac needed this information to conduct a statistical validation of its Loan Prospector system to prove the model's ability to provide risk assessments for VA loans.

In a situation like this, the entity being provided the information is acting as a contractor performing an agency function, and is required to agree that all employees involved in this matter would be made aware that while performing work in connection with a VA system of records, they would be considered VA employees for purposes of the Privacy Act. As such, they would be subject to the criminal penalty provisions imposed by subsection (i) of the Privacy Act (5 U.S.C. 552a(i)). The contractor must also agree not to use the data obtained for any purpose other than that called for under the contract, to safeguard the data against any further disclosure, and to return all of the data to VA at the conclusion of the work.

VA has determined that release of information under circumstances such as those described above is a necessary and proper use of information in this system of records and that the specific routine use proposed for the transfer of this information is appropriate.

An altered system of records report and a copy of the revised system notice

have been sent to the House of Representatives Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) and guidelines issued by OMB (59 FR 37906, 37916–18, July 25, 1994.)

The proposed routine use will be added to the system of records entitled ''Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records—VA'' (55VA26) as published at 40 FR 38095, August 26, 1975 and amended at 48 FR 499961, October 28, 1983; 51 FR 24781, July 8, 1986; 51 FR 28289, August 6, 1986; 52 FR 721, January 8, 1987; 53 FR 49818, December 9, 1988; 56 FR 2064, January 18, 1991; 56 FR 15666, April 17, 1991; and 58 FR 50629, September 28, 1993.

Approved: June 10, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

Notice of Amendment to System of Records

The system of records identified as 55 VA 26 ''Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records-VA'' published at 40 FR 38095, August 26, 1975 and amended at 48 FR 49961, October 28, 1983; 51 FR 24781, July 8, 1986; 51 FR 28289, August 6, 1986; 52 FR 721, January 8, 1987; 53 FR 59818, December 9, 1988; 56 FR 2064, January 18, 1991; 56 FR 15666, April 17, 1991; and 58 FR 50629, September 28, 1993, is revised to add a new routine use number 33 as follows:

55VA26

SYSTEM NAME:

Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

33. Relevant loan guaranty record information may be disclosed to any individual, organization, or other entity with whom VA has a contract or agreement under which that entity will perform services to assist VA in the administration of the Loan Guaranty Program. The information that may be disclosed under this routine use is limited to that which is necessary to permit the contractor to perform the services required under the contract or agreement.

* * * * *

[FR Doc. 97–17224 Filed 6–30–97; 8:45 am]

BILLING CODE 8320–01–M

federal register

Tuesday
July 1, 1997

Part II

Department of the Treasury

Fiscal Service

Surety Companies Acceptable on Federal Bonds; Annual List; Notice

DEPARTMENT OF THE TREASURY

FISCAL SERVICE

(Dept. Circular 570; 1997 Revision)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective July 1, 1997

This Circular is published annually, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of the Circular and interim changes may be obtained directly from the Government Printing Office (202) 512-1800. (Interim changes are published in the FEDERAL REGISTER as they occur.) Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6A15 Hyattsville, MD 20782, Telephone (FTS/202) 874-6850 or (Fax/202) 874-9978.

For the most current list of Treasury authorized companies, all year round, 24 hours a day, free of charge, use your computer modem and dial into our ***computerized public bulletin board*** at (202) 874-6887. The list is also available through the Internet at http://www.fms.treas.gov/c570.html. ***Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write.*** Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10-11. Please refer to footnote (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [See Note (e)].

If we can be of any assistance, please feel free to contact the Surety Bond Branch at (202) 874-6850.

Charles F. Schwan III
Acting, Assistant Commissioner
Financial Information
Financial Management Service

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS CIRCULAR. PLEASE READ THE NOTES CAREFULLY.

Acadia Insurance Company
BUSINESS ADDRESS: P.O. BOX 9010, Westbrook, ME 04098-5010. PHONE: (207) 772-4300. UNDERWRITING LIMITATION [b/]: $4,278,000. SURETY LICENSES [c,f/]: CT, DE, ME, MD, MA, NH, NY, PA, VT. INCORPORATED IN: Maine.

Acceptance Insurance Company
BUSINESS ADDRESS: 222 South 15th Street, Suite 600 North, Omaha, NE 68102. PHONE: (402) 344-8800. UNDERWRITING LIMITATION [b/]: $9,533,000. SURETY LICENSES [c,f/]: AZ, AR, CO, GA, IL, IN, IA, KY, ME, MI, NE, ND, OH, TN, VA, WI. INCORPORATED IN: Nebraska.

ACCREDITED SURETY AND CASUALTY COMPANY, INC.
BUSINESS ADDRESS: P.O. Box 568529, Orlando, FL 32856-8529. PHONE: (407) 841-8500. UNDERWRITING LIMITATION [b/]: $706,000. SURETY LICENSES [c,f/]: AL, FL, GA, IN, LA, MD, MN, MS, MO, NV, NJ, ND, OH, PA, SC, SD, TN, VA. INCORPORATED IN: Florida.

ACSTAR INSURANCE COMPANY
BUSINESS ADDRESS: P.O. Box 2350, New Britain, CT 06050-2350. PHONE: (860) 224-2000. UNDERWRITING LIMITATION [b/]: $1,247,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company
BUSINESS ADDRESS: P.O. Box 3153, Harrisburg, PA 17105. PHONE: (717) 657-9671. UNDERWRITING LIMITATION [b/]: $1,274,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Aetna Casualty and Surety Company (The) 7

Aetna Casualty & Surety Company of America 8

Aetna Casualty and Surety Company of Illinois 9

Affiliated FM Insurance Company
BUSINESS ADDRESS: Allendale Park, P.O. Box 7500, Johnston, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION [b/]: $3,163,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Allegheny Mutual Casualty Company
BUSINESS ADDRESS: P.O. Box 1116, Meadville, PA 16335-7116. PHONE: (814) 336-2521. UNDERWRITING LIMITATION [b/]: $1,023,000. SURETY LICENSES [c,f/]: CA, DC, FL, ID, IL, IN, LA, MD, MI, MS, NV, NJ, NC, OH, OK, PA, SC, SD, TN, TX, WA, WI. INCORPORATED IN: Pennsylvania.

Allendale Mutual Insurance Company
BUSINESS ADDRESS: Allendale Park, P.O. Box 7500, Johnston, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION [b/]: $92,256,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Alliance Assurance Company of America
BUSINESS ADDRESS: 25 Independence Blvd., Warren, NJ 07059. PHONE: (212) 753-8130. UNDERWRITING LIMITATION [b/]: $19,152,000. SURETY LICENSES [c,f/]: IN, KY, ME. INCORPORATED IN: New York.

See Footnotes/Notes at end of Circular

Allied Mutual Insurance Company

BUSINESS ADDRESS: 701 5th Avenue, Des Moines, IA 50391-2007. PHONE: (515) 280-4211. UNDERWRITING LIMITATION [b/]: $19,134,000. SURETY LICENSES [c,f/]: AZ, AR, CA, CO, DC, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Iowa.

ALLSTATE INSURANCE COMPANY

BUSINESS ADDRESS: 3075 Sanders Rd. Ste. H1A, Northbrook, IL 60062-7127. PHONE: (847) 402-5000. UNDERWRITING LIMITATION [b/]: $894,464,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

AMCO Insurance Company

BUSINESS ADDRESS: 701 5th Avenue, Des Moines, IA 50391-2007. PHONE: (515) 280-4211. UNDERWRITING LIMITATION [b/]: $22,325,000. SURETY LICENSES [c,f/]: AZ, CA, CO, DC, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OR, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Iowa.

AMERICAN ALLIANCE INSURANCE COMPANY

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION [b/]: $707,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

American Automobile Insurance Company

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION [b/]: $5,385,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA

BUSINESS ADDRESS: 11222 Quail Roost Dr., Miami, FL 33157. PHONE: (305) 253-2244. UNDERWRITING LIMITATION [b/]: $12,358,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Casualty Company of Reading, Pennsylvania

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $34,104,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

AMERICAN CONTRACTORS INDEMNITY COMPANY

BUSINESS ADDRESS: 9841 Airport Blvd,, Suite 1414, Los Angeles, CA 90045. PHONE: (310) 649-0990. UNDERWRITING LIMITATION [b/]: $287,000. SURETY LICENSES [c,f/]: CA, NM. INCORPORATED IN: California.

American Economy Insurance Company

BUSINESS ADDRESS: 500 North Meridian Street, Indianapolis, IN 46204-1275. PHONE: (317) 262-6262. UNDERWRITING LIMITATION [b/]: $38,321,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Fidelity Insurance Company

BUSINESS ADDRESS: P. O. Box 268847, Oklahoma City, OK 73126-8847. PHONE: (405) 523-2000. UNDERWRITING LIMITATION [b/]: $3,850,000. SURETY LICENSES [c,f/]: AZ, AR, CA, CO, GA, ID, IA, KS, LA, MS, MO, MT, NE, NV, NJ, NM, ND, OK, OR, PA, SD, TN, TX, UT, VA, WA, WI. INCORPORATED IN: Oklahoma.

See Footnotes/Notes at end of Circular

American Fire and Casualty Company

BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. PHONE: (513) 867-3000. UNDERWRITING LIMITATION [b/]: $8,668,000. SURETY LICENSES [c,f/]: AL, AR, CO, DC, FL, GA, KS, KY, LA, MD, MS, NC, SC, TN, TX, VA. INCORPORATED IN: Ohio.

American Guarantee and Liability Insurance Company

BUSINESS ADDRESS: 1400 American Lane, Schaumburg, IL 60196. PHONE: (847) 605-6000. UNDERWRITING LIMITATION [b/]: $23,582,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Home Assurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION [b/]: $173,608,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION [b/]: $32,608,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

AMERICAN INTERNATIONAL INSURANCE COMPANY OF PUERTO RICO

BUSINESS ADDRESS: P.O. Box 10181, San Juan, PR 00908. PHONE: (787) 767-6400. UNDERWRITING LIMITATION [b/]: $2,788,000. SURETY LICENSES [c,f/]: PR, VI. INCORPORATED IN: Puerto Rico.

American International Pacific Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION [b/]: $1,815,000. SURETY LICENSES [c,f/]: AK, CO, CT, DC, IA, ME, MD, MA, MS, NE, NH, ND, RI, SD, UT, VT, WV. INCORPORATED IN: Colorado.

American Interstate Insurance Company

BUSINESS ADDRESS: 2301 Highway 190 West, DeRidder, LA 70634-6005. PHONE: (318) 463-9052. UNDERWRITING LIMITATION [b/]: $2,949,000. SURETY LICENSES [c,f/]: AR, GA, ID, KY, LA, MI, MS, PA, SC, SD, TX, VA, WI. INCORPORATED IN: Louisiana.

American Manufacturers Mutual Insurance Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION [b/]: $20,352,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

American Motorists Insurance Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION [b/]: $29,417,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

See Footnotes/Notes at end of Circular

American National Fire Insurance Company

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION [b/]: $2,158,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Re-Insurance Company

BUSINESS ADDRESS: 555 College Road East, P.O. Box 5241, Princeton, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION [b/]: $126,204,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

AMERICAN RELIABLE INSURANCE COMPANY

BUSINESS ADDRESS: 8655 East Via De Ventura, Scottsdale, AZ 85258. PHONE: (602) 483-8666. UNDERWRITING LIMITATION [b/]: $3,270,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

American Safety Casualty Insurance Company

BUSINESS ADDRESS: 1845 The Exchange, Suite 200, Atlanta, GA 30339. PHONE: (770) 916-1908. UNDERWRITING LIMITATION [b/]: $825,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

American States Insurance Company

BUSINESS ADDRESS: 500 North Meridian Street, Indianapolis, IN 46204-1275. PHONE: (317) 262-6262. UNDERWRITING LIMITATION [b/]: $77,112,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Surety and Casualty Company

BUSINESS ADDRESS: P. O. Box 550800, Jacksonville, FL 32255-0800. PHONE: (904) 998-9221. UNDERWRITING LIMITATION [b/]: $775,000. SURETY LICENSES [c,f/]: AL, FL, GA, IL, TN. INCORPORATED IN: Florida.

American Surety Company

BUSINESS ADDRESS: 3901 West 86th Street, Suite 450, Indianapolis, IN 46268-0932. PHONE: (317) 875-8700. UNDERWRITING LIMITATION [b/]: $411,000. SURETY LICENSES [c,f/]: AL, CA, FL, IN, LA, MD, MS, NV, ND, TN, TX. INCORPORATED IN: California.

Amwest Surety Insurance Company

BUSINESS ADDRESS: P.O. Box 4500, Woodland Hills, CA 91365-4500. PHONE: (818) 704-1111. UNDERWRITING LIMITATION [b/]: $2,404,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

Antilles Insurance Company

BUSINESS ADDRESS: P.O. Box 9023507, San Juan, PR 00902-3507. PHONE: (787) 721-4900. UNDERWRITING LIMITATION [b/]: $2,281,000. SURETY LICENSES [c,f/]: PR. INCORPORATED IN: Puerto Rico.

See Footnotes/Notes at end of Circular

Arkwright Mutual Insurance Company

BUSINESS ADDRESS: 225 Wyman Street,P.O. Box 9198, Waltham, MA 02254-9198. PHONE: (617) 890-9300. UNDERWRITING LIMITATION [b/]: $83,519,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Associated Indemnity Corporation

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION [b/]: $3,460,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

ATLANTIC ALLIANCE FIDELITY AND SURETY COMPANY

BUSINESS ADDRESS: 100 Dobbs Lane, Suite 204, Cherry Hill, NJ 08034. PHONE: (609) 795-5575. UNDERWRITING LIMITATION [b/]: $403,000. SURETY LICENSES [c,f/]: AL, CT, DE, DC, FL, GA, IL, KS, KY, MD, MA, MN, MO, NJ, NY, OK, PA, TN, TX. INCORPORATED IN: New Jersey.

Atlantic Mutual Insurance Company

BUSINESS ADDRESS: 100 Wall Street, New York, NY 10005. PHONE: (212) 943-1800. UNDERWRITING LIMITATION [b/]: $33,334,000. SURETY LICENSES [c,f/]: AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Auto-Owners Insurance Company

BUSINESS ADDRESS: P.O. Box 30660, Lansing, MI 48909. PHONE: (517) 323-1200. UNDERWRITING LIMITATION [b/]: $140,206,000. SURETY LICENSES [c,f/]: AL, AZ, CO, FL, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NM, NC, ND, OH, OR, SC, SD, TN, TX, UT, VA, WI. INCORPORATED IN: Michigan.

BANKERS INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 15707, St. Petersburg, FL 33733-5707. PHONE: (813) 823-4000. UNDERWRITING LIMITATION [b/]: $3,171,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WA, WV, WY. INCORPORATED IN: Florida.

BITUMINOUS CASUALTY CORPORATION

BUSINESS ADDRESS: 320 - 18th Street, Rock Island, IL 61201. PHONE: (309) 786-5401 x-268. UNDERWRITING LIMITATION [b/]: $14,279,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY

BUSINESS ADDRESS: 246 E. Janata Blvd., Lombard, IL 60148. PHONE: (630) 495-9380. UNDERWRITING LIMITATION [b/]: $441,000. SURETY LICENSES [c,f/]: IL, IN, KS, MO, NC, OK, TN, TX. INCORPORATED IN: Illinois.

Boston Old Colony Insurance Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $1,206,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Buckeye Union Insurance Company (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $24,766,000. SURETY LICENSES [c,f/]: AR, DC, FL, IL, IN, KS, KY, MD, MI, MO, NY, OH, PA, RI, SD, VA, WV. INCORPORATED IN: Ohio.

See Footnotes/Notes at end of Circular

Capitol Indemnity Corporation

BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705-0900. PHONE: (608) 231-4450. UNDERWRITING LIMITATION [b/]: $8,688,000. SURETY LICENSES [c,f/]: AZ, AR, CO, DE, FL, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, PA, SC, SD, TX, UT, VA, WA, WY. INCORPORATED IN: Wisconsin.

Carolina Casualty Insurance Company

BUSINESS ADDRESS: P.O. Box 2575, Jacksonville, FL 32203. PHONE: (904) 363-0900. UNDERWRITING LIMITATION [b/]: $4,770,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Centennial Insurance Company

BUSINESS ADDRESS: 100 Wall Street, New York, NY 10005. PHONE: (212) 943-1800. UNDERWRITING LIMITATION [b/]: $17,070,000. SURETY LICENSES [c,f/]: AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

CENTURY SURETY COMPANY

BUSINESS ADDRESS: P.O. Box 163340, Columbus, OH 43216-3340. PHONE: (614) 895-2000. UNDERWRITING LIMITATION [b/]: $1,330,000. SURETY LICENSES [c,f/]: AZ, IN, OH, WV, WI. INCORPORATED IN: Ohio.

Charter Oak Fire Insurance Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $13,177,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Chartwell Reinsurance Company

BUSINESS ADDRESS: P.O. Box 120043, Stamford, CT 06912-0043. PHONE: (203) 705-2500. UNDERWRITING LIMITATION [b/]: $9,059,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, DE, DC, FL, GA, HI, ID, IL, IN, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, PA, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Chatham Reinsurance Corporation

BUSINESS ADDRESS: 100 Campus Drive, Florham Park, NJ 07932-1006. PHONE: (201) 443-0443. UNDERWRITING LIMITATION [b/]: $3,492,000. SURETY LICENSES [c,f/]: AK, AZ, CA, CO, DC, HI, ID, IL, IA, MD, MA, MN, NE, NJ, NY, OK, OR, PA, SC, SD, TX, UT, WA, WI. INCORPORATED IN: California.

CHRYSLER INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 5168, Southfield, MI 48086-5168. PHONE: (810) 948-3443. UNDERWRITING LIMITATION [b/]: $13,908,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

CHUBB INDEMNITY INSURANCE COMPANY

BUSINESS ADDRESS: 15 Mountain View Rd.,P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION [b/]: $1,343,000. SURETY LICENSES [c,f/]: AK, AZ, CA, CT, DE, DC, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MO, MT, NJ, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, VA, WA, WI. INCORPORATED IN: New York.

CIGNA INDEMNITY INSURANCE COMPANY

BUSINESS ADDRESS: 1601 Chestnut Street, P.O. Box 7716, Philadelphia, PA 19192. PHONE: (215) 761-1000. UNDERWRITING LIMITATION [b/]: $2,518,000. SURETY LICENSES [c,f/]: AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, OH, OR, PA, RI, SC, SD, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes/Notes at end of Circular

CIGNA Insurance Company of the Midwest

BUSINESS ADDRESS: 9200 Keystone Crossing, P.O. Box 80995, Suite 303, Indianapolis, IN 46240. PHONE: (215) 761-1000. UNDERWRITING LIMITATION [b/]: $2,268,000. SURETY LICENSES [c,f/]: IN. INCORPORATED IN: Indiana.

Cincinnati Casualty Company (The)

BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION [b/]: $15,637,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, NE, NM, NC, OH, OK, PA, SC, SD, TN, TX, UT, VT, VA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The)

BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION [b/]: $143,351,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY

BUSINESS ADDRESS: 300 St. Paul Place, Baltimore, MD 21202. PHONE: (410) 539-0800. UNDERWRITING LIMITATION [b/]: $1,684,000. SURETY LICENSES [c,f/]: AZ, CA, DC, FL, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MO, NE, NJ, NY, ND, OH, OK, OR, PA, SC, TN, TX, VT, VA, WI. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY

BUSINESS ADDRESS: 50 Chestnut Ridge Road, Montvale, NJ 07645. PHONE: (201) 573-8788. UNDERWRITING LIMITATION [b/]: $274,000. SURETY LICENSES [c,f/]: CT, DE, DC, MD, MA, NJ, NM, NY, ND, PA. INCORPORATED IN: Pennsylvania.

Commercial Casualty Insurance Company of Georgia

BUSINESS ADDRESS: 160 Technology Parkway, Norcross, GA 30092-2911. PHONE: (770) 729-8101. UNDERWRITING LIMITATION [b/]: $950,000. SURETY LICENSES [c,f/]: FL, GA, IN, LA. INCORPORATED IN: Georgia.

Commercial Insurance Company of Newark, New Jersey

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $4,800,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

Commercial Union Insurance Company

BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108-3100. PHONE: (617) 725-6000. UNDERWRITING LIMITATION [b/]: $51,403,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

CONNECTICUT INDEMNITY COMPANY (THE)

BUSINESS ADDRESS: P.O. Box 420, Hartford, CT 06141. PHONE: (860) 674-6600. UNDERWRITING LIMITATION [b/]: $4,973,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Connecticut Surety Company (The)

BUSINESS ADDRESS: City Place II, 185 Asylum Street, Hartford, CT 06103-3403. PHONE: (860) 527-6732. UNDERWRITING LIMITATION [b/]: $1,206,000. SURETY LICENSES [c,f/]: AK, AZ, AR, CA, CT, DE, DC, GA, IN, IA, LA, MD, MA, MO, MT, NE, NV, NJ, NY, ND, OH, OR, PA, SC, SD, TX, WA. INCORPORATED IN: Connecticut.

See Footnotes/Notes at end of Circular

Consolidated Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (317) 581-6400. UNDERWRITING LIMITATION [b/]: $2,307,000. SURETY LICENSES [c,f/]: FL, IL, IN, IA, KY, MI, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Continental Casualty Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $345,265,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Continental Insurance Company (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $24,268,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Continental Reinsurance Corporation

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $19,092,000. SURETY LICENSES [c,f/]: AK, AZ, AR, CA, CO, DC, FL, HI, ID, IL, IN, IA, LA, MI, MS, MT, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PR, TX, UT, VA, WA, WY. INCORPORATED IN: California.

Continental Western Insurance Company

BUSINESS ADDRESS: P.O. Box 1594, Des Moines, IA 50306. PHONE: (515) 278-3000. UNDERWRITING LIMITATION [b/]: $8,229,000. SURETY LICENSES [c,f/]: AZ, AR, CO, ID, IL, IN, IA, KS, KY, ME, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Iowa.

CONTRACTORS BONDING AND INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 9271, Seattle, WA 98109-0271. PHONE: (206) 622-7053. UNDERWRITING LIMITATION [b/]: $2,045,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico

BUSINESS ADDRESS: G.P.O. Box 363846, San Juan, PR 00936-3846. PHONE: (787) 758-8585. UNDERWRITING LIMITATION [b/]: $10,695,000. SURETY LICENSES [c,f/]: PR. INCORPORATED IN: Puerto Rico.

CREDIT GENERAL INSURANCE COMPANY

BUSINESS ADDRESS: 3201 Enterprise Pkwy, Beachwood, OH 44122. PHONE: (216) 831-7500. UNDERWRITING LIMITATION [b/]: $2,230,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, UT, VA, WA, WV, WI. INCORPORATED IN: Ohio.

CUMBERLAND CASUALTY & SURETY COMPANY

BUSINESS ADDRESS: 4311 West Waters Avenue, Suite 401, Tampa, FL 33614. PHONE: (813) 885-2112. UNDERWRITING LIMITATION [b/]:$503,000. SURETY LICENSES [c,f/]: DE, DC, FL, GA, GU, ID, IN, KY, LA, MD, MA, MO, MT, NE, NV, ND, OR, SC, SD, TN, TX, WA, WV, WY. INCORPORATED IN: Florida.

See Footnotes/Notes at end of Circular

Cumberland Surety Insurance Company, Inc.

BUSINESS ADDRESS: 367 West Short Street, Lexington, KY 40507. PHONE: (800) 767-8622. UNDERWRITING LIMITATION [b/]: $255,000. SURETY LICENSES: [c,f/]: DC, FL, IL, IN, KY, MS, OH, TN. INCORPORATED IN: Kentucky.

CUMIS INSURANCE SOCIETY, INC.

BUSINESS ADDRESS: Post Office Box 1084, Madison, WI 53701. PHONE: (608) 238-5851. UNDERWRITING LIMITATION [b/]: $24,875,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

DAIRYLAND INSURANCE COMPANY

BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481. PHONE: (715) 346-6000. UNDERWRITING LIMITATION [b/]: $16,088,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

DEVELOPERS INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92623. PHONE: (714) 263-3300. UNDERWRITING LIMITATION [b/]: $380,000. SURETY LICENSES [c,f/]: AK, AZ, CA, HI, ID, IN, NV, OR, UT, VA, WA. INCORPORATED IN: California.

Developers Surety and Indemnity Company

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92623. PHONE: (714) 263-3310. UNDERWRITING LIMITATION [b/]: $531,000. SURETY LICENSES [c,f/]: AZ, CO, DC, ID, IL, IN, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, WI, WY. INCORPORATED IN: Iowa.

DIAMOND STATE INSURANCE COMPANY

BUSINESS ADDRESS: Three Bala Plaza East, Suite 300, Bala Cynwyd, PA 19004. PHONE: (610) 664-1500. UNDERWRITING LIMITATION [b/]: $2,187,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, DE, DC, FL, ID, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Indiana.

Empire Fire and Marine Insurance Company

BUSINESS ADDRESS: 1624 Douglas Street, Omaha, NE 68102. PHONE: (402) 341-0135. UNDERWRITING LIMITATION [b/]: $12,248,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

EMPLOYERS INSURANCE OF WAUSAU A Mutual Company

BUSINESS ADDRESS: P.O. Box 8017, Wausau, WI 54402-8017. PHONE: (715) 845-5211. UNDERWRITING LIMITATION [b/]: $38,338,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Employers Mutual Casualty Company

BUSINESS ADDRESS: P.O. Box 712, Des Moines, IA 50303-0712. PHONE: (515) 280-2511. UNDERWRITING LIMITATION [b/]: $41,084,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Reinsurance Corporation

BUSINESS ADDRESS: P.O. Box 2991, Overland Park, KS 66201-1391. PHONE: (913) 676-5200. UNDERWRITING LIMITATION [b/]: $385,070,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

See Footnotes/Notes at end of Circular

Erie Insurance Company

BUSINESS ADDRESS: 100 Erie Insurance Place, Erie, PA 16530. PHONE: (814) 870-2000. UNDERWRITING LIMITATION [b/]: $4,843,000. SURETY LICENSES [c,f/]: DC, IN, KY, MD, NY, NC, OH, PA, TN, VA, WV. INCORPORATED IN: Pennsylvania.

Everest Reinsurance Company

BUSINESS ADDRESS: 477 Martinsville Road, P.O. Box 830, Liberty Corner, NJ 07938-0830. PHONE: (908) 604-3000. UNDERWRITING LIMITATION [b/]: $58,202,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: Delaware.

Evergreen National Indemnity Company

BUSINESS ADDRESS: P.O. Box 18295, Columbus, OH 43218. PHONE: (614) 895-1773. UNDERWRITING LIMITATION [b/]: $1,155,000. SURETY LICENSES [c,f/]: AL, AK, AZ, CO, DE, DC, GA, ID, IL, IA, KY, MD, MI, MN, MO, MT, NJ, NM, ND, OH, OK, PA, SC, SD, TN, TX, UT, VT, WA, WI. INCORPORATED IN: Ohio.

Excelsior Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION [b/]: $2,482,000. SURETY LICENSES [c,f/]: CT, DE, DC, FL, GA, IN, KY, MD, NH, NJ, NY, NC, PA, VT, VA. INCORPORATED IN: New Hampshire.

EXPLORER INSURANCE COMPANY (THE)

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (619) 350-2400. UNDERWRITING LIMITATION [b/]: $2,182,000. SURETY LICENSES [c,f/]: AZ, CA, ID, IL, IA, MT, NV, NM, OR, TX, UT, WA. INCORPORATED IN: Arizona.

FAR WEST INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 4500, Woodland Hills, CA 91365-4500. PHONE: (818) 704-1111. UNDERWRITING LIMITATION [b/]: $704,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

Farmers Alliance Mutual Insurance Company

BUSINESS ADDRESS: 1122 North Main Street, P.O. Box 1401, McPherson, KS 67460. PHONE: (316) 241-2200. UNDERWRITING LIMITATION [b/]: $6,108,000. SURETY LICENSES [c,f/]: AZ, CO, ID, IN, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, TX. INCORPORATED IN: Kansas.

Farmington Casualty Company

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $13,287,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Farmland Mutual Insurance Company

BUSINESS ADDRESS: 1963 Bell Avenue, Des Moines, IA 50315. PHONE: (515) 245-8800. UNDERWRITING LIMITATION [b/]: $6,541,000. SURETY LICENSES [c,f/]: AL, AR, CO, DC, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Federal Insurance Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION [b/]: $246,349,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

See Footnotes/Notes at end of Circular

FEDERATED MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 121 East Park Square, Owatonna, MN 55060. PHONE: (507) 455-5200. UNDERWRITING LIMITATION [b/]: $67,672,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity and Casualty Company of New York (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $15,011,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Fidelity and Deposit Company of Maryland

BUSINESS ADDRESS: P.O. Box 1227, Baltimore, MD 21203. PHONE: (410) 539-0800. UNDERWRITING LIMITATION [b/]: $29,070,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY

BUSINESS ADDRESS: MC0401, P.O. Box 1138, Baltimore, MD 21203-1138. PHONE: (410) 547-3000. UNDERWRITING LIMITATION [b/]: $1,075,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Fidelity and Guaranty Insurance Underwriters, Inc.

BUSINESS ADDRESS: MC0401, P.O. Box 1138, Baltimore, MD 21203-1138. PHONE: (410) 547-3000. UNDERWRITING LIMITATION [b/]: $2,023,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Financial Pacific Insurance Company

BUSINESS ADDRESS: P.O. BOX 292220, Sacramento, CA 95829-2220. PHONE: (916) 630-5000. UNDERWRITING LIMITATION [b/]: $1,379,000. SURETY LICENSES [c,f/]: AZ, CA, ID, NE, NV, OR. INCORPORATED IN: California.

Fireman's Fund Insurance Company

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION [b/]: $183,138,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

Firemen's Insurance Company of Newark, New Jersey

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $28,793,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WI, WY. INCORPORATED IN: New Jersey.

First Community Insurance Company

BUSINESS ADDRESS: 360 Central Avenue, St. Petersburg, FL 33701. PHONE: (813) 823-4000. UNDERWRITING LIMITATION [b/]: $757,000. SURETY LICENSES [c,f/]: AL, AZ, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

First Excess and Reinsurance Corporation

BUSINESS ADDRESS: P.O. Box 419369, Kansas City, MO 64141-6369. PHONE: (913) 676-5520. UNDERWRITING LIMITATION [b/]: $28,841,000. SURETY LICENSES [c,f/]: AK, AZ, CA, CT, DC, GA, ID, IL, IN, IA, KS, KY, MI, MS, MO, MT, NE, NM, NY, OH, OK, SD, TX, WA, WV, WI. INCORPORATED IN: Missouri.

See Footnotes/Notes at end of Circular

FIRST FINANCIAL INSURANCE COMPANY

BUSINESS ADDRESS: 238 Smith School Road, Burlington, NC 27215. PHONE: (910) 586-2500. UNDERWRITING LIMITATION [b/]: $3,483,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MI, MN, MO, MT, NE, NV, NM, NY, ND, OH, OR, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

First Insurance Company of Hawaii, Ltd.

BUSINESS ADDRESS: P.O. Box 2866, Honolulu, HI 96803. PHONE: (808) 527-7777. UNDERWRITING LIMITATION [b/]: $10,479,000. SURETY LICENSES [c,f/]: GU, HI. INCORPORATED IN: Hawaii.

First Liberty Insurance Corporation (The)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION [b/]: $1,444,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

First National Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION [b/]: $8,525,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

FRONTIER INSURANCE COMPANY 1

BUSINESS ADDRESS: 195 Lake Louise Marie Road, Rock Hill, NY 12775-8000. PHONE: (914) 796-2100. UNDERWRITING LIMITATION [b/]: $12,485,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Frontier Pacific Insurance Company

BUSINESS ADDRESS: 4250 Executive Square, Suite 200, La Jolla, CA 92037. PHONE: (619) 642-5000. UNDERWRITING LIMITATION [b/]: $2,599,000. SURETY LICENSES [c,f/]: CA, NV. INCORPORATED IN: California.

GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA

BUSINESS ADDRESS: 436 Walnut Street,P.O. Box 1109, Philadelphia, PA 19105-1109. PHONE: (215) 625-1000. UNDERWRITING LIMITATION [b/]: $148,803,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

General Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION [b/]: $81,891,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

General Reinsurance Corporation

BUSINESS ADDRESS: 695 East Main Street, P.O. Box 10350, Stamford, CT 06904-2350. PHONE: (203) 328-5000. UNDERWRITING LIMITATION [b/]: $466,593,000. SURETY LICENSES [c,f/]: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

See Footnotes/Notes at end of Circular

Glens Falls Insurance Company (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $906,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Global Surety & Insurance Co.

BUSINESS ADDRESS: 3555 Farnam Street, Omaha, NE 68131. PHONE: (402) 271-2846. UNDERWRITING LIMITATION [b/]: $1,771,000. SURETY LICENSES [c,f/]: AZ, CA, CO, NE. INCORPORATED IN: Nebraska.

Grain Dealers Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 1747, Indianapolis, IN 46206. PHONE: (317) 923-2453. UNDERWRITING LIMITATION [b/]: $2,624,000. SURETY LICENSES [c,f/]: AZ, AR, CO, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NE, NV, NM, NC, ND, OH, OK, OR, SD, TN, TX, VA, WA, WI, WY. INCORPORATED IN: Indiana.

GRANITE RE, INC.

BUSINESS ADDRESS: P.O. Box 26967, Oklahoma City, OK 73126. PHONE: (405) 290-5600. UNDERWRITING LIMITATION [b/]: $160,000. SURETY LICENSES [c,f/]: MN, ND, OK, SD. INCORPORATED IN: Oklahoma.

Granite State Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION [b/]: $1,720,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Great American Insurance Company

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION [b/]: $87,413,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Great Northern Insurance Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION [b/]: $11,443,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CO, CT, DC, FL, GA, HI, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Greenwich Insurance Company

BUSINESS ADDRESS: One Greenwich Plaza, PO Box 2568, Greenwich, CT 06836-2568. PHONE: (203) 622-5200. UNDERWRITING LIMITATION [b/]: $2,211,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Gulf Insurance Company

BUSINESS ADDRESS: P.O. Box 1771, Dallas, TX 75221-1771. PHONE: (972) 650-2800. UNDERWRITING LIMITATION [b/]: $25,678,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Hamilton Mutual Insurance Company of Cincinnati, Ohio (The)

BUSINESS ADDRESS: 1520 Madison Road, Cincinnati, OH 45206-1787. PHONE: (513) 221-6010. UNDERWRITING LIMITATION [b/]: $500,000. SURETY LICENSES [c,f/]: IN, KY, MI, OH, TN. INCORPORATED IN: Ohio.

See Footnotes/Notes at end of Circular

Hanover Insurance Company (The)

BUSINESS ADDRESS: 100 North Parkway, Worcester, MA 01605. PHONE: (508) 853-7200. UNDERWRITING LIMITATION [b/]: $106,467,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 68309, Schaumburg, IL 60168-0309. PHONE: (847) 734-4100. UNDERWRITING LIMITATION [b/]: $5,404,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Harleysville Mutual Insurance Company

BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438-2297. PHONE: (215) 256-5000. UNDERWRITING LIMITATION [b/]: $34,865,000. SURETY LICENSES [c,f/]: AR, CA, CO, DE, DC, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, NJ, NM, NC, OH, PA, SC, TN, TX, UT, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Hartford Accident and Indemnity Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b/]: $194,317,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Casualty Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b/]: $25,830,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (203) 547-5000. UNDERWRITING LIMITATION [b/]: $317,079,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b/]: $33,434,000. SURETY LICENSES [c,f/]: IL, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b/]: $5,760,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b/]: $2,453,000. SURETY LICENSES [c,f/]: CT, FL, GA, LA, PA. INCORPORATED IN: Florida.

Hartford Underwriters Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b/]: $18,977,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

See Footnotes/Notes at end of Circular

Heritage Mutual Insurance Company 2

BUSINESS ADDRESS: 2800 South Taylor Drive, P.O. Box 58, Sheboygan, WI 53082-0058. PHONE: (414) 458-9131. UNDERWRITING LIMITATION [b/]: $9,964,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MO, NE, NV, ND, OH, OR, PA, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Highlands Insurance Company

BUSINESS ADDRESS: 10370 Richmond Avenue, Houston, TX 77042-4123. PHONE: (713) 952-9555. UNDERWRITING LIMITATION [b/]: $12,720,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Highlands Underwriters Insurance Company

BUSINESS ADDRESS: 10370 Richmond Avenue, Houston, TX 77042-4123. PHONE: (713) 952-9555 x-8334. UNDERWRITING LIMITATION [b/]: $3,200,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, FL, GA, LA, MS, NM, OK, TX. INCORPORATED IN: Texas.

ILLINOIS NATIONAL INSURANCE CO.

BUSINESS ADDRESS: 500 West Madison Street, Chicago, IL 60606-2511. PHONE: (312) 930-5417. UNDERWRITING LIMITATION [b/]: $2,549,000. SURETY LICENSES [c,f/]: AK, IL, IN, IA, KY, MD, MI, MO, MT, NE, NV, NH, NM, NY, ND, OH, RI, SD, TX, UT, VT, WV, WY. INCORPORATED IN: Illinois.

Indemnity Company of California

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92623. PHONE: (714) 263-3300. UNDERWRITING LIMITATION [b/]: $595,000. SURETY LICENSES [c,f/]: AK, AZ, CA, HI, ID, NV, OR, UT, VA, WA. INCORPORATED IN: California.

Indemnity Insurance Company of North America

BUSINESS ADDRESS: 1601 Chestnut St., P.O. Box 7716, Philadelphia, PA 19192. PHONE: (215) 761-1000. UNDERWRITING LIMITATION [b/]: $6,342,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Independence Casualty and Surety Company

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (619) 350-2400. UNDERWRITING LIMITATION [b/]: $240,000. SURETY LICENSES [c,f/]: TX. INCORPORATED IN: Texas.

Indiana Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (317) 581-6400. UNDERWRITING LIMITATION [b/]: $9,392,000. SURETY LICENSES [c,f/]: FL, IL, IN, IA, KY, MI, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Indiana Lumbermens Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 68600, Indianapolis, IN 46268-1168. PHONE: (800) 428-1441 x-710. UNDERWRITING LIMITATION [b/]: $3,609,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION [b/]: $6,022,000. SURETY LICENSES [c,f/]: AZ, CO, IA, KS, MN, MO, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

See Footnotes/Notes at end of Circular

Insurance Company of North America

BUSINESS ADDRESS: 1601 Chestnut St.,P.O. Box 7716, Philadelphia, PA 19192. PHONE: (215) 761-1000. UNDERWRITING LIMITATION [b/]: $12,361,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the State of Pennsylvania

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION [b/]: $52,482,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (619) 350-2400. UNDERWRITING LIMITATION [b/]: $18,213,000. SURETY LICENSES [c,f/]: AL, AK, AZ, CA, CO, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: California.

Insurance Corporation of New York (The) 3

BUSINESS ADDRESS: 500 North Broadway, Jericho, NY 11753. PHONE: (203) 705-2500. UNDERWRITING LIMITATION [b/]: $4,646,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MI, MN, MS, MO, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Insurors Indemnity Company

BUSINESS ADDRESS: P.O. Box 2683, Waco, TX 76702-2683. PHONE: (817) 750-8128. UNDERWRITING LIMITATION [b/]: $215,000. SURETY LICENSES [c,f/]: TX. INCORPORATED IN: Texas.

INTEGRAND ASSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 70128, San Juan, PR 00936-8128. PHONE: (787) 781-0707 x-269. UNDERWRITING LIMITATION [b/]: $3,935,000. SURETY LICENSES [c,f/]: PR, VI. INCORPORATED IN: Puerto Rico.

Intercargo Insurance Company

BUSINESS ADDRESS: 1450 East American Lane, 20th Floor, Schaumburg, IL 60173. PHONE: (847) 517-2990. UNDERWRITING LIMITATION [b/]: $2,830,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VI, WA, WI, WY. INCORPORATED IN: Illinois.

International Business & Mercantile REassurance Company

BUSINESS ADDRESS: 307 N. Michigan Ave., Chicago, IL 60601. PHONE: (312) 346-8100. UNDERWRITING LIMITATION [b/]: $9,409,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

International Fidelity Insurance Company

BUSINESS ADDRESS: One Newark Center, 20th Floor, Newark, NJ 07102-5207. PHONE: (201) 624-7200 x-226. UNDERWRITING LIMITATION [b/]: $3,178,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: New Jersey.

ISLAND INSURANCE COMPANY, LIMITED

BUSINESS ADDRESS: P.O. Box 1520, Honolulu, HI 96806. PHONE: (808) 531-1311. UNDERWRITING LIMITATION [b/]: $8,728,000. SURETY LICENSES [c,f/]: HI. INCORPORATED IN: Hawaii.

See Footnotes/Notes at end of Circular

John Deere Insurance Company

BUSINESS ADDRESS: 3400 80th Street, Moline, IL 61265-5886. PHONE: (800) 447-0633. UNDERWRITING LIMITATION b/: $15,468,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Kansas Bankers Surety Company (The)

BUSINESS ADDRESS: P. O. Box 1654, Topeka, KS 66601-1654. PHONE: (913) 234-2631. UNDERWRITING LIMITATION b/: $4,963,000. SURETY LICENSES c,f/: AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, MT, NE, NM, ND, OK, SD, TN, TX, WI, WY. INCORPORATED IN: Kansas.

Kansas City Fire and Marine Insurance Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $1,398,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

KEMPER REINSURANCE COMPANY

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049. PHONE: (847) 320-2600. UNDERWRITING LIMITATION b/: $51,204,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

LIBERTY MUTUAL FIRE INSURANCE COMPANY

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: $51,015,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Liberty Mutual Insurance Company

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: $373,888,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Lincoln General Insurance Company

BUSINESS ADDRESS: 3350 Whiteford Road, York, PA 17402. PHONE: (717) 757-0000. UNDERWRITING LIMITATION b/: $2,541,000. SURETY LICENSES c,f/: AL, CO, DE, GA, ID, IN, IA, KS, KY, LA, ME, MD, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

LM Insurance Corporation

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: $1,441,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

London Assurance of America Inc. (The)

BUSINESS ADDRESS: 25 Independence Blvd., Warren, NJ 07059. PHONE: (212) 753-8130. UNDERWRITING LIMITATION b/: $31,392,000. SURETY LICENSES c,f/: AK, IA, ME, MI, MN, NJ, NY, ND, OH, UT, VT. INCORPORATED IN: New York.

See Footnotes/Notes at end of Circular

Lumbermens Mutual Casualty Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION [b/]: $68,804,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Lyndon Property Insurance Company

BUSINESS ADDRESS: 645 Maryville Centre Drive, St. Louis, MO 63141-5815. PHONE: (314) 275-5200. UNDERWRITING LIMITATION [b/]: $1,960,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

MARKEL INSURANCE COMPANY

BUSINESS ADDRESS: Shand Morahan Plaza, Evanston, IL 60201. PHONE: (847) 866-2800. UNDERWRITING LIMITATION [b/]: $3,788,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Massachusetts Bay Insurance Company

BUSINESS ADDRESS: 100 North Parkway, Worcester, MA 01605. PHONE: (508) 853-7200. UNDERWRITING LIMITATION [b/]: $1,652,000. SURETY LICENSES [c,f/]: AL, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, VT, VA, VI, WA, WI. INCORPORATED IN: New Hampshire.

Merchants Bonding Company (Mutual)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321-1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION [b/]: $1,751,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 30060, Lansing, MI 48909-7560. PHONE: (517) 482-6211. UNDERWRITING LIMITATION [b/]: $6,499,000. SURETY LICENSES [c,f/]: AZ, AR, CA, CO, ID, IL, IN, KS, KY, MI, MO, NE, NY, NC, OH, OK, PA, VA, WI. INCORPORATED IN: Michigan.

Mid-Century Insurance Company

BUSINESS ADDRESS: P. O. Box 2478, Terminal Annex, Los Angeles, CA 90051. PHONE: (213) 932-3200. UNDERWRITING LIMITATION [b/]: $62,599,000. SURETY LICENSES [c,f/]: AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: California.

MID-CONTINENT CASUALTY COMPANY

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221 x-200. UNDERWRITING LIMITATION [b/]: $5,755,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, IL, IN, IA, KS, LA, MN, MS, MO, MT, NE, NM, ND, OK, TN, TX, UT, WA, WY. INCORPORATED IN: Oklahoma.

Mid-State Surety Corporation

BUSINESS ADDRESS: 3400 East Lafayette, Detroit, MI 48207. PHONE: (313) 882-7979. UNDERWRITING LIMITATION [b/]: $634,000. SURETY LICENSES [c,f/]: DE, DC, FL, IN, KY, MD, MI, MO, OH, PA, VA, WV. INCORPORATED IN: Michigan.

MIDWESTERN INDEMNITY COMPANY (THE) [4]

BUSINESS ADDRESS: 6281 Tri-Ridge Boulevard, Loveland, OH 45140. PHONE: (513) 576-3200. UNDERWRITING LIMITATION [b/]: $1,934,000. SURETY LICENSES [c,f/]: AL, AR, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NJ, NY, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Ohio.

See Footnotes/Notes at end of Circular

Millers Mutual Fire Insurance Company (The)

BUSINESS ADDRESS: P.O. Box 2269, Fort Worth, TX 76113-2269. PHONE: (817) 332-7761. UNDERWRITING LIMITATION [b/]: $5,636,000. SURETY LICENSES [c,f/]: AZ, AR, CA, CO, DC, GA, ID, IA, KS, KY, LA, MN, MS, MO, MT, NE, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Texas.

Millers Mutual Insurance Association

BUSINESS ADDRESS: 111 East Fourth Street, P.O. Box 9006, Alton, IL 62002-9006. PHONE: (618) 463-3636. UNDERWRITING LIMITATION [b/]: $3,440,000. SURETY LICENSES [c,f/]: AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NC, ND, OH, SD, TN, TX, WI. INCORPORATED IN: Illinois.

Minnesota Trust Company of Austin

BUSINESS ADDRESS: 107 W. Oakland Ave., Austin, MN 55912. PHONE: (507) 437-3231. UNDERWRITING LIMITATION [b/]: $163,000. SURETY LICENSES [c,f/]: CO, MN, MT, ND, SD, UT. INCORPORATED IN: Minnesota.

MOTORS INSURANCE CORPORATION

BUSINESS ADDRESS: 3044 West Grand Blvd., Detroit, MI 48202. PHONE: (313) 556-5000. UNDERWRITING LIMITATION [b/]: $94,517,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Mountbatten Surety Company, Inc. (The)

BUSINESS ADDRESS: 33 Rock Hill Road, Bala Cynwyd, PA 19004. PHONE: (610) 664-2259. UNDERWRITING LIMITATION [b/]: $798,000. SURETY LICENSES [c,f/]: CT, DE, DC, IL, IN, KY, MD, MS, NJ, NY, OH, PA, SC, TN, VA, WV. INCORPORATED IN: Pennsylvania.

Munich American Reinsurance Company

BUSINESS ADDRESS: 560 Lexington Avenue, New York, NY 10022. PHONE: (212) 310-1600. UNDERWRITING LIMITATION [b/]: $28,427,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MT, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: New York.

MUTUAL SERVICE CASUALTY INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 64035, St. Paul, MN 55164-0035. PHONE: (612) 631-7000. UNDERWRITING LIMITATION [b/]: $7,095,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

NAC Reinsurance Corporation

BUSINESS ADDRESS: One Greenwich Plaza, P.O. Box 2568, Greenwich, CT 06836-2568. PHONE: (203) 622-5200. UNDERWRITING LIMITATION [b/]: $63,439,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

National American Insurance Company

BUSINESS ADDRESS: 1008 Manvel Avenue, Chandler, OK 74834. PHONE: (405) 258-0804. UNDERWRITING LIMITATION [b/]: $3,596,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Fire Insurance Company of Hartford

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $60,484,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

See Footnotes/Notes at end of Circular

National Grange Mutual Insurance Company

BUSINESS ADDRESS: 55 West Street, Keene, NH 03431. PHONE: (603) 352-4000. UNDERWRITING LIMITATION [b/]: $18,456,000. SURETY LICENSES [c,f/]: CT, DE, DC, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI. INCORPORATED IN: New Hampshire.

National Indemnity Company

BUSINESS ADDRESS: 3024 Harney Street, Omaha, NE 68131. PHONE: (402) 536-3000. UNDERWRITING LIMITATION [b/]: $780,523,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

NATIONAL REINSURANCE CORPORATION

BUSINESS ADDRESS: 695 East Main St., P.O. Box 10350, Stamford, CT 06904-2350. PHONE: (203) 328-5000. UNDERWRITING LIMITATION [b/]: $36,040,000. SURETY LICENSES [c,f/]: AK, AZ, AR, CA, CO, DE, DC, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, PR, RI, TX, UT, VT, VA, WI, WY. INCORPORATED IN: Delaware.

National Surety Corporation

BUSINESS ADDRESS: 233 South Wacker Drive, Suite 2000, Chicago, IL 60606-6308. PHONE: (312) 441-5400. UNDERWRITING LIMITATION [b/]: $9,283,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Union Fire Insurance Company of Pittsburgh, PA

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION [b/]: $125,098,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

National-Ben Franklin Insurance Company of Illinois

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $7,468,000. SURETY LICENSES [c,f/]: DC, IL, IN, IA, KY, MD, MI, MN, NY, NC, ND, RI, SD, WI. INCORPORATED IN: Illinois.

Nationwide Mutual Insurance Company

BUSINESS ADDRESS: One Nationwide Plaza, Columbus, OH 43216. PHONE: (614) 249-7111. UNDERWRITING LIMITATION [b/]: $214,755,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

NAVIGATORS INSURANCE COMPANY

BUSINESS ADDRESS: 123 William Street, New York, NY 10038. PHONE: (212) 406-2900. UNDERWRITING LIMITATION [b/]: $7,700,000. SURETY LICENSES [c,f/]: AL, AK, AZ, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: New York.

Netherlands Insurance Company (The)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION [b/]: $2,219,000. SURETY LICENSES [c,f/]: AZ, CA, CT, DC, GA, ID, IL, IN, IA, KY, ME, MD, MI, NV, NH, NJ, NY, NC, OH, RI, SC, UT, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

See Footnotes/Notes at end of Circular

New Hampshire Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $20,130,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Nobel Insurance Company

BUSINESS ADDRESS: 8001 LBJ Freeway - Suite 300, Dallas, TX 75251-1301. PHONE: (972) 644-0434. UNDERWRITING LIMITATION b/: $3,324,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Texas.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY

BUSINESS ADDRESS: 650 Elm Street, Manchester, NH 03101-2524. PHONE: (603) 644-6600. UNDERWRITING LIMITATION b/: $5,378,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

North Star Reinsurance Corporation

BUSINESS ADDRESS: P.O. Box 120052, Stamford, CT 06912-0052. PHONE: (203) 328-5000. UNDERWRITING LIMITATION b/: $1,042,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

NORTHBROOK PROPERTY AND CASUALTY INSURANCE COMPANY

BUSINESS ADDRESS: 51 W. Higgins Road, South Barrington, IL 60010. PHONE: (847) 551-2000. UNDERWRITING LIMITATION b/: $10,292,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

NORTHLAND INSURANCE COMPANY

BUSINESS ADDRESS: PO Box 64816, St. Paul, MN 55164-0816. PHONE: (612) 688-4100. UNDERWRITING LIMITATION b/: $15,956,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WV, WY. INCORPORATED IN: Minnesota.

NORTHWESTERN PACIFIC INDEMNITY COMPANY

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (503) 221-4240. UNDERWRITING LIMITATION b/: $2,630,000. SURETY LICENSES c,f/: CA, OR, TX, WA. INCORPORATED IN: Oregon.

Ohio Casualty Insurance Company (The)

BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. PHONE: (513) 867-3000. UNDERWRITING LIMITATION b/: $75,161,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Farmers Insurance Company

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: $51,424,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Oklahoma Surety Company

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221 x-200. UNDERWRITING LIMITATION b/: $669,000. SURETY LICENSES c,f/: AR, KS, OK, TX. INCORPORATED IN: Oklahoma.

See Footnotes/Notes at end of Circular

Old Republic Insurance Company

BUSINESS ADDRESS: P.O. Box 789, Greensburg, PA 15601-0789. PHONE: (412) 834-5000. UNDERWRITING LIMITATION [b/]: $39,102,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company

BUSINESS ADDRESS: P.O. Box 1635, Milwaukee, WI 53201. PHONE: (414) 797-2640. UNDERWRITING LIMITATION [b/]: $1,710,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

ORISKA INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 400, Oriskany, NY 13424. PHONE: (315) 736-0816. UNDERWRITING LIMITATION [b/]: $375,000. SURETY LICENSES [c,f/]: NY. INCORPORATED IN: New York.

Pacific Employers Insurance Company [5]

BUSINESS ADDRESS: 1601 Chestnut Street,P.O. Box 7716, Philadelphia, PA 19192. PHONE: (215) 761-1000. UNDERWRITING LIMITATION [b/]: $19,430,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pacific Indemnity Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION [b/]: $50,516,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Pacific Insurance Company, Limited

BUSINESS ADDRESS: 150 Federal Street, Boston, MA 02110. PHONE: (617) 526-7600. UNDERWRITING LIMITATION [b/]: $29,205,000. SURETY LICENSES [c,f/]: CT, HI. INCORPORATED IN: Connecticut.

Peerless Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION [b/]: $8,204,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Pekin Insurance Company

BUSINESS ADDRESS: 2505 Court Street, Pekin, IL 61558. PHONE: (309) 346-1161. UNDERWRITING LIMITATION [b/]: $4,225,000. SURETY LICENSES [c,f/]: IL, IN, IA, WI. INCORPORATED IN: Illinois.

Pennsylvania General Insurance Company

BUSINESS ADDRESS: 436 Walnut Street, P.O. Box 1109, Philadelphia, PA 19105-1109. PHONE: (215) 625-1000. UNDERWRITING LIMITATION [b/]: $14,166,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CO, CT, DE, DC, GA, IL, IN, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, OH, OR, PA, RI, SC, TN, TX, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

See Footnotes/Notes at end of Circular

Pennsylvania Manufacturers' Association Insurance Company

BUSINESS ADDRESS: 380 Sentry Parkway, Blue Bell, PA 19422-2328. PHONE: (610) 397-5000. UNDERWRITING LIMITATION [b/]: $10,387,000. SURETY LICENSES [c,f/]: CA, CO, CT, DE, DC, FL, GA, ID, IL, IA, KY, LA, MD, MA, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV. INCORPORATED IN: Pennsylvania.

Pennsylvania Millers Mutual Insurance Company

BUSINESS ADDRESS: P. O. Box P, Wilkes-Barre, PA 18773-0016. PHONE: (717) 822-8111. UNDERWRITING LIMITATION [b/]: $4,257,000. SURETY LICENSES [c,f/]: AL, AR, CT, DC, FL, GA, IL, IN, KS, KY, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company

BUSINESS ADDRESS: P.O. Box 2361, Harrisburg, PA 17105-2361. PHONE: (717) 234-4941. UNDERWRITING LIMITATION [b/]: $13,115,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Phoenix Assurance Company of New York

BUSINESS ADDRESS: 25 Independence Boulevard, Warren, NJ 07059. PHONE: (212) 753-8130. UNDERWRITING LIMITATION [b/]: $7,096,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Phoenix Insurance Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $48,981,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Pioneer General Insurance Company

BUSINESS ADDRESS: 6780 East Hampden Avenue, Denver, CO 80224. PHONE: (303) 758-8122. UNDERWRITING LIMITATION [b/]: $130,000. SURETY LICENSES [c,f/]: CO. INCORPORATED IN: Colorado.

PLANET INDEMNITY COMPANY

BUSINESS ADDRESS: 216 Sixteenth Street, Suite 1300, Denver, CO 80202. PHONE: (303) 534-5300. UNDERWRITING LIMITATION [b/]: $1,045,000. SURETY LICENSES [c,f/]: CO. INCORPORATED IN: Colorado.

PREFERRED NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 407003, Ft. Lauderdale, FL 33340-7003. PHONE: (954) 752-1222. UNDERWRITING LIMITATION [b/]: $2,608,000. SURETY LICENSES [c,f/]: FL. INCORPORATED IN: Florida.

Progressive Casualty Insurance Company

BUSINESS ADDRESS: 6300 Wilson Mills Road, Mayfield Village, OH 44143-2182. PHONE: (216) 461-5000. UNDERWRITING LIMITATION [b/]: $8,991,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

PROTECTION MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 300 S. Northwest Highway, Park Ridge, IL 60068. PHONE: (847) 825-4474. UNDERWRITING LIMITATION [b/]: $43,374,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

See Footnotes/Notes at end of Circular

Protective Insurance Company

BUSINESS ADDRESS: 1099 North Meridian Street, Indianapolis, IN 46204. PHONE: (317) 636-9800. UNDERWRITING LIMITATION [b/]: $22,151,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Providence Washington Insurance Company

BUSINESS ADDRESS: P.O. Box 518, Providence, RI 02901-0518. PHONE: (401) 453-7000. UNDERWRITING LIMITATION [b/]: $4,580,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Ranger Insurance Company

BUSINESS ADDRESS: P.O. Box 2807, Houston, TX 77252. PHONE: (713) 954-8100. UNDERWRITING LIMITATION [b/]: $6,092,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Redland Insurance Company

BUSINESS ADDRESS: 222 South 15th Street, Suite 600 North, Omaha, NE 68102. PHONE: (402) 344-8800. UNDERWRITING LIMITATION [b/]: $5,867,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Reliance Insurance Company

BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. PHONE: (215) 864-4000. UNDERWRITING LIMITATION [b/]: $66,255,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Reliance Insurance Company of Illinois [6]

BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. PHONE: (215) 864-4000. UNDERWRITING LIMITATION [b/]: $3,625,000. SURETY LICENSES [c,f/]: IL. INCORPORATED IN: Illinois.

Reliance National Indemnity Company

BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. PHONE: (215) 864-4000. UNDERWRITING LIMITATION [b/]: $4,298,000. SURETY LICENSES [c,f/]: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Reliance Surety Company

BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. PHONE: (215) 864-4000. UNDERWRITING LIMITATION [b/]: $2,220,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Republic Western Insurance Company

BUSINESS ADDRESS: 2721 North Central Avenue, Phoenix, AZ 85004-1163. PHONE: (602) 263-6755. UNDERWRITING LIMITATION [b/]: $9,821,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

See Footnotes/Notes at end of Circular

RLI Insurance Company

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION [b/]: $20,779,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Royal Indemnity Company

BUSINESS ADDRESS: 9300 Arrowpoint Boulevard, P.O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION [b/]: $16,386,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

SAFECO Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION [b/]: $106,763,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

SAFECO Insurance Company of Illinois

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (708) 490-2900. UNDERWRITING LIMITATION [b/]: $12,631,000. SURETY LICENSES [c,f/]: AZ, CO, IL, KS, KY, MD, MI, MN, MS, NE, NM, OH, OR, PA, TN, TX, UT, WI, WY. INCORPORATED IN: Illinois.

SAFECO National Insurance Company

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION [b/]: $6,153,000. SURETY LICENSES [c,f/]: CO, KY, MD, MO, NY, UT, WI, WY. INCORPORATED IN: Missouri.

SCOR REINSURANCE COMPANY

BUSINESS ADDRESS: 2 World Trade Center, New York, NY 10048. PHONE: (212) 390-5200. UNDERWRITING LIMITATION [b/]: $39,668,000. SURETY LICENSES [c,f/]: AL, AK, AZ, CA, DE, ID, IL, IN, IA, MI, MS, NE, NM, NY, NC, ND, OH, OK, OR, PA, TN, TX, UT, WV. INCORPORATED IN: New York.

Sea Insurance Company of America (The)

BUSINESS ADDRESS: 25 Independence Blvd., Warren, NJ 07059. PHONE: (212) 753-8130. UNDERWRITING LIMITATION [b/]: $19,090,000. SURETY LICENSES [c,f/]: AK, AZ, AR, CA, CT, DE, FL, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Seaboard Surety Company

BUSINESS ADDRESS: Burnt Mills Road and Route 206, Bedminster, NJ 07921. PHONE: (908) 658-3500. UNDERWRITING LIMITATION [b/]: $14,401,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

SECURITY INSURANCE COMPANY OF HARTFORD

BUSINESS ADDRESS: P.O. Box 420, Hartford, CT 06141. PHONE: (860) 674-6600. UNDERWRITING LIMITATION [b/]: $14,662,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Security National Insurance Company

BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. PHONE: (214) 360-8000. UNDERWRITING LIMITATION [b/]: $1,500,000. SURETY LICENSES [c,f/]: AL, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MS, MO, MT, NE, NM, OH, OK, OR, TX, WA, WI, WY. INCORPORATED IN: Texas.

See Footnotes/Notes at end of Circular

Select Insurance Company

BUSINESS ADDRESS: P.O. Box 1771, Dallas, TX 75221-1771. PHONE: (972) 650-2800. UNDERWRITING LIMITATION [b/]: $3,434,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MI, MS, MO, MT, NE, NV, NM, NC, OH, OR, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Selective Insurance Company of America

BUSINESS ADDRESS: Wantage Avenue, Branchville, NJ 07890. PHONE: (201) 948-3000. UNDERWRITING LIMITATION [b/]: $22,782,000. SURETY LICENSES [c,f/]: AL, DE, DC, GA, IL, MD, MI, MS, NJ, NY, NC, OH, PA, SC, TX, VA. INCORPORATED IN: New Jersey.

SENTINEL INSURANCE COMPANY, LTD.

BUSINESS ADDRESS: 1001 Bishop Street, Honolulu, HI 96807. PHONE: (808) 546-5700. UNDERWRITING LIMITATION [b/]: $1,897,000. SURETY LICENSES [c,f/]: HI. INCORPORATED IN: Hawaii.

Sentry Insurance A Mutual Company

BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481. PHONE: (715) 346-6000. UNDERWRITING LIMITATION [b/]: $129,484,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Signet Star Reinsurance Company

BUSINESS ADDRESS: 100 Campus Drive, P.O. Box 853, Florham Park, NJ 07932-0853. PHONE: (201) 301-8000. UNDERWRITING LIMITATION [b/]: $23,178,000. SURETY LICENSES [c,f/]: AL, AK, CA, CO, DE, DC, FL, ID, IL, IN, IA, KY, LA, MD, MI, MN, NE, NY, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WI. INCORPORATED IN: Delaware.

SOREMA NORTH AMERICA REINSURANCE COMPANY

BUSINESS ADDRESS: 199 Water Street, New York, NY 10038-3526. PHONE: (212) 480-1900. UNDERWRITING LIMITATION [b/]: $16,487,000. SURETY LICENSES [c,f/]: AK, AZ, CA, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: New York.

St. Paul Fire and Marine Insurance Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (612) 310-7911. UNDERWRITING LIMITATION [b/]: $144,348,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

ST. PAUL GUARDIAN INSURANCE COMPANY

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (612) 310-7911. UNDERWRITING LIMITATION [b/]: $3,257,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

St. Paul Mercury Insurance Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (612) 310-7911. UNDERWRITING LIMITATION [b/]: $6,205,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

See Footnotes/Notes at end of Circular

Standard Fire Insurance Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $52,423,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Star Insurance Company

BUSINESS ADDRESS: 26600 Telegraph Road, Southfield, MI 48034. PHONE: (810) 358-4020. UNDERWRITING LIMITATION [b/]: $6,464,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

State Automobile Mutual Insurance Company

BUSINESS ADDRESS: 518 East Broad Street, Columbus, OH 43215-3976. PHONE: (614) 464-5000. UNDERWRITING LIMITATION [b/]: $52,934,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, VA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company

BUSINESS ADDRESS: One State Farm Plaza, Bloomington, IL 61710. PHONE: (309) 766-2311. UNDERWRITING LIMITATION [b/]: $227,278,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Statewide Insurance Company

BUSINESS ADDRESS: 325 North Genesee Street, Waukegan, IL 60085. PHONE: (847) 662-0073. UNDERWRITING LIMITATION [b/]: $927,000. SURETY LICENSES [c,f/]: AZ, AR, ID, IL, IN, IA, KY, MN, MO, MT, NE, NV, NM, ND, OH, OR, SD, TN, WI. INCORPORATED IN: Illinois.

Sun Insurance Office of America Inc.

BUSINESS ADDRESS: 25 Independence Blvd., Warren, NJ 07059. PHONE: (212) 753-8130. UNDERWRITING LIMITATION [b/]: $24,550,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Surety Company of the Pacific

BUSINESS ADDRESS: P.O. Box 10289, Van Nuys, CA 91410-0289. PHONE: (818) 609-9232. UNDERWRITING LIMITATION [b/]: $810,000. SURETY LICENSES [c,f/]: CA. INCORPORATED IN: California.

Swiss Reinsurance America Corporation

BUSINESS ADDRESS: 237 Park Avenue, New York, NY 10017. PHONE: (212) 907-8000. UNDERWRITING LIMITATION [b/]: $111,835,000. SURETY LICENSES [c,f/]: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New York.

TEXAS PACIFIC INDEMNITY COMPANY

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (214) 754-0777. UNDERWRITING LIMITATION [b/]: $786,000. SURETY LICENSES [c,f/]: AR, TX. INCORPORATED IN: Texas.

TIG Insurance Company

BUSINESS ADDRESS: P. O. Box 152870, Irving, TX 75015-8810. PHONE: (972) 831-5000. UNDERWRITING LIMITATION [b/]: $80,250,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

See Footnotes/Notes at end of Circular

TIG Insurance Company of Michigan

BUSINESS ADDRESS: P.O. Box 152870, Irving, TX 75015. PHONE: (972) 831-5000. UNDERWRITING LIMITATION [b/]: $1,800,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

TIG Premier Insurance Company

BUSINESS ADDRESS: P.O. BOX 152870, IRVING, TX 75015. PHONE: (972) 831-5000. UNDERWRITING LIMITATION [b/]: $2,613,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

TRANSATLANTIC REINSURANCE COMPANY

BUSINESS ADDRESS: 80 Pine Street, New York, NY 10005. PHONE: (212) 770-2000. UNDERWRITING LIMITATION [b/]: $95,271,000. SURETY LICENSES [c,f/]: AK, AZ, CA, CO, DE, DC, GA, ID, IL, IN, IA, KY, LA, MI, MS, NE, NV, NM, NY, OH, OK, PA, UT, WA, WI. INCORPORATED IN: New York.

Transcontinental Insurance Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $21,254,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Transportation Insurance Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $8,227,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Travelers Casualty and Surety Company [7]

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $135,745,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of America [8]

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $38,653,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of Illinois [9]

BUSINESS ADDRESS: 2500 Cabot Drive, Lisle, IL 60532. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $24,345,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Travelers Indemnity Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $143,802,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

See Footnotes/Notes at end of Circular

TRAVELERS INDEMNITY COMPANY OF AMERICA (THE)

BUSINESS ADDRESS: 4400 North Point Parkway, Alpharetta, GA 30202-6938. PHONE: (770) 521-3651. UNDERWRITING LIMITATION [b/]: $8,548,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Georgia.

Travelers Indemnity Company of Connecticut (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $21,841,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Indemnity Company of Illinois (The)

BUSINESS ADDRESS: 2500 Cabot Drive, Lisle, IL 60532. PHONE: (860) 277-0111. UNDERWRITING LIMITATION [b/]: $6,323,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Tri-State Insurance Company of Minnesota

BUSINESS ADDRESS: One Roundwind Road, Luverne, MN 56156. PHONE: (507) 283-9561. UNDERWRITING LIMITATION [b/]: $3,291,000. SURETY LICENSES [c,f/]: CO, IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, WI. INCORPORATED IN: Minnesota.

Trinity Universal Insurance Company

BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. PHONE: (214) 360-8000. UNDERWRITING LIMITATION [b/]: $24,161,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MS, MO, MT, NE, NM, OH, OK, OR, TN, TX, WA, WI, WY. INCORPORATED IN: Texas.

Trinity Universal Insurance Company of Kansas, Inc.

BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. PHONE: (214) 360-8000. UNDERWRITING LIMITATION [b/]: $958,000. SURETY LICENSES [c,f/]: AL, AZ, CO, GA, ID, IL, IN, IA, KS, KY, LA, MS, MO, MT, NE, NM, OH, OK, OR, TX, WA, WI, WY. INCORPORATED IN: Kansas.

Trumbull Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b/]: $2,437,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CO, CT, DE, DC, ID, IL, IN, IA, KY, ME, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY. INCORPORATED IN: Connecticut.

Twin City Fire Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION [b/]: $10,193,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

ULICO CASUALTY COMPANY

BUSINESS ADDRESS: 111 Massachusetts Avenue, NW, Washington, DC 20001. PHONE: (202) 682-0900. UNDERWRITING LIMITATION [b/]: $2,769,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Underwriters Indemnity Company

BUSINESS ADDRESS: 8 Greenway Plaza, Suite 400, Houston, TX 77046. PHONE: (713) 961-1300. UNDERWRITING LIMITATION [b/]: $509,000. SURETY LICENSES [c,f/]: AL, GA, KY, MS, NM, SC, TX, WY. INCORPORATED IN: Texas.

See Footnotes/Notes at end of Circular

UNDERWRITERS REINSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 4030, Woodland Hills, CA 91365. PHONE: (818) 225-1000. UNDERWRITING LIMITATION b/: $43,970,000. SURETY LICENSES c,f/: AZ, DE, DC, FL, GA, ID, IL, IA, KS, LA, MI, MS, MT, NE, NV, NJ, NM, NY, OH, PA, PR, RI, SD, TX, UT, WV, WI. INCORPORATED IN: New Hampshire.

Union Insurance Company

BUSINESS ADDRESS: P.O. Box 80439, Lincoln, NE 68501-0439. PHONE: (402) 423-7688. UNDERWRITING LIMITATION b/: $1,929,000. SURETY LICENSES c,f/: AR, CO, DC, ID, IA, KS, MD, MN, MS, MO, MT, NE, NC, ND, OK, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Nebraska.

United Capitol Insurance Company *10*

BUSINESS ADDRESS: 400 Perimeter Center Terrace, Suite 345, Atlanta, GA 30346. PHONE: (770) 677-0330. UNDERWRITING LIMITATION b/: $4,755,000. SURETY LICENSES c,f/: AZ, WI. INCORPORATED IN: Wisconsin.

United Coastal Insurance Company *11*

BUSINESS ADDRESS: 233 Main Street, P.O. Box 2350, New Britain, CT 06050-2350. PHONE: (860) 223-5000. UNDERWRITING LIMITATION b/: $4,301,000. SURETY LICENSES c,f/: AZ. INCORPORATED IN: Arizona.

United Fire & Casualty Company

BUSINESS ADDRESS: P.O. Box 73909, Cedar Rapids, IA 52407. PHONE: (319) 399-5700. UNDERWRITING LIMITATION b/: $17,726,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Iowa.

UNITED NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: Three Bala Plaza East, Suite 300, Bala Cynwyd, PA 19004. PHONE: (610) 664-1500. UNDERWRITING LIMITATION b/: $10,621,000. SURETY LICENSES c,f/: PA. INCORPORATED IN: Pennsylvania.

United Pacific Insurance Company

BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. PHONE: (215) 864-4000. UNDERWRITING LIMITATION b/: $4,112,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

United States Fidelity and Guaranty Company

BUSINESS ADDRESS: MC0401, P.O. Box 1138, Baltimore, MD 21203-1138. PHONE: (410) 547-3000. UNDERWRITING LIMITATION b/: $105,412,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

UNITED STATES FIRE INSURANCE COMPANY

BUSINESS ADDRESS: 305 Madison Avenue, Morristown, NJ 07960. PHONE: (201) 490-6600. UNDERWRITING LIMITATION b/: $45,271,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

UNITED SURETY AND INDEMNITY COMPANY

BUSINESS ADDRESS: P.O. Box 2111, San Juan, PR 00922-2111. PHONE: (787) 273-1818. UNDERWRITING LIMITATION b/: $1,072,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

See Footnotes/Notes at end of Circular

UNIVERSAL BONDING INSURANCE COMPANY

BUSINESS ADDRESS: 518 Stuyvesant Avenue, Lyndhurst, NJ 07071. PHONE: (201) 438-7223. UNDERWRITING LIMITATION [b/]: $1,163,000. SURETY LICENSES [c,f/]: NJ, NY. INCORPORATED IN: New Jersey.

UNIVERSAL INSURANCE COMPANY

BUSINESS ADDRESS: G.P.O. Box 71338, San Juan, PR 00936. PHONE: (809) 793-7202. UNDERWRITING LIMITATION [b/]: $7,374,000. SURETY LICENSES [c,f/]: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION [b/]: $3,332,000. SURETY LICENSES [c,f/]: AZ, AR, CO, ID, IL, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

Universal Surety of America

BUSINESS ADDRESS: P.O. Box 1068, Houston, TX 77251-1068. PHONE: (713) 722-4600. UNDERWRITING LIMITATION [b/]: $1,170,000. SURETY LICENSES [c,f/]: AL, AK, AR, CA, CO, DE, DC, FL, GA, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, VT, VA, WI, WY. INCORPORATED IN: Texas.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY

BUSINESS ADDRESS: 6363 College Blvd., Overland Park, KS 66211. PHONE: (913) 339-1000. UNDERWRITING LIMITATION [b/]: $50,503,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Utica Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 530, Utica, NY 13503-0530. PHONE: (315) 734-2000. UNDERWRITING LIMITATION [b/]: $29,014,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Valley Forge Insurance Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION [b/]: $17,099,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

VAN TOL SURETY COMPANY, INCORPORATED

BUSINESS ADDRESS: 424 Fifth Street, Brookings, SD 57006. PHONE: (605) 692-6294. UNDERWRITING LIMITATION [b/]: $230,000. SURETY LICENSES [c,f/]: SD. INCORPORATED IN: South Dakota.

VESTA FIRE INSURANCE CORPORATION

BUSINESS ADDRESS: P.O. Box 43360, Birmingham, AL 35243-3360. PHONE: (205) 970-7000. UNDERWRITING LIMITATION [b/]: $35,270,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CO, DC, IL, IN, IA, KS, KY, LA, MA, MN, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Alabama.

Vigilant Insurance Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION [b/]: $52,575,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes/Notes at end of Circular

Washington International Insurance Company

BUSINESS ADDRESS: 300 Park Boulevard, Suite 500, Itasca, IL 60143-2625. PHONE: (800) 338-0753. UNDERWRITING LIMITATION [b/]: $2,440,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Arizona.

West American Insurance Company

BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. PHONE: (513) 867-3000. UNDERWRITING LIMITATION [b/]: $55,496,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Westchester Fire Insurance Company

BUSINESS ADDRESS: Six Concourse Parkway, Suite 2500, Atlanta, GA 30328-5346. PHONE: (770) 393-9955. UNDERWRITING LIMITATION [b/]: $24,687,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Western Surety Company

BUSINESS ADDRESS: P.O. Box 5077, Sioux Falls, SD 57117-5077. PHONE: (605) 336-0850. UNDERWRITING LIMITATION [b/]: $3,383,000. SURETY LICENSES [c,f/]: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION [b/]: $27,960,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION [b/]: $8,170,000. SURETY LICENSES [c,f/]: CA, IA, OH. INCORPORATED IN: Ohio.

WINTERTHUR REINSURANCE CORPORATION OF AMERICA

BUSINESS ADDRESS: Two World Financial Ctr, 225 Liberty Street, 42 Fl, New York, NY 10281-1076. PHONE: (212) 416-5700. UNDERWRITING LIMITATION [b/]: $22,648,000. SURETY LICENSES [c,f/]: AL, AZ, CA, DE, DC, IL, IN, IA, KY, MD, MI, MN, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, WA, WV, WI. INCORPORATED IN: New York.

ZENITH INSURANCE COMPANY

BUSINESS ADDRESS: 21255 Califa Street, Woodland Hills, CA 91367. PHONE: (818) 713-1000. UNDERWRITING LIMITATION [b/]: $24,217,000. SURETY LICENSES [c,f/]: AL, AZ, AR, CA, CO, FL, HI, ID, IL, IN, IA, NJ, NM, NY, OR, TX, UT. INCORPORATED IN: California.

See Footnotes/Notes at end of Circular

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 [See Note (e)]

Capital Reinsurance Company
BUSINESS ADDRESS: 1325 Avenue of the Americas, New York, NY 10019. PHONE: (212) 974-0100. UNDERWRITING LIMITATION b/: $33,018,000.

European Reinsurance Corporation of America
BUSINESS ADDRESS: 380 Madison Avenue, New York, NY 10017. PHONE: (212) 973-5800. UNDERWRITING LIMITATION b/: $11,475,000.

FOLKSAMERICA REINSURANCE COMPANY
BUSINESS ADDRESS: One Liberty Plaza, 19th Floor, New York, NY 10006. PHONE: (212) 312-2500. UNDERWRITING LIMITATION b/: $22,318,000.

Generali - U.S. Branch
BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006. PHONE: (212) 602-7600. UNDERWRITING LIMITATION b/: $9,081,000.

GREAT LAKES AMERICAN REINSURANCE COMPANY
BUSINESS ADDRESS: 88 Pine Street, New York, NY 10005. PHONE: (212) 809-1061. UNDERWRITING LIMITATION b/: $10,600,000.

Munich Reinsurance Company, U.S. Branch
BUSINESS ADDRESS: 560 Lexington Ave., New York, NY 10022. PHONE: (212) 310-1800. UNDERWRITING LIMITATION b/: $55,920,000.

Odyssey Reinsurance Corporation
BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006. PHONE: (212) 978-4700. UNDERWRITING LIMITATION b/: $23,550,000.

Tokio Marine and Fire Insurance Company, Limited (The), U.S. Branch
BUSINESS ADDRESS: 101 Park Avenue, New York, NY 10178. PHONE: (212) 297-6600. UNDERWRITING LIMITATION b/: $22,475,000.

Zurich Insurance Company, U.S. Branch
BUSINESS ADDRESS: 1400 American Lane, Schaumburg, IL 60196. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: $79,544,000.

See Footnotes/Notes at end of Circular

FOOTNOTES

1 FRONTIER INSURANCE COMPANY is required by state law to conduct business in the states of Arkansas, Florida, Louisiana, North Dakota, Texas and Utah as Frontier Insurance Company, DBA Frontier Insurance Company of New York. In Missouri, FRONTIER INSURANCE COMPANY is required by state law to conduct business as New York Frontier Insurance Company.

2 This Company has a name very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular.

3 The Reinsurance Corporation of New York changed its name to The Insurance Corporation of New York, effective July 1, 1996.

4 This Company has a name very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular.

5 Pacific Employers Insurance Company changed its state of incorporation from California to Pennsylvania, effective May 8, 1996.

6 Reliance Insurance Company of Illinois is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.

7 Aetna Casualty and Surety Company changed its name to Travelers Casualty and Surety Company, effective July 1, 1997.

8 Aetna Casualty & Surety Company of America changed its name to Travelers Casualty and Surety Company of America, effective July 1, 1997.

9 Aetna Casualty and Surety Company of Illinois changed its name to Travelers Casualty and Surety Company of Illinois, effective July 1, 1997.

10 United Capitol Insurance Company is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.

11 United Coastal Insurance Company is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.

NOTES

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) The Underwriting Limitations published herein are on a per bond basis. Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). Treasury refers to a bond of this type as an Excess Risk. When Excess Risks on bonds in favor of the United States are protected by reinsurance, such reinsurance is to be effected by use of a Federal reinsurance form to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Branch at (FTS/202) 874-6850.

(c) A surety company must be licensed in the State or other area in which it provides a bond, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5 (b)]. The term "other area" includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. For updated license information, you may contact the company directly or the applicable State Insurance Department. Refer to the list of state insurance departments at the end of this publication. For further assistance, contact the Surety Bond Branch at (FTS/202) 874-6850.

(d) FEDERAL PROCESS AGENTS: Treasury approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224 in the following districts: Where the principal resides; where the obligation is to be performed; and in the District of Columbia where the bond is returnable or filed. No process agent is required in the State or other area where the company is incorporated (31 CFR Section 224.2). The name and address of a particular surety's process agent in a particular Federal Judicial District may be obtained from the Clerk of the U.S. District Court in that district. (The appointment documents are on file with the clerks.) (NOTE: A surety company's underwriting agent who furnishes its bonds may or may not be its authorized process agent.)

SERVICE OF PROCESS: Process should be served on the Federal process agent appointed by a surety in a judicial district, except where the appointment of such agent is pending or during the absence of such agent from the district. Only in the event that an agent has not been duly appointed, or the appointment is pending, or the agent is absent from the district, should process be served directly on the Clerk of the court pursuant to the provisions of 31 U.S.C. 9306.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

(f) Some companies may be approved surplus lines carriers in various states. Such approval may indicate that the company is authorized to write surety in a particular state, even though the company is not licensed in the state. Questions related to this may be directed to the appropriate State Insurance Department. Refer to the list of state insurance departments at the end of this publication.

STATE INSURANCE DEPARTMENTS	TELEPHONE NO.
Alabama, Montgomery 36130-3401	(205) 269-3550
Alaska, Juneau 99811-0805	(907) 465-2515
Arizona, Phoenix 85012	(602) 912-8420
Arkansas, Little Rock 72204	(501) 686-2900
California, Sacramento 95814	(916) 445-5544
Colorado, Denver 80202	(303) 894-7499
Connecticut, Hartford 06142-0816	(203) 297-3802
Delaware, Dover 19901	(302) 739-4251
D. C., Washington 20013-7200	(202) 727-8000
Florida, Tallahasse 32399-0300	(904) 922-3100
Georgia, Atlanta 30334	(404) 656-2056
Hawaii, Honolulu 96811	(808) 586-2799
Idaho, Boise 83720	(208) 334-2250
Illinois, Springfield 62767	(217) 782-4515
Indiana, Indianapolis 46204-2787	(317) 232-2385
Iowa, Des Moines 50319	(515) 281-5705
Kansas, Topeka 66612	(913) 296-7801
Kentucky, Frankfort 40602	(502) 564-3630
Louisiana, Baton Rouge 70804	(504) 342-5900
Maine, Augusta 04333	(207) 582-8707
Maryland, Baltimore 21202	(410) 333-6300
Massachusetts, Boston 02114	(617) 521-7794
Michigan, Lansing 48909	(517) 373-9273
Minnesota, St. Paul 55101	(612) 296-6848
Mississippi, Jackson 39205	(601) 359-3569
Missouri, Jefferson City 65102-0690	(314) 751-4126
Montana, Helena 59604-4009	(406) 444-2040
Nebraska, Lincoln 68508	(402) 471-2201
Nevada, Carson City 89710	(702) 687-4270
New Hampshire, Concord 03301	(603) 271-2261
New Jersey, Trenton 08625	(609) 292-5360
New Mexico, Sante Fe 87504-1269	(505) 827-4500
New York, New York 10013	(212) 602-0492
North Carolina, Raleigh 27611	(919) 733-7349
North Dakota, Bismarck 58505	(701) 224-2440
Ohio, Columbus 43266-0566	(614) 644-2651
Oklahoma, Oklahoma City 73152-3408	(405) 521-2828
Oregon, Salem 97310	(503) 378-4271
Pennsylvania, Harrisburg 17120	(717) 787-5173
Puerto Rico, Santurce 00910-8330	(809) 722-8686
Rhode Island, Providence 02903	(401) 277-2223
South Carolina, Columbia 29202-3105	(803) 737-6117
South Dakota, Pierre 57501	(605) 773-3563
Tennessee, Nashville 37243-0565	(615) 741-2241
Texas, Austin 78714-9104	(512) 463-6464
Utah, Salt Lake City 84114-1201	(801) 538-3800
Vermont, Montpelier 05620-3101	(802) 828-3301
Virginia, Richmond 23209	(804) 371-9741
Virgin Islands, St. Thomas 00802	(809) 774-2991
Washington, Olympia 98504	(206) 753-7301
West Virginia, Charleston 25305	(304) 558-3394
Wisconsin, Madison 53707-7873	(608) 266-0102
Wyoming, Cheyenne 82002	(307) 777-7401

[FR Doc. 97–17100 Filed 6–30–97; 8:45 am]
BILLING CODE 4810–35–C

federal register

Tuesday
July 1, 1997

Part III

Federal Trade Commission

16 CFR Part 601

Notices of Rights and Duties Under the Fair Credit Reporting Act; Rule

FEDERAL TRADE COMMISSION

16 CFR Part 601

Notices of Rights and Duties Under the Fair Credit Reporting Act

AGENCY: Federal Trade Commission.

ACTION: Publication of guidance for prescribed notice forms.

SUMMARY: The Federal Trade Commission is publishing three notices that it is required to prescribe under recent amendments to the Fair Credit Reporting Act (FCRA). These are: A summary of consumer rights under the FCRA; a notice setting forth the responsibilities under the FCRA of those who regularly furnish consumer report information to consumer reporting agencies; and a notice setting forth the duties of any person who uses information covered by the FCRA. These notices must be distributed by consumer reporting agencies once the amendments to the FCRA become effective on September 30, 1997. A consumer reporting agency will be in compliance with the FCRA if it provides notices substantially similar to those prescribed by the Commission.

DATES: The amendments become effective September 30, 1997.

ADDRESSES: Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Clarke Brinckerhoff or William Haynes, Attorneys, Division of Credit Practices, Federal Trade Commission, Washington, DC 20580, 202–326–3224.

SUPPLEMENTARY INFORMATION: The Fair Credit Reporting Act (FCRA), originally enacted in 1970,[1] was extensively amended in 1996. Most of the amendments to the law, including those discussed in this notice, go into effect on September 30, 1997.

As amended, the FCRA requires each consumer reporting agency (''CRA, usually a credit bureau) to distribute three types of notices in order to better educate consumers, furnishers and users of consumer report information as to their rights or duties under the law. Section 609(c) of the amended FCRA mandates that each CRA provide, as part of its file disclosure to consumers, a written summary of consumer rights (''summary'' or ''consumer summary'') under the FCRA. Section 607(d) requires each CRA to provide a notice to persons who buy consumer information from the CRA of their responsibilities under the FCRA (''user notice''), and a notice to persons who regularly furnish consumer information to the CRA of their responsibilities under the FCRA (''furnisher notice''). The Federal Trade Commission (''Commission'') is required to prescribe the content of the notices, and, in the case of the consumer summary, the form as well. A CRA complies with the law if it provides the applicable party with a summary or notice that is substantially similar to the one prescribed by the Commission.

On February 28, 1997, the Commission published for comment proposed versions of the three notices (collectively, ''the notices''). The discussion accompanying the proposed notices outlined in detail the relevant FCRA sections, and set forth a number of questions designed to facilitate public comment on the proposals. 62 FR 9123 (1997).

The comment period closed on March 31, 1997. The Commission received 28 comments from credit bureaus and other CRAs, creditors (and other parties that make use of consumer reports and/or furnish information to CRAs), consumers and their representatives, regulatory authorities, and other interested parties. Although the Commission stated that it was requesting comments until March 31, 1997, comments received after that date were taken into account.

This document highlights the principal areas in which the Commission revised the proposed versions of the notices or decided not to do so.

I. Consumer Summary

The comments overwhelmingly supported the content and organization of the proposed summary. Many commenters praised the Commission's effort in offering a proposal that was thorough, understandable, succinct, and user-friendly. None suggested any major revision to the overall presentation. Accordingly, the basic framework of the notice remains unchanged—a two-page document that starts with an introductory paragraph explaining the FCRA very generally, features ten ''bullet'' sections to describe significant consumer FCRA rights, and includes the required list of the federal agencies with FCRA enforcement authority at the end.

A. Principal Revisions Based on Public Comments

1. Additions and Deletions

The amended FCRA provides conflicting guidance as to whether the consumer summary should be brief or comprehensive. The law mandates a ''summary of all the rights the consumer has under'' the FCRA (Section 609(c)(1)(A)).

The law also requires ''a brief description of * * * all rights of consumers'' provided by that law (Section 609(c)(2)(A)). Arguably, no document that is actually a ''summary''—or that constitutes a ''brief description'' of FCRA consumer rights—could literally include ''all'' consumer rights.

The Commission specifically asked for suggestions as to areas in which the proposed form was too long to be effective as a summary, or, conversely, had omitted something important to consumers. 62 FR 9123, 9124 (1997). The Commission has deleted three items from the proposed form that were persuasively cited by commenters as unnecessary or not helpful to the goal of educating consumers about their FCRA rights:

- The sentence noting that a CRA is not required to include a ''risk score'' or ''credit score'' in disclosures to consumers of their credit histories. The Commission included the sentence in the proposed summary to try to answer a question that consumers would otherwise ask of CRAs. Upon review of the diverse comments,[2] the Commission now believes that the reference would be more hindrance than help, and accordingly has deleted it.
- A discussion of FCRA litigants' ability to obtain attorney's fees from one another. The comments made it clear that the topic cannot be covered both briefly and precisely because of the complexity of this portion of the amended FCRA.[3] For that reason, and because the issue is ancillary to the consumer's right to sue for damages that continues to be emphasized in this portion of the summary, the Commission decided not to retain the discussion of attorney's fees.
- The reference to a toll-free number in the case of nationwide CRAs. National CRAs are required to include this number in their file disclosures; however (as noted by one such CRA), it need not be part of the summary.[4]

[1] 15 U.S.C. Sections 1681–1681u; Title VI of the Consumer Credit Protection Act.

[2] This sentence in the second bullet (''You can find out what is in your file'') was based on a clause specifically added to Section 609(a)(1). One comment from major creditors stated that the reference should be expanded to refer to ''any information concerning'' such scores ''or other predictors.'' A more frequent view, offered by a major CRA, a trade association, and a federal regulatory agency stated that the section was unnecessary and would confuse rather than educate consumers.

[3] This sentence, which appeared in the last bullet (''You may seek damages from violators''), was an effort to synthesize the various applicable provisions of Sections 616–17, as amended. The Commission's decision to delete this reference follows the recommendation of two commenters from disparate points of view—a nationwide credit bureau and a nationwide consumer advocacy organization. Other comments suggested expanding it further to make it more precise.

[4] This appeared in the proposed notice after the tenth and last bullet, before the list of federal agencies.

Conversely, other commenters noted that the summary needed more discussion of the rights of consumers who dispute file data with CRAs. These rights, which are central to the FCRA and provide important protections for consumers, are found in Section 611.[5] Accordingly, the Commission has added a discussion of (1) the right provided consumers by Section 611(b) to add a brief statement to their files when they continue to dispute information that the CRA has investigated and concluded to be accurate, and (2) the right of consumers under Section 611(d) to have revised reports provided to all recent recipients of information from their files.[6]

2. Editorial Revisions

The Commission's most significant editorial revisions to the summary are two adjustments in the opening paragraph to avoid misleading consumers about the range of parties covered by the FCRA, and to emphasize consumer rights under state law. In the first case, a major credit bureau asserted that the proposed summary focused on CRAs to a degree that is unwarranted in view of the fact that the amended FCRA also imposes substantial duties on users and furnishers of CRA data. The Commission therefore revised the text to eliminate the unnecessary reference to FCRA rights ''in dealing with CRAs (which must) provide you with a summary of these rights as listed below'' [7] that preceded the body of the summary. In the second case, state regulatory authorities asserted that the discussion of state law, which is specifically required by Section 609(c)(2)(D), should be featured more prominently. Accordingly, the Commission increased the emphasis by moving the reference to the opening paragraph. The Commission did not intend the proposed notice to single out CRAs, or to give short shrift to state law; these two revisions to the opening paragraph of the prescribed summary should make that clear.

The Commission also adopted some suggestions for stylistic or technical changes where the Commission believed the change would make the summary appreciably more precise or useful for consumers. For example, in the second sentence of the introductory paragraph, the Commission added an example of consumer report users (landlords) that a state regulator recommended as useful and deleted a type of CRA information (where consumers work and live) that industry representatives cited as a poor example for a summary. Also, the Commission revised a sentence, formerly in the fourth (now in the third bullet, to make it clear that national CRAs are not required to report erroneous information to one another; rather, furnishers must report to them any disputed data that they find to be inaccurate or incomplete, a task made easier by an automated system to be created by national CRAs.

The Commission also made some minor changes to improve the technical legal accuracy of the summary. The heading to the fourth bullet was expanded (''Inaccurate information must be *corrected or* deleted'') to describe precisely a CRA's options when its investigation shows that disputed information is not accurate.[8] Similarly, the statement of consumer's right to sue violators has been amended to state that furnishers can be sued only ''in some cases'' because the amended FCRA limits the situations in which consumers are authorized to sue directly for damages.[9]

B. Principal Public Comments Not Adopted

Commenters made suggestions for stylistic revisions of the consumer summary, many of which were adopted because they improved the clarity or comprehensibility of the summary. However, the Commission could not make all of these changes without unduly lengthening the document.

Because of the large volume of suggested wording and other changes contained in more than 170 pages of comments received by the Commission, it is not feasible to discuss them all in this notice. This section is intended to identify some of the more significant comments that are not reflected in the finally-prescribed consumer summary.

1. Form of the Summary

The principal credit bureau trade association expressed the view that the Commission specifications for the form of the summary were unduly ''rigid'' in two ways. *First*, the Commission proposed that the summary be on paper no smaller that 8½ × 11 inches in size. The commenter noted that continuous feed forms are not always perforated as 8½ × 11-inch sheets, and that the requirement that the summary be ''on paper'' would inhibit the possibility of electronic disclosures. *Second*, the Commission proposed that the notice be in 12-point type (8-point for the table at the end). The commenter stated that type sizes may vary based on the font being used.

Section 609(c)(3) of the amended FCRA specifically states that the ''Commission *shall* prescribe the *form and* substance of'' the summary (emphasis added). The Commission is required by law to prescribe a format that ensures that consumers will receive a summary that is readable and useful, and believes that the format prescribed in the proposed is appropriate for that purpose. However, the Commission does not intend to impose an absolutely ''rigid'' standard, which would be inappropriate under the statute. Section 609(a)(3) requires only that a summary be ''substantially similar'' (*i.e.*, not identical) to the Commission-prescribed version. Therefore, a format that approximates that published by the Commission as ''Appendix A'' (which meets the type size requirements and can be printed, with comfortable margins, on two 8½ x 11-inch pages) will comply, even if the print is technically not 12-point in size because of a different font, or it is provided on computer paper that is slightly smaller is size. Similarly, an electronic submission that normally allows the recipient to receive it in a format similar to the prescribed version will also comply.[10] Such summaries will not result in the consumer receiving a form that is harder to read or use than the exact prescribed version.[11]

[5] Because of space limitations, the proposed notice focused on the rights provided for the first time by the amended section 611(a): the 30-day period for CRA investigations; the CRA obligation to consider (and pass on to the furnisher of the item) ''all relevant information'' submitted by the consumer when a dispute occurs; the consumer's right to a written statement of results of an investigation; and limits on the ability of CRAs to re-inserts an item of information deleted pursuant to a consumer dispute.

[6] These items are now included in the third bullet of the prescribed notice (''You can dispute inaccurate information with the CRA''). The sentence dealing with limits on CRA ability to re-insert information after it had been deleted, previously located there, now appears in the fourth bullet (''Inaccurate information must be corrected or deleted'').

[7] Partially in response to the same comment, the Commission also revised the tenth and last bullet to refer to the liability of users and furnishers (as well as CRAs) in civil actions.

[8] Both industry and consumer representatives asserted that the summary should clearly inform consumers that a CRA may cure an inaccuracy with respect to a disputed item of information by either deleting the information *or* amending it to make it accurate.

[9] Section 623(c) of the amended FCRA specifically bars consumers from bringing suit against furnishers of information for violation of the accuracy and reporting duties imposed by Section 623(a), allowing only regulatory authorities to enforce those provisions.

[10] Section 610(a)(12 provides that file disclosures are normally to be made in writing. However, Section 610(b)(2) allows the consumer to specify disclosure by other means, including electronic means if available from the CRA.

[11] In some cases, a CRA may use an entirely different format to respond to a consumer request

Continued

2. Items Required by Section 609(c)(2)

The Commission received a number of comments relating to each of three sections the amended FCRA requires be included in the summary: (1) A reference to rights provided by state law, (2) a statement that the CRAs are not required to delete accurate data that is not obsolete under Section 605, and (3) a list of federal agencies that have authority to enforce the FCRA. The Commission made few additions or deletions in these areas, because Congress has given precise instructions. This section describes the nature of those comments and the basis for the Commission's decision in most cases not to change the proposed form.

State regulators suggested a substantial expansion of the reference to state law required by Section 609(c) (2) (D), including multiple references to state and local authorities, and more detailed instructions on how to reach them. As noted above (¶I–A–2), the Commission has decided to feature the statutorily-required section more prominently in the summary. However, the Commission does not believe the section should be expanded because it currently uses the language prescribed by Congress.

Several commenters offered revisions of the sentences, required by Section 609(c)(2)(E), reminding consumers in bold letters that they cannot require CRAs to remove information that is accurate and not outdated. The Commission adopted a suggestion by a CFR trade association to add a parenthetical cross-reference to clarify that ''outdated'' means the FCRA's seven year period (ten for bankruptcies), a change that made the bold statement more precise. It did not adopt suggestions for change that were not specifically authorized by the statute.[12]

Similarly, the Commission did not adopt suggestions by commenters to reduce the list of federal agencies with regulatory authority. Section 609(c) (2) (C) requires that the summary include ''a list of all federal agencies responsible for enforcing [the FCRA] and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency.'' Suggestions for pruning this section involved using a narrative to replace the required ''list,'' reducing the list from ''all'' agencies by eliminating those deemed to be of low interest to consumers, and other revisions that would delete or reduce the jurisdictional summaries designed to ''assist the consumer in selecting the appropriate agency.'' The comments appeared well-intended, but the Commission concluded that the summary should reflect the specific instructions of Congress on this point.

3. Use of ''CRA'' as an Acronym

A number of commenters from different sectors asserted that ''CRA'' is an awkward acronym for ''consumer reporting agency; most of them suggested that ''credit bureau'' would be more easily understood. Some opined that ''CRA'' is too easily confused with a common acronym for the Community Reinvestment Act.

The term ''credit bureau'' is certainly known to more consumers than ''CRA,'' but it has major drawbacks that the Commission believes make its use inappropriate here. The FCRA unquestionably applies to *all* consumer reporting agencies, a universe that includes more than credit bureaus (*e.g.*, specialized CRAs that report only on mortgage or tenant applications, or only on consumers' check writing habits). It thus would be legally inaccurate to use ''credit bureau'' as a replacement. In addition, it would make the summary confusing to a consumer who receives it from a CRA that is not a credit bureau. While some commenters who are knowledgeable about financial laws may be accustomed to 'CRA'' as an acronym for the Community Reinvestment Act, only a small fraction of consumers who get this summary may make such a connection.[13]

II. Notices to Furnishers and Users

The furnisher and user notices occasioned relatively few comments, and thus are little changed from the proposed versions. The Commission, responding to a suggestion by state regulators, added a sentence to each notice referring to the possible applicability of state law. With the exception of a few subjects discussed in the following sections on each of these notices, the only changes were revisions that were very slight adjustments that the Commission believes, based on the comments, would make the notice more clearly reflect the FCRA and be of assistance to the recipients.

The Commission specifically asked whether the public wanted guidance as to the timing and frequency of notice distribution, in view of the amended FCRA's silence on the point. 62 FR 9123, 9125, (1997). The overwhelming majority of the commenters did not address the issue, and those who commented gave very different views—a comment from state regulators advocated requiring frequent notices, two furnishers/users asked for a ruling limiting or not requiring multiple notices, and a CRA trade association urged that the marketplace be allowed to work its will in light of the FCRA silence. Based on the limited number of (and wide disagreement among) commenters, formal guidance on these issues at this early stage seems unwise. If experience after the amendments become effective indicates a need for such action, the Commission can revisit the issue.

A. Furnisher Notice

The one significant change in the furnisher notice is the addition of a reference to the fact that two of the sections apply only to parties that furnish information to CRAs regularly and in the ordinary course of their business.[14] The Commission specifically asked for public comment on this issue. 62 FR 9123, 9125 (1997). There was a consensus among the commenters that the notice should be revised to include reference to the different standards that apply to occasional user.

Representatives of different furnishers suggested two additions that the Commission did not adopt. *First,* credit card issuers advocated adding a section spelling out the limitations on consumers' ability to sue furnishers, a topic that seemed inappropriate for a Commission-prescribed notice of duties to furnishers. *Second,* debt collectors and creditors urged that the notice specify that a furnisher's duty to report an item as ''disputed'' lasts only while it is investigating the dispute. This point involves an issue of statutory interpretation that is more appropriately resolved in another forum.

Finally, the Commission asked for comments on whether the prescribed

under Section 610(b)(2), or to accommodate visually (or otherwise) impaired consumers pursuant to relevant federal or local laws.

[12] One CRA accurately pointed out that it is not technically correct to imply that a CRA must ''remove'' outdated accurate information from its files, because such data may be retained to be reported in situations listed in Section 605(b) where the obsolescence provisions do not apply. However, it is common practice for credit bureaus to delete information from their files before the time periods set forth in Section 605; thus, it makes sense that Section 609(c) (2) (E) should direct that a *summary,* as opposed to a legal brief, include a statement concerning limits on the CRA's duty to ''remove'' outdated data.

[13] Of course, a credit bureau may elect to replace ''CRA'' with ''agency'' or some other appropriate term in the notice it provides to any party, because it would be ''substantially similar'' to the Commission's form under Section 609(c) (3).

[14] Sections 623 (a)(2) and (a)(4) provide that the obligations described in the notice as ''Duty to Correct and Update Information'' and ''Duty to Report Voluntary Closing of Credits Accounts'' apply only to such parties.

form should include the text of Section 623. 62 FR 9123, 9125 (1997). The Commission has not included the text, because the commenters generally stated that it was unnecessary. However, a CRA form that does so will be ''substantially similar'' and thus in compliance with Section 609(c).

B. User Notice

The Commission asked for comment as to whether it should prescribe separate notices for different types of specialized users (62 FR 9125). The overwhelming majority of the commenters stated that a single notice (as the Commission proposed) was best.

One commenter representing specialized reporting services, while agreeing that a single notice is appropriate for most CRAs, stated that its members' business activities are so focused that the information provided to their clients would never relate to some of the points in the comprehensive notice. As an example, the commenter asserted that the portions of the proposed notice concerning employment reports (section II of the Notice), investigative reports (section III), medical information (section IV) or precreened lists (section V) might not be pertinent to purposes of any clients of a mortgage reporting company. Similarly, it noted that a different set of sections might not be relevant to the purposes of any customers of a CRA that provides reports only for employment or tenant screening uses. The Commission agrees that a CRA may delete sections of the notice that are irrelevant to the business purposes for which any user is contractually authorized to purchase consumer reports for the CRA, in the same fashion that a creditor may omit inapplicable sections of prescribed forms under other statutes.[15]

The only significant addition to the user notice is in Section I–B of the notice, concerning the certification of permissible purpose that users must provide to CRAs that sell consumer reports to them. Several parties advocated that the Commission expand this Section to account for the possibility of a general certification, as permitted by Section 604(f). The Commission has done so, but added the words ''as appropriate'' to make it clear that some consumer report users whose activities involve both permissible and impermissible purposes,[16] or who have given the CRA reason to believe they have violated a general certification, must be required to provide individual certifications for each consumer report.

III. Impact on Small Businesses

In publishing the proposed notices, the Commission stated that the notices would not have a significant economic impact on a substantial number of small entities. The Commission explained that it is prescribing that notices at the direction of Congress, so that any economic costs imposed on small entities by the required dissemination of the notices are in fact imposed by statute. The Commission noted further that its publication of forms for the proposed notices could be said to lessen the burden on small businesses, since the entities can—but need not—adopt the Commission's forms, and thereby avoid the risk and expense of developing their notices independently. The Commission nevertheless requested comments in order to ensure that it did not overlook any substantial economic impact on small businesses.

The Commission received four comments addressing the question of the notices' economic impact on small businesses. Two commenters agreed that the Commission's publication of the notices would not have a significant economic impact on a substantial number of small businesses. One commenter disagreed, but provided data supporting the conclusion that the statutory requirement would create a significant economic impact, rather than any evidence that the Commission's publication of the model forms for the notices would do so. Finally, one commenter stated that small businesses would be significantly burdened if the Commission were to require repeated distribution of the notices. As stated in the second paragraph of Section II above, the Commission has determined not to impose any requirements concerning the timing and frequency of dissemination of the notices at this time. Accordingly, the Commission has determined that public comments and information before the Commission do not alter the conclusion that its pbulicaiton in final form of the models for the prescribed notices will not have a significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

In its initial review of the proposed notices, the Commission considered whether it was ''sponsoring or conducting'' any ''collection[s] of information'' that would trigger the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35. In this regard, the Commission observed that the notices contain only statutorily imposed investigation disclosure, and recordkeeping requirements; the FTC introduces no additional elements. Further, two of the notices will become effective on September 30, 1997, regardless of whether the FTC has provided the language for these forms by that time. In this situation, the Commission does not ''require'' or ''cause'' the disclosures to occur.

The Commission also observed that the three notices contain all the information that subject firms will be required to disclose to third parties. The reporting agencies can simply adopt these notices for distribution without any change to the language. Therefore, the three notices fall within an exception to the definition of a ''collection of information'' as being ''[t]he public disclosure of information originally suppled by the Federal government to the recipient for the purpose of disclosure to the public.'') 5 CFR 1320.3(c)(2). Accordingly, none of the three require approval by OMB. Nonetheless, the Commission requested public comment on this matter. No comments were received.

List of Subjects in 16 CFR Part 601

Credit, Trade practices.

Pursuant to 15 U.S.C. 1681g and 1681s, the FTC hereby adds to Subchapter F of Chapter I of 16 CFR a new Part 601 to read as follows:

PART 601—SUMMARY OF CONSUMER RIGHTS, NOTICE OF USER RESPONSIBILITIES, AND NOTICE OF FURNISHER RESPONSIBILITIES UNDER THE FAIR CREDIT REPORTING ACT

Sec.
601.1 Authority and purpose.
601.2 Legal effect.
Appendix A to Part 601—Prescribed Summary of Consumer Rights
Appendix B to Part 601—Prescribed Notice of Furnisher Responsibilities
Appendix C to Part 601—Prescribed Notice of User Responsibilities

Authority: 15 U.S.C. 1681g and 1681s.

[15] Creditors are required to notify consumers of their rights under the Fair Credit Billing Act, Regulation Z § 226.6(d), 12 CFR 226.6(d). The Federal Reserve Board has prescribed forms for that purpose. Regulation Z, Appendix G, Forms G–3 and G–4. However, creditors that do not issue credit cards may omit a section in the form on the rights of cardholders, and creditors that are not able to debit a savings or checking account for payment may omit a section about the consumer's right to stop such debits. Official Staff Commentary for Regulation Z, Appendix G–3, 12 CFR part 226, Supp. I.

[16] Certain businesses typically have both permissible and impermissible purposes—*e.g.*, an attorney could obtain a consumer report to decide whether to hire a job applicant or to extend credit to a client, but not to decide whether to name a person as a defendant in a tort action.

§ 601.1 Authority and purpose.

(a) *Authority.* This part is issued by the Commission pursuant to the provisions of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as most recently amended by the Consumer Credit Reporting Reform Act of 1996 (Title II, Subtitle D, Chapter 1, of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997), Public Law 104–208, 110 Stat. 3009–426 (Sept. 30, 1996).

(b) *Purpose.* The purpose of this part is to comply with sections 607(c) and 609(c) of the Fair Credit Reporting Act, as amended. Section 609(c)(3) directs the FTC to prescribe the form and content of a summary of consumers' legal rights under the FCRA that the amended law requires each consumer reporting agency to provide when disclosing the information in its file to consumers, and section 609(c)(4) provides that the summary need not be provided until the FTC has in fact prescribed its form and content. Section 607(d)(2) directs the FTC to prescribe the content of notices that consumer reporting agencies are required to provide to parties that supply information to, or purchase consumer reports from, the agency. These notices will set forth the responsibilities under the FCRA of all persons who furnish information to consumer reporting agencies or use information subject to the FCRA.

§ 601.2 Legal effect.

The forms prescribed by the FTC do not constitute a trade regulation rule. They carry out the directive in the statute that the FTC prescribe the summary and notices. A consumer reporting agency that provides notices substantially similar to those prescribed by the FTC will be in compliance with Section 607(d) or 609(c) of the FCRA, as applicable.

Appendix A to Part 601—Prescribed Summary of Consumer Rights

The prescribed form for this summary is as a separate document, on paper no smaller than 8½ x 11 inches in size, with text no less than 12-point type (8-point for the chart of federal agencies), in bold or capital letters as indicated. The form in this appendix prescribes both the content and the sequence of items in the required summary. A summary may accurately reflect changes in numerical items that change over time (e.g., dollar amounts, or phone numbers and addresses of federal agencies), and remain in compliance.

BILLING CODE 6750–01–M

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) is designed to promote accuracy, fairness, and privacy of information in the files of every "consumer reporting agency" (CRA). Most CRAs are credit bureaus that gather and sell information about you -- such as if you pay your bills on time or have filed bankruptcy -- to creditors, employers, landlords, and other businesses. You can find the complete text of the FCRA, 15 U.S.C. §§1681-1681u, at the Federal Trade Commission's web site (*http://www.ftc.gov*). The FCRA gives you specific rights, as outlined below. You may have additional rights under state law. You may contact a state or local consumer protection agency or a state attorney general to learn those rights.

- **You must be told if information in your file has been used against you.** Anyone who uses information from a CRA to take action against you -- such as denying an application for credit, insurance, or employment -- must tell you, and give you the name, address, and phone number of the CRA that provided the consumer report.

- **You can find out what is in your file.** At your request, a CRA must give you the information in your file, and a list of everyone who has requested it recently. There is no charge for the report if a person has taken action against you because of information supplied by the CRA, if you request the report within 60 days of receiving notice of the action. You also are entitled to one free report every twelve months upon request if you certify that (1) you are unemployed and plan to seek employment within 60 days, (2) you are on welfare, or (3) your report is inaccurate due to fraud. Otherwise, a CRA may charge you up to eight dollars.

- **You can dispute inaccurate information with the CRA.** If you tell a CRA that your file contains inaccurate information, the CRA must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit, unless your dispute is frivolous. The source must review your evidence and report its findings to the CRA. (The source also must advise national CRAs -- to which it has provided the data -- of any error.) The CRA must give you a written report of the investigation, and a copy of your report if the investigation results in any change. If the CRA's investigation does not resolve the dispute, you may add a brief statement to your file. The CRA must normally include a summary of your statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.

- **Inaccurate information must be corrected or deleted.** A CRA must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. **However, the CRA is not required to remove accurate data from your file unless it is outdated (as described below) or cannot be verified.** If your dispute results in any change to your report, the CRA cannot reinsert into your file a disputed item unless the information source verifies its accuracy and completeness. In addition, the CRA must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.

- **You can dispute inaccurate items with the source of the information.** If you tell anyone -- such as a creditor who reports to a CRA -- that you dispute an item, they may not then report the information to a CRA without including a notice of your dispute. In addition, once you've notified the source of the error in writing, it may not continue to report the information if it is, in fact, an error.

- **Outdated information may not be reported.** In most cases, a CRA may not report negative information that is more than seven years old; ten years for bankruptcies.

- **Access to your file is limited.** A CRA may provide information about you only to people with a need recognized by the FCRA -- usually to consider an application with a creditor, insurer, employer, landlord, or other business.

- **Your consent is required for reports that are provided to employers, or reports that contain medical information.** A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.

- **You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers.** Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the CRA form provided for this purpose, you must be taken off the lists indefinitely.

- **You may seek damages from violators.** If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court.

The FCRA gives several different federal agencies authority to enforce the FCRA:

FOR QUESTIONS OR CONCERNS REGARDING:	PLEASE CONTACT:
CRAs, creditors and others not listed below	Federal Trade Commission Consumer Response Center - FCRA Washington, DC 20580 * 202-326-3761
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 * 800-613-6743
Federal Reserve System member banks (except national banks, and federal branches/agencies of foreign banks)	Federal Reserve Board Division of Consumer & Community Affairs Washington, DC 20551 * 202-452-3693
Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Programs Washington, DC 20552 * 800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 * 703-518-6360
State-chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Division of Compliance & Consumer Affairs Washington, DC 20429 * 800-934-FDIC
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation Office of Financial Management Washington, DC 20590 * 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator - GIPSA Washington, DC 20250 * 202-720-7051

Appendix B to Part 601 - Prescribed Notice of Furnisher Responsibilities

This appendix prescribes the content of the required notice.

NOTICES TO FURNISHERS OF INFORMATION: OBLIGATIONS OF FURNISHERS UNDER THE FCRA

The federal Fair Credit Reporting Act (FCRA), as amended, imposes responsibilities on all persons who furnish information to consumer reporting agencies (CRAs). These responsibilities are found in Section 623 of the FCRA. State law may impose additional requirements. All furnishers of information to CRAs should become familiar with the law and may want to consult with their counsel to ensure that they are in compliance. The FCRA, 15 U.S.C. §§1681-1681u, is set forth in full at the Federal Trade Commission's Internet web site (*http://www.ftc.gov*). Section 623 imposes the following duties:

General Prohibition on Reporting Inaccurate Information:

The FCRA prohibits information furnishers from providing information to a consumer reporting agency (CRA) that they know (or consciously avoid knowing) is inaccurate. However, the furnisher is not subject to this general prohibition if it clearly and conspicuously specifies an address to which consumers may write to notify the furnisher that certain information is inaccurate. *Sections 623(a)(1)(A) and (a)(1)(C)*

Duty to Correct and Update Information:

If at any time a person who regularly and in the ordinary course of business furnishes information to one or more CRAs determines that the information provided is not complete or accurate, the furnisher must provide complete and accurate information to the CRA. In addition, the furnisher must notify all CRAs that received the information of any corrections, and must thereafter report only the complete and accurate information. *Section 623(a)(2)*

Duties After Notice of Dispute from Consumer:

If a consumer notifies a furnisher, at an address specified by the furnisher for such notices, that specific information is inaccurate, and the information is in fact inaccurate, the furnisher must thereafter report the correct information to CRAs. *Section 623(a)(1)(B)*

If a consumer notifies a furnisher that the consumer disputes the completeness or accuracy of any information reported by the furnisher, the furnisher may not subsequently report that information to a CRA without providing notice of the dispute. *Section 623(a)(3)*

Duties After Notice of Dispute from Consumer Reporting Agency:

If a CRA notifies a furnisher that a consumer disputes the completeness or accuracy of information provided by the furnisher, the furnisher has a duty to follow certain procedures. The furnisher must:

- Conduct an investigation and review all relevant information provided by the CRA, including information given to the CRA by the consumer. *Sections 623(b)(1)(A) and (b)(1)(B)*

• Report the results to the CRA, and, if the investigation establishes that the information was, in fact, incomplete or inaccurate, report the results to all CRAs to which the furnisher provided the information that compile and maintain files on a nationwide basis. *Sections 623(b)(1)(C) and (b)(1)(D)*

• Complete the above within 30 days from the date the CRA receives the dispute (or 45 days, if the consumer later provides relevant additional information to the CRA). *Section 623(b)(2)*

Duty to Report Voluntary Closing of Credit Accounts:

If a consumer voluntarily closes a credit account, any person who regularly and in the ordinary course of business furnishes information to one or more CRAs must report this fact when it provides information to CRAs for the time period in which the account was closed. *Section 623(a)(4)*

Duty to Report Dates of Delinquencies:

If a furnisher reports information concerning a delinquent account placed for collection, charged to profit or loss, or subject to any similar action, the furnisher must, within 90 days after reporting the information, provide the CRA with the month and the year of the commencement of the delinquency that immediately preceded the action, so that the agency will know how long to keep the information in the consumer's file. *Section 623(a)(5)*

Appendix C to Part 601 - Prescribed Notice of User Responsibilities

This appendix prescribes the content of the required notice.

NOTICE TO USERS OF CONSUMER REPORTS: OBLIGATIONS OF USERS UNDER THE FCRA

The federal Fair Credit Reporting Act (FCRA) requires that this notice be provided to inform users of consumer reports of their legal obligations. State law may impose additional requirements. This first section of this summary sets forth the responsibilities imposed by the FCRA on all users of consumer reports. The subsequent sections discuss the duties of users of reports that contain specific types of information, or that are used for certain purposes, and the legal consequences of violations. The FCRA, 15 U.S.C. §§1681-1681u, is set forth in full at the Federal Trade Commission's Internet web site (*http://www.ftc.gov*).

I. OBLIGATIONS OF ALL USERS OF CONSUMER REPORTS

A. Users Must Have a Permissible Purpose

Congress has limited the use of consumer reports to protect consumers' privacy. All users must have a permissible purpose under the FCRA to obtain a consumer report. Section 604 of the FCRA contains a list of the permissible purposes under the law. These are:

- As ordered by a court or a federal grand jury subpoena. *Section 604(a)(1)*

- As instructed by the consumer in writing. *Section 604(a)(2)*

- For the extension of credit as a result of an application from a consumer, or the review or collection of a consumer's account. *Section 604(a)(3)(A)*

- For employment purposes, including hiring and promotion decisions, where the consumer has given written permission. *Sections 604(a)(3)(B) and 604(b)*

- For the underwriting of insurance as a result of an application from a consumer. *Section 604(a)(3)(C)*

- When there is a legitimate business need, in connection with a business transaction that is initiated by the consumer. *Section 604(a)(3)(F)(i)*

- To review a consumer's account to determine whether the consumer continues to meet the terms of the account. *Section 604(a)(3)(F)(ii)*

- To determine a consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status. *Section 604(a)(3)(D)*

• For use by a potential investor or servicer, or current insurer, in a valuation or assessment of the credit or prepayment risks associated with an existing credit obligation. *Section 604(a)(3)(E)*

• For use by state and local officials in connection with the determination of child support payments, or modifications and enforcement thereof. *Sections 604(a)(4) and 604(a)(5)*

In addition, creditors and insurers may obtain certain consumer report information for the purpose of making unsolicited offers of credit or insurance. The particular obligations of users of this "prescreened" information are described in Section V below.

B. Users Must Provide Certifications

Section 604(f) of the FCRA prohibits any person from obtaining a consumer report from a consumer reporting agency (CRA) unless the person has certified to the CRA (by a general or specific certification, as appropriate) the permissible purpose(s) for which the report is being obtained and certifies that the report will not be used for any other purpose.

C. Users Must Notify Consumers When Adverse Actions Are Taken

The term "adverse action" is defined very broadly by Section 603 of the FCRA. "Adverse actions" include all business, credit, and employment actions affecting consumers that can be considered to have a negative impact -- such as unfavorably changing credit or contract terms or conditions, denying or canceling credit or insurance, offering credit on less favorable terms than requested, or denying employment or promotion.

1. Adverse Actions Based on Information Obtained From a CRA

If a user takes any type of adverse action that is based at least in part on information contained in a consumer report, the user is required by Section 615(a) of the FCRA to notify the consumer. The notification may be done in writing, orally, or by electronic means. It must include the following:

• The name, address, and telephone number of the CRA (including a toll-free telephone number, if it is a nationwide CRA) that provided the report.

• A statement that the CRA did not make the adverse decision and is not able to explain why the decision was made.

• A statement setting forth the consumer's right to obtain a free disclosure of the consumer's file from the CRA if the consumer requests the report within 60 days.

• A statement setting forth the consumer's right to dispute directly with the CRA the accuracy or completeness of any information provided by the CRA.

2. Adverse Actions Based on Information Obtained From Third Parties Who Are Not Consumer Reporting Agencies

If a person denies (or increases the charge for) credit for personal, family, or household purposes based either wholly or partly upon information from a person other than a CRA, and the information is the type of consumer information covered by the FCRA, Section 615(b)(1) of the FCRA requires that the user clearly and accurately disclose to the consumer his or her right to obtain disclosure of the nature of the information that was relied upon by making a written request within 60 days of notification. The user must provide the disclosure within a reasonable period of time following the consumer's written request.

3. Adverse Actions Based on Information Obtained From Affiliates

If a person takes an adverse action involving insurance, employment, or a credit transaction initiated by the consumer, based on information of the type covered by the FCRA, and this information was obtained from an entity affiliated with the user of the information by common ownership or control, Section 615(b)(2) requires the user to notify the consumer of the adverse action. The notification must inform the consumer that he or she may obtain a disclosure of the nature of the information relied upon by making a written request within 60 days of receiving the adverse action notice. If the consumer makes such a request, the user must disclose the nature of the information not later than 30 days after receiving the request. (Information that is obtained directly from an affiliated entity relating solely to its transactions or experiences with the consumer, and information from a consumer report obtained from an affiliate are not covered by Section 615(b)(2).)

II. OBLIGATIONS OF USERS WHEN CONSUMER REPORTS ARE OBTAINED FOR EMPLOYMENT PURPOSES

If information from a CRA is used for employment purposes, the user has specific duties, which are set forth in Section 604(b) of the FCRA. The user must:

• Make a clear and conspicuous written disclosure to the consumer before the report is obtained, in a document that consists solely of the disclosure, that a consumer report may be obtained.

• Obtain prior written authorization from the consumer.

• Certify to the CRA that the above steps have been followed, that the information being obtained will not be used in violation of any federal or state equal opportunity law or regulation, and that, if any adverse action is to be taken based on the consumer report, a copy of the report and a summary of the consumer's rights will be provided to the consumer.

• Before taking an adverse action, provide a copy of the report to the consumer as well as the summary of the consumer's rights. (The user should receive this summary from the CRA, because Section 604(b)(1)(B) of the FCRA requires CRAs to provide a copy of the summary with each consumer report obtained for employment purposes.)

III. OBLIGATIONS OF USERS OF INVESTIGATIVE CONSUMER REPORTS

Investigative consumer reports are a special type of consumer report in which information about a consumer's character, general reputation, personal characteristics, and mode of living is obtained through personal interviews. Consumers who are the subjects of such reports are given special rights under the FCRA. If a user intends to obtain an investigative consumer report, Section 606 of the FCRA requires the following:

• The user must disclose to the consumer that an investigative consumer report may be obtained. This must be done in a written disclosure that is mailed, or otherwise delivered, to the consumer not later than three days after the date on which the report was first requested. The disclosure must include a statement informing the consumer of his or her right to request additional disclosures of the nature and scope of the investigation as described below, and must include the summary of consumer rights required by Section 609 of the FCRA. (The user should be able to obtain a copy of the notice of consumer rights from the CRA that provided the consumer report.)

• The user must certify to the CRA that the disclosures set forth above have been made and that the user will make the disclosure described below.

• Upon the written request of a consumer made within a reasonable period of time after the disclosures required above, the user must make a complete disclosure of the nature and scope of the investigation that was requested. This must be made in a written statement that is mailed, or otherwise delivered, to the consumer no later than five days after the date on which the request was received from the consumer or the report was first requested, whichever is later in time.

IV. OBLIGATIONS OF USERS OF CONSUMER REPORTS CONTAINING MEDICAL INFORMATION

Section 604(g) of the FCRA prohibits consumer reporting agencies from providing consumer reports that contain medical information for employment purposes, or in connection with credit or insurance transactions, without the specific prior consent of the consumer who is the subject of the report. In the case of medical information being sought for employment purposes, the consumer must explicitly consent to the release of the medical information in addition to authorizing the obtaining of a consumer report generally.

V. OBLIGATIONS OF USERS OF "PRESCREENED" LISTS

The FCRA permits creditors and insurers to obtain limited consumer report information for use in connection with unsolicited offers of credit or insurance under certain circumstances. *Sections 603(l), 604(c), 604(e), and 615(d)* This practice is known as "prescreening" and typically involves obtaining a list of consumers from a CRA who meet certain preestablished criteria. If any person intends to use prescreened lists, that person must (1) before the offer is made, establish the criteria that will be relied upon to make the offer and to grant credit or insurance, and (2) maintain such criteria on file for a three-year period beginning on the date on which the offer is made to each consumer. In addition, any user must provide with each written solicitation a clear and conspicuous statement that:

- Information contained in a consumer's CRA file was used in connection with the transaction.

- The consumer received the offer because he or she satisfied the criteria for credit worthiness or insurability used to screen for the offer.

- Credit or insurance may not be extended if, after the consumer responds, it is determined that the consumer does not meet the criteria used for screening or any applicable criteria bearing on credit worthiness or insurability, or the consumer does not furnish required collateral.

- The.consumer may prohibit the use of information in his or her file in connection with future prescreened offers of credit or insurance by contacting the notification system established by the CRA that provided the report. This statement must include the address and toll-free telephone number of the appropriate notification system.

VI. OBLIGATIONS OF RESELLERS

Section 607(e) of the FCRA requires any person who obtains a consumer report for resale to take the following steps:

- Disclose the identity of the end-user to the source CRA.

- Identify to the source CRA each permissible purpose for which the report will be furnished to the end-user.

- Establish and follow reasonable procedures to ensure that reports are resold only for permissible purposes, including procedures to obtain: (1) the identity of all end-users; (2) certifications from all users of each purpose for which reports will be used; and (3) certifications that reports will not be used for any purpose other than the purpose(s) specified to the reseller. Resellers must make reasonable efforts to verify this information before selling the report.

VII. LIABILITY FOR VIOLATIONS OF THE FCRA

Failure to comply with the FCRA can result in state or federal enforcement actions, as well as private lawsuits. *Sections 616, 617, and 621.* In addition, any person who knowingly and willfully obtains a consumer report under false pretenses may face criminal prosecution. *Section 619*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–17004 Filed 6–30–97; 8:45 am]

BILLING CODE 6750–01–C

federal register

Tuesday
July 1, 1997

Part IV

Department of Education

34 CFR Part 685

William D. Ford Federal Direct Loan Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 685

RIN 1840–AC43

William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: These regulations contain revised income percentage factors for the income contingent repayment plan, a repayment plan available in the William D. Ford Federal Direct Loan (Direct Loan) Program. In addition, these regulations contain updated sample income contingent repayment amounts for single and married or head-of-household borrowers at various income and debt levels.

EFFECTIVE DATE: These regulations take effect July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Rachel Edelstein, Program Specialist, Direct Loan Policy, Policy Development Division, U.S. Department of Education, Room 3053, ROB–3, 600 Independence Avenue, SW, Washington, D.C. 20202–5400. Telephone: (202) 708–8242. 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: The regulations are amended to revise the income percentage factors and sample repayment amount information in final regulations in Appendix A to 34 CFR Part 685, published on June 19, 1996 (61 FR 31358).

The Secretary has revised the table in the appendix showing income percentage factors to reflect changes based on inflation. The revised table was developed by changing the dollar amounts shown by a percentage equal to the estimated percentage changes in the Consumer Price Index for all Urban Consumers from December 1996 to December 1997. In addition, the examples of the calculation of monthly repayment amounts and the charts showing sample repayment amounts have been amended to reflect the updated income percentage factors.

Under the updated income percentage factors, at any given income, borrowers' payments will be slightly lower than under the income percentage factors published in the June 19, 1996 regulations. These updated income percentage factors more accurately reflect a borrower's current ability to repay than those previously published because these factors are based on more recent data.

Waiver of Proposed Rulemaking

In accordance with section 437 of the General Education Provisions Act, 20 U.S.C. 1232, and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the changes in this document do not establish any new rules but simply update the income percentage factors used in the income contingent repayment plan, as required under 34 CFR 685.209(a)(8), and revise sample repayment information accordingly. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). For the same reasons, the Secretary waives the 30-day delayed effective date under 5 U.S.C. 553(d).

Paperwork Reduction Act of 1995

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have significant economic impact on a substantial number of small entities. The regulations will affect borrowers who are in repayment and will not affect institutions participating in the Direct Loan Program. The Regulatory Flexibility Act does not include individuals in its definition of ''small entities''. Thus, the changes will not have a significant economic impact on any small entities under the Regulatory Flexibility Act.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Number 84.268 William D. Ford Federal Direct Loan Program)

Dated: June 25, 1997.

Richard W. Riley,

Secretary of Education.

The Secretary amends Part 685 of title 34 of the Code of Federal Regulations as follows:

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

1. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et seq.*, unless otherwise noted.

2. Appendix A to part 685 is revised to read as follows:

Appendix A to part 685—Income Contingent Repayment

Examples of the Calculation of Monthly Repayment Amounts

Example 1. A single borrower with $12,500 of Direct Loans, 8.25 percent interest rate, and an adjusted gross income (AGI) of $22,791.

Step 1: Determine annual payments based on what the borrower would pay over 12 years using standard amortization. To do this, multiply the principal balance by the constant multiplier for 8.25 percent interest (0.1315452). The constant multiplier is a factor used to calculate amortized payments at a given interest rate over a fixed period of time. (See the constant multiplier chart below to determine the constant multiplier you should use for the interest rate on the loan. If the exact interest rate is not listed, use the next highest for estimation purposes.)

■ 0.1315452×12,500=1,644.315

Step 2: Multiply the result by the income percentage factor shown in the income percentage factor table that corresponds to the borrower's income (if the income is not listed, you can calculate the applicable income percentage factor by following the instructions under the interpolation heading below):

■ 80.33% (0.8033)×1,644.315=1,320.8782

Step 3: Determine 20 percent of discretionary income. For a single borrower, subtract the poverty level for a family of one, as published in the **Federal Register** on March 10, 1997 (62 FR 10856), from the borrower's income and multiply the result by 20%:

■ $22,791—$7,890=$14,901

■ $14,901×0.20=$2,980.20

Step 4: Compare the amount from step 2 with the amount from step 3. The lower of the two will be the borrower's annual payment amount. This borrower will be paying the amount calculated under step 2. To determine the monthly repayment amount, divide the annual amount by 12.

■ 1,320.8782÷12=$110.07

Example 2. Married borrowers repaying jointly under the income contingent repayment plan with a combined AGI of $28,627. The husband has a Direct Loan balance of $5,000, and the wife has a Direct Loan balance of $15,000. The interest rate is 8.25 percent. This couple has no children.

Step 1: Add the Direct Loan balances of the husband and wife together to determine the aggregate loan balance.

■ $5,000+$15,000=$20,000

Step 2 Determine the annual payments based on what the couple would pay over 12 years using standard amortization. To do this, multiply the aggregate principal balance by the constant multiplier for 8.25 percent interest (0.1315452). (See the constant multiplier chart to determine the constant multiplier you should use for the interest rate on the loan. If the exact interest rate is not listed, choose the next highest rate for estimation purposes.)

■ 0.1315452×20,000=2,630.904

Step 3 Multiply the result by the income percentage factor shown in the income percentage factor table that corresponds to the couple's income (if the income is not listed, you can calculate the applicable income percentage factor by following the instructions under the interpolation heading below):

■ 87.61% (0.8761)×2,630.904=2,304.9350

Step 4 Determine 20 percent of the couple's discretionary income. To do this, subtract the HHS poverty level for a family of 2, as published in the **Federal Register** on March 10, 1997 (62 FR 10856), from the couple's income and multiply the result by 20 percent:

■ $28,627—$10,610=$18,017

■ $18,017×0.20=$3,603.40

Step 5 Compare the amount from step 3 with the amount from step 4. The lower of the two will be the annual payment amount. The married borrowers will be paying the amount calculated under step 3. To determine the monthly repayment amount, divide the annual amount by 12.

■ 2,304.9350÷12=$192.08

Interpolation: If your income does not appear on the income percentage factor table, you will have to calculate the income percentage factor through interpolation. For example, assume you are single and your income is $26,000. To interpolate, you must first find the interval between the closest income listed that is less than $26,000 and the closest income listed that is greater than $26,000 (for this discussion, we'll call the result ''the income interval''):

■ $28,627—$22,791=$5,836

Next, find the interval between the two income percentage factors that are given for these incomes (for this discussion, we'll call the result, the ''income percentage factor interval''):

■ 88.77—80.33=8.44

Subtract the income shown on the chart that is immediately less than $26,000 from $26,000:

■ $26,000–$22,791=$3,209

Divide the result by the number representing the income interval:

■ $3,209÷$5,836=0.5499

Multiply the result by the income percentage factor interval:

■ 0.5499×8.44=4.64

Add the result to the lower income percentage factor used to calculate the income percentage factor interval for $26,000 in income:

■ 4.64+80.33=84.97%

The result is the income percentage factor that will be used to calculate the monthly repayment amount under the income contingent repayment plan.

BILLING CODE 4000–01–P

Income Percentage Factors
(Based on Annual Income)

Single		Married and Head of Household	
Income	% Factor	Income	% Factor
7,483	55.00%	7,483	50.52%
10,297	57.79%	11,808	56.68%
13,249	60.57%	14,073	59.56%
16,270	66.23%	18,397	67.79%
19,154	71.89%	22,791	75.22%
22,791	80.33%	28,627	87.61%
28,627	88.77%	35,903	100.00%
35,903	100.00%	43,180	100.00%
43,180	100.00%	54,096	109.40%
51,898	111.80%	72,287	125.00%
66,453	123.50%	97,756	140.60%
94,118	141.20%	136,716	150.00%
107,916	150.00%	223,403	200.00%
192,217	200.00%		

CONSTANT MULTIPLIER CHART FOR 12-YEAR AMORTIZATION

Interest Rate	7.00%	7.25%	7.43%	7.50%	7.75%	8.00%	8.25%	8.38%	8.50%	8.75%	9.00%
Annual Constant Multiplier	0.1234056	0.1250112	0.126174	0.1266276	0.1282548	0.129894	0.1315452	0.132408	0.1332072	0.13488	0.1365636

Income Contingent Repayment Plan
Sample First-Year Monthly Repayment Amounts for a Single Borrower at Various Income and Debt Levels

	Initial Debt																							
Income	$2,500	$5,000	$7,500	$10,000	$12,500	$15,000	$17,500	$20,000	$22,500	$25,000	$30,000	$35,000	$40,000	$45,000	$50,000	$55,000	$60,000	$65,000	$70,000	$75,000	$80,000	$85,000	$90,000	$100,000
$1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5
9,000	15	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
10,000	16	32	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35
12,500	16	33	49	66	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77
15,000	17	35	52	70	87	105	119	119	119	119	119	119	119	119	119	119	119	119	119	119	119	119	119	119
17,500	19	38	56	75	94	113	132	150	160	160	160	160	160	160	160	160	160	160	160	160	160	160	160	160
20,000	20	40	61	81	101	121	142	162	182	202	202	202	202	202	202	202	202	202	202	202	202	202	202	202
22,500	22	44	65	87	109	131	153	175	196	218	244	244	244	244	244	244	244	244	244	244	244	244	244	244
25,000	23	46	69	92	114	137	160	183	206	229	275	285	285	285	285	285	285	285	285	285	285	285	285	285
30,000	25	50	75	100	125	149	174	199	224	249	299	349	369	369	369	369	369	369	369	369	369	369	369	369
35,000	27	54	81	108	135	162	189	216	243	270	324	378	432	452	452	452	452	452	452	452	452	452	452	452
40,000	27	55	82	110	137	164	192	219	247	274	329	384	438	493	535	535	535	535	535	535	535	535	535	535
45,000	28	56	84	112	140	168	197	225	253	281	337	393	449	505	562	618	619	619	619	619	619	619	619	619
50,000	30	60	90	120	150	180	210	239	269	299	359	419	479	539	599	659	702	702	702	702	702	702	702	702
55,000	31	63	94	125	157	188	219	251	282	313	376	439	501	564	626	689	752	785	785	785	785	785	785	785
60,000	32	65	97	130	162	195	227	259	292	324	389	454	519	584	648	713	778	843	869	869	869	869	869	869
65,000	34	67	101	134	168	201	235	268	302	335	402	469	536	603	671	738	805	872	939	952	952	952	952	952
70,000	34	69	103	138	172	207	241	276	310	345	414	483	551	620	689	758	827	896	965	1,034	1,035	1,035	1,035	1,035
75,000	35	71	106	141	177	212	247	283	318	353	424	495	566	636	707	778	848	919	990	1,060	1,119	1,119	1,119	1,119
80,000	36	72	109	145	181	217	254	290	326	362	435	507	580	652	724	797	869	942	1,014	1,087	1,159	1,202	1,202	1,202
85,000	37	74	111	148	185	223	260	297	334	371	445	519	594	668	742	816	890	965	1,039	1,113	1,187	1,261	1,285	1,285
90,000	38	76	114	152	190	228	266	304	342	380	456	532	608	684	759	835	911	987	1,063	1,139	1,215	1,291	1,367	1,369
95,000	39	78	117	155	194	233	272	311	350	389	466	544	622	699	777	855	932	1,010	1,088	1,166	1,243	1,321	1,399	1,452
100,000	40	79	119	159	199	238	278	318	358	397	477	556	636	715	794	874	953	1,033	1,112	1,192	1,271	1,351	1,430	1,535

Sample repayment amounts are based on an interest rate of 8.25%.

Income Contingent Repayment Plan
Sample First-Year Monthly Repayment Amounts for a Married or Head-of-Household Borrower at Various Income and Debt Levels
(Family Size = 3)

	Initial Debt																							
Income	$2,500	$5,000	$7,500	$10,000	$12,500	$15,000	$17,500	$20,000	$22,500	$25,000	$30,000	$35,000	$40,000	$45,000	$50,000	$55,000	$60,000	$65,000	$70,000	$75,000	$80,000	$85,000	$90,000	$100,000
$1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
9,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15,000	17	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28
17,500	18	36	54	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70
20,000	19	39	58	77	97	111	111	111	111	111	111	111	111	111	111	111	111	111	111	111	111	111	111	111
22,500	20	41	61	82	102	123	143	153	153	153	153	153	153	153	153	153	153	153	153	153	153	153	153	153
25,000	22	44	66	88	109	131	153	175	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195
30,000	25	49	74	99	123	148	173	197	222	247	278	278	278	278	278	278	278	278	278	278	278	278	278	278
35,000	27	54	81	108	135	162	189	216	243	270	324	361	361	361	361	361	361	361	361	361	361	361	361	361
40,000	27	55	82	110	137	164	192	219	247	274	329	384	438	445	445	445	445	445	445	445	445	445	445	445
45,000	28	56	84	111	139	167	195	223	251	278	334	390	445	501	528	528	528	528	528	528	528	528	528	528
50,000	29	58	87	116	145	174	203	232	261	290	348	406	464	522	580	611	611	611	611	611	611	611	611	611
55,000	30	60	91	121	151	181	211	242	272	302	362	423	483	543	604	664	695	695	695	695	695	695	695	695
60,000	31	63	94	125	157	188	220	251	282	314	376	439	502	565	627	690	753	778	778	778	778	778	778	778
65,000	33	65	98	130	163	195	228	260	293	325	391	456	521	586	651	716	781	846	861	861	861	861	861	861
70,000	34	67	101	135	169	202	236	270	303	337	405	472	540	607	674	742	809	877	944	945	945	945	945	945
75,000	35	69	104	139	174	208	243	278	312	347	417	486	555	625	694	764	833	903	972	1,028	1,028	1,028	1,028	1,028
80,000	36	71	107	142	178	213	249	284	320	356	427	498	569	640	711	782	853	924	995	1,067	1,111	1,111	1,111	1,111
85,000	36	73	109	146	182	218	255	291	328	364	437	509	582	655	728	801	873	946	1,019	1,092	1,164	1,195	1,195	1,195
90,000	37	74	112	149	186	223	261	298	335	372	447	521	596	670	745	819	894	968	1,042	1,117	1,191	1,266	1,278	1,278
95,000	38	76	114	152	190	228	266	305	343	381	457	533	609	685	761	838	914	990	1,066	1,142	1,218	1,294	1,361	1,361
100,000	39	77	116	155	193	232	271	309	348	387	464	542	619	696	774	851	928	1,006	1,083	1,160	1,238	1,315	1,392	1,445

Sample repayment amounts are based on an interest rate of 8.25%.

[FR Doc. 97–17130 Filed 6–30–97; 8:45 am]

BILLING CODE 4000–01–C

federal register

Tuesday
July 1, 1997

Part V

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning on or After July 1, 1997; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPD–889–NC]

RIN 0938–AH88

Medicare Program; Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning on or After July 1, 1997

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

ACTION: Notice with comment Period.

SUMMARY: This notice sets forth a revised schedule of limits on home health agency costs that may be paid under the Medicare program for cost reporting periods beginning on or after July 1, 1997. These limits replace the per visit limits that were set forth in our July 1, 1996 notice with comment period (61 FR 34344). This notice also responds to comments on the July 1, 1996 notice.

DATES: *Effective Date:* The schedule of limits is effective for cost reporting periods beginning on or after July 1, 1997.

Comment Period: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on September 2, 1997.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–889–NC, P.O. Box 7517, Baltimore, Maryland 21207–0517.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 00 Independence Avenue, SW, Washington, D.C. 20201, or

Room C5–09–26, Central Building 7500 Security Boulevard Baltimore, Maryland 21244–1850.

Comments may also be submitted electronically to the following e-mail address: BPD–889–NC@hcfa.gov. E-mail comments must include the full name and address of the sender and must be submitted to the referenced address in order to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at the Independence Avenue address below.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–889–NC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: (202) 690–7890).

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8.00. As an alternative, you may view and photocopy the **Federal Register** document at most libraries designated as Federal Deposit Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su__docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

FOR FURTHER INFORMATION CONTACT: Michael Bussacca, (410) 786–4602.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1861(v)(1)(A) of the Social Security Act (the Act) authorizes the Secretary to establish limits on allowable costs incurred by a provider of services that may be paid under the Medicare program, based on estimates of the costs necessary in the efficient delivery of needed health services. Under this authority, we have maintained limits on home health agency (HHA) per-visit costs since 1979. The limits may be applied to direct or indirect overall costs or to the costs incurred for specific items or services furnished by the provider. Implementing regulations are located at 42 CFR 413.30. Additional statutory provisions specifically governing the limits applicable to HHAs are contained at section 1861(v)(1)(L) of the Act. Section 1861(v)(1)(L)(i) of the Act specifies that the cost limits are not to exceed 112 percent of the mean of the labor-related and nonlabor per-visit costs for freestanding HHAs. Section 1861(v)(1)(L)(iii) of the Act requires that the Secretary establish HHA cost limits on an annual basis for cost reporting periods beginning on or after July 1 of each year (except for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996). In establishing these limits, the Act directs the Secretary to use the applicable hospital wage index, as discussed below.

On July 1, 1996, we published in the **Federal Register** (61 FR 34344) a notice with comment period that set forth a revised schedule of limits on HHA costs that may be paid under the Medicare program for cost reporting periods beginning on or after July 1, 1996. These limits replaced the per-visit limits that were set forth in our February 14, 1995 notice with comment period (60 FR 8389). The July 1, 1996 limits were computed using the actual cost-per-visit data from cost reporting periods ending on or after June 30, 1991, and settled by October 1, 1995, and were adjusted by later estimates in the ''market basket'' index to reflect changes in the prices of goods and services furnished by HHAs.

This notice with comment period sets forth revised cost limits for cost reporting periods beginning on or after July 1, 1997. As required by section 1861(v)(1)(L)(iii) of the Act, we are using the area wage index applicable under section 1886(d)(3)(E) of the Act determined using the survey of the most recent available wages and wage-related costs of hospitals located in the geographic area in which the HHA is located. For purposes of this notice, the HHA wage index is based on the most recent hospital wage index, that is, the hospital wage index effective for hospital discharges on or after October 1, 1996, which uses Federal fiscal year (FY) 1993 wage data. As the statute also specifies, in applying the hospital wage index to HHAs, no adjustments are to be made to account for hospital reclassifications under section 1886(d)(8)(B) of the Act, decisions of the Medicare Geographic Classification Review Board (MGCRB) under section

1886(d)(10) of the Act, or decisions by the Secretary.

II. Analysis of and Response to Public Comments

We received 28 items of timely correspondence on the July 1, 1996 notice with comment period. A summary of these comments and our responses are discussed below.

Comment: One commenter suggested that an HHA based in a hospital that has been redesignated by the MGCRB should be allowed to use the same wage index as that used by the parent hospital.

Response: Section 1861(v)(1)(L)(iii) of the Social Security Act requires us to use the wage index used for hospitals under the inpatient hospital prospective payment system (PPS) using the survey of the most recent available wages and wage-related costs of hospitals located in the geographic area in which the HHA is located, determined without regard to whether the hospitals have been reclassified to a new geographic area. Given this explicit statutory requirement, the wage index value for an area cannot reflect any redesignations by the MGCRB.

Comment: A number of commenters raised concerns regarding the budget neutrality factor of 0.91, included in the July 1, 1996 notice and its effect on the July 1, 1996 schedule of limits. They indicated that the decrease in the budget neutrality factor, from 1.067, for the limits effective July 1, 1993, to 0.91 for the cost limits effective July 1, 1996, failed to account for industry growth and growing labor costs. Commenters also expressed concern that this decrease would create a reduction in cost limits that could threaten the quality of services HHAs can affordably provide, especially in rural areas.

Response: Subsequent to the publication of the July 1, 1996 schedule of limits, we identified several errors in the data that were used to calculate the budget neutrality factor of 0.91 in the July 1, 1996 notice. In order to ensure the accuracy of the factor, we conducted an exhaustive review of all the data used in the calculation of the 1996 limits. Based on corrected data, we have revised the budget neutrality factor to be 1.078. Our fiscal intermediaries have been directed, in Program Memorandum A–96–11, November 1996, to use this revised factor in limits calculations for all cost reporting periods beginning on or after July 1, 1996. Since the previous factor, in the limits effective July 1, 1993, had a value of 1.067, the revised budget neutrality factor of 1.078 had no substantial effect on the July 1, 1996 schedule of limits applied to any agency.

Comment: One commenter suggested that the limits take into account the special circumstances of rural home health agencies.

Response: The July 1, 1996 limits were based on the latest available settled cost reports. In calculating the limits, we determined the average cost per visit for urban and rural agencies *separately*. Therefore, the limits applied to rural HHAs are based on the actual operating and cost experience of rural agencies, and are reflective of the circumstances unique to an agency operating in a rural area.

Comment: One commenter recommended that the wage index used in the July 1, 1996 schedule of limits be that used in the hospital prospective payment system that was effective on October 1, 1996.

Response: Section 1861(v)(1)(L)(iii) of the Act requires us to use the area wage index applicable under section 1886(d)(3)(E) of the Act determined using the survey of the most recent available wages and wage-related costs of hospitals located in the geographic area in which the HHA is located. Accordingly, in our July 1, 1996 notice, the HHA wage index was based on the most recent hospital wage index at that time, which was the index effective for hospital discharges on or after October 1, 1995.

Comment: One commenter suggested that we include in our **Federal Register** notices and the public use data file more details and information on the methodology and data used in calculating the limits.

Response: In each of the **Federal Register** notices we have published since 1979, we have striven to provide all of the information necessary for the public to understand the reason and basis for our policies. At the same time, we try to avoid dense and highly technical discussions that would be of interest to few readers and that might be found to be confusing or perceived as obfuscatory. We are always open to suggestions on the adequacy of the information provided in the notices. In response to the commenter, in this 1997 notice, we are providing additional information on the assumptions used in computing the budget neutrality adjustment. We will attempt to include more technical details in future notices. We are also amenable to including additional data items in the public use data file, and will expand this file as requested.

Comment: Commenters wanted assurance that the effect of an increase in the minimum wage had been considered when the forecast of the HHA market basket was made for the July 1, 1996 schedule of limits.

Response: Public Law 104–188 signed on August 20, 1996, raised the minimum wage of $4.25 per hour by $0.50 per hour in October 1996 to $4.75 per hour, and an additional $0.40 per hour in September 1997 to $5.15 per hour. The HHA input price index is a national, not a regional, measure of price changes in a ''market basket'' reflecting the inputs used by HHAs in providing covered home health services. The forecast used for the HHA market basket in the July 1, 1996 notice did reflect anticipated increases in the minimum wage, although the timing and magnitude of the changes were different than those of the actual legislated increases, enacted after the July 1, 1996 notice. There are two areas where minimum wage increases can impact on the HHA market basket. Each of these areas is discussed in detail below.

One area where an increase in the minimum wage can have an impact on the HHA input price index is the annual percent increase of that index. The impact of a minimum wage increase is reflected in the HHA input price index as a ''one-time'' increase in the growth rate that is distributed over time in a lagged manner. The increase is distributed over time because of the two-step increase in the minimum wage, the use of four-quarter moving-average percent changes, and the delayed response by some firms to increased wages of employees that are currently slightly above the new minimum. The minimum wage increase is reflected in: (1) The price proxies for compensation of workers in the HHA input price index, which are the five Employment Cost Indexes (ECI) for each of the occupational categories; and (2) the noncompensation price proxies as secondary impacts where labor is used in an earlier stage of processing.

DRI/McGraw-Hill, under contract with HCFA to forecast the HHA index, includes increases in the minimum wage in its macroeconomic forecast assumptions. The increase in the minimum wage is incorporated in the DRI models used to establish the economy-wide profile, as well as the profile for individual occupations and sectors, for wages, salaries, benefits, and noncompensation price inflation used in the HHA input price index. While the inclusion of the minimum wage increases directly affects the wage price proxy (five ECIs for the occupational groupings) in the HHA input price index, it also indirectly affects the growth of other nonlabor cost input

proxies in a lesser manner through a stages-of-processing methodology.

The first quarter 1996 DRI/McGraw-Hill forecast was used to determine the HHA input price increases in the July 1, 1996 notice. In its first quarter 1996 forecast, DRI anticipated minimum wage increases in 1997 and 1998, and included its expectations in the model at that time. When DRI made its first quarter 1996 forecast in March 1996, it expected minimum wage increases of $0.45 per hour in April 1997 and an additional $0.10 per hour in April 1998. These expectations contributed to an increase in the HHA input price index growth rate between the second quarter of 1997 and the second quarter of 1999. (The growth rate is affected for nine quarters, in part because HCFA uses a four-quarter moving-average percent change for price increases, meaning that an increase in the minimum wage in the second quarter of 1998 will show up in the calculation of the four-quarter moving-average percent change for the second quarter of 1999.)

As mentioned above, the actual, legislated minimum wage increases are $0.50 per hour in October 1996 and an additional $0.40 per hour in September 1997. Because the July 1, 1996 notice was published before we knew the exact amount of the minimum wage increase, the first quarter 1996 DRI forecast, the latest data available for use in that notice, did not reflect the actual, legislated minimum wage increase. Beginning with the second quarter 1996 DRI forecast, however, the legislated minimum wage increase is reflected in all DRI forecasts. The HHA input price index growth rate, based on the actual minimum wage increase, will be impacted between the fourth quarter of 1996 and the fourth quarter of 1998, instead of the period between the second quarter of 1997 and the second quarter of 1999 as anticipated in the first quarter 1996 DRI forecast. The forecasted impact will also be larger than was anticipated in the first quarter 1996 forecast because the minimum wage will increase $0.35 per hour more than was expected in early 1996.

To analyze the impact of the cumulative $0.90 per hour minimum wage increase on the HHA input price index growth rate, we examined the underlying wage distribution of the ECI occupational categories used in the HHA compensation price proxies. We estimated the impact on those workers in those occupational categories earning below or up to the September 1997 national minimum wage of $5.15 an hour. An analysis of the March 1995 Current Population Survey showed that roughly 10 percent of workers in those occupational categories earned below $5.15. Those workers earning just above this new minimum are also expected to be affected by a modest ripple effect. DRI estimates the new minimum wage will increase the growth rate in the HHA input price index by 0.25 percentage points between the fourth quarter of 1996 and the fourth quarter of 1998.

We compared the first quarter 1996 DRI forecast used in the July 1, 1996 notice to the fourth quarter 1996 DRI forecast for the forecasted FY 1996, FY 1997, and FY 1998 percent increases. The first quarter 1996 forecast was made based on DRI assumptions of how much and when the minimum wage would increase, while the fourth quarter 1996 DRI forecast was made after the August 1996 passage date of the minimum wage legislation. Since the first of the two-step minimum wage increase did not take place until October 1996, the FY 1996 percent increase in the HHA market basket was not impacted by the increase in the minimum wage. Our analysis showed that even though the full effect of the minimum wage was not included in the July 1, 1996 notice, other negative factors such as lower than expected benefits price increases and lower than expected administrative and general expense price increases more than offset the effect of the minimum wage increases. The FY 1997 increase is now being forecast by DRI to be lower than originally expected in the first quarter of 1996 by 0.2 percentage points (3.1 percent vs 2.9 percent). The FY 1998 increase, however, is now being forecast to increase roughly 0.1 percentage points faster than was expected in the first quarter of 1996 (3.3 percent vs 3.2 percent). The cumulative growth in the HHA market basket for FY 1997 and FY 1998 is 0.1 percentage points *lower* than was forecast in the July 1, 1996 notice.

The other area where a change in the minimum wage can impact the HHA input price index is the cost category weights, although any impact on percentage changes would be insignificant. Because the 1993 base year for the HHA market basket is earlier than the October 1996 minimum wage increase, this change is not represented in the cost category weights. However, when HCFA updates the base year for the HHA index in a future year, the minimum wage increase will be reflected in the wages and salaries cost category weight.

Comment: Several commenters requested that we evaluate labor-related share by provider or individual geographic area, not by industry averages.

Response: The national industry share of labor-related costs is used for adjusting area variations in compensation costs for the major provider types, including PPS hospitals, skilled nursing facilities (SNFs), and HHAs. The national average reflects a standard mix of labor-related inputs relative to nonlabor inputs. Inefficient mixes of inputs are not rewarded with higher payments. If the labor-related share was somehow estimated at the individual provider level, it could encourage individual providers to game the system to maximize payments. Additionally, the required data to calculate or estimate labor-related costs of the individual provider or in geographic areas are typically not available. However, more data are available at the national level.

Comment: One commenter questioned why the HHA Input Price Index has failed to address concerns that the home health industry has previously submitted to HCFA , such as costs that change as a result of modifications in hospital discharge practices or advancements in home health technology.

Response: HCFA, by design, uses fixed weight or Laspeyres-type indices to measure pure price increases for HHA services. A Laspeyres index is used to measure the cost of a given market basket at different points in time. The HHA Input Price Index answers the question of how much more or less it would cost, at a later time, to purchase the same mix of goods and services per HHA visit that was purchased in the base period. Changes in costs as a result of modifications in hospital discharge practices or advancements in home health technology are appropriately handled in other ways in the HHA update framework. For example, if discharge patterns change so that more high-skilled physical therapist and registered nurse visits are needed relative to HHA aide visits, this automatically is reflected in higher cost per visit. Higher costs per visit within each of the various visit types are reflected in the HHA Medicare cost report data and thus in payment limit updates. If the effect of changing technology and changing discharge practices is a change in the mix of goods and services, then this is automatically taken into account when the weights are rebased. When this occurs, the most recently available cost structure of the industry, reflecting changes in technology, changed mix of goods and services, etc., is reflected in the weights developed for the market basket. Therefore, the cost limits methodology, which includes the Input Price Index,

accounts for the changes in costs that were of concern to the commenters.

Comment: One commenter questioned why HCFA uses data from outside the home health care industry as a proxy for changes in home health employees' compensation. In addition, one commenter pointed out that HHAs also compete with employers in nonhealth industries, such as retail and service industries.

Response: The HHA market basket wage and benefits labor categories include: (1) Skilled nurses, therapists, and other professional and technical workers; (2) managerial and supervisory workers; (3) clerical workers; and (4) service workers. HHAs compete for these occupational labor categories with employers both inside and outside the HHA care sector. In the case of compensation for nurses and certain other health care technicians and professionals, the hospital labor market may be predominant. However, hospitals and HHAs also compete with other industries to obtain certain skilled professional and technical staff (for example, accountants and computer programmers). For professional and technical workers (skilled nurses, therapists, and other professional and technical workers), we believe that a price proxy that reflects a blend of compensation variables internal and external to the health sector is appropriate. The blend used is price proxies that are equally weighted between ECI for civilian hospital workers and ECI for economy-wide professional and technical workers. The PPS hospital market basket has used this same blend of internal and external price proxies for professional and technical workers since the 1980's.

Since HHAs compete primarily with employers outside the health care sector for the other three occupational categories (managerial and supervisory, clerical, and service workers), we use economy-wide employment cost indices as price proxies for these three occupational groups. The health care sector is included in economy-wide employment cost indices. According to the Bureau of Labor Statistics Current Employment Statistics Survey (establishment data), in March 1995 the health care sector accounted for over 9 percent of employment in the total nonfarm economy.

We ran a simulation using the compensation weights in the 1993-based HHA Input Price Index to show the cumulative difference between using the blend in the HHA Input Price Index of 50 percent ECI for hospital workers, and 50 percent ECI for professional and technical workers and using only the ECI for hospital workers (the internal health sector component of the blend) over 10 years (fourth quarter of 1986 through the fourth quarter of 1996). The cumulative difference was only 0.7 percentage points over 10 years. This amounts to an average difference of less than 0.1 percentage point per year, indicating that the blend, while technically more accurate, results in a rate of increase that is almost identical to that measured by the nonblended ECI.

Comment: One commenter questioned why data for hospital-based HHAs were not included in the derivation of weights for the revised and rebased market basket.

Response: Data for hospital-based HHAs were not used in the revised and rebased HHA Input Price Index because Medicare cost reports for hospital-based HHAs contain costs that, due to the stepdown of overhead cost from the hospital, are not part of an efficient HHA cost structure. In addition, the data for hospital-based HHAs were not as detailed as the data for freestanding HHAs. We believe that an input price index based on the cost structure of freestanding HHAs more accurately represents the cost structure of the home health industry than would a market basket based on the cost structure of both freestanding and hospital-based HHAs. This same approach is used for SNFs.

III. Updating the Wage Index on a Budget-Neutral Basis

Section 4207(d)(2) of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90) (Public Law 101–508) requires that, in updating the wage index, aggregate payments to HHAs will remain the same as they would have been if the wage index had not been updated. Therefore, overall payments to HHAs are not affected by changes in the wage index values.

To comply with the requirement of section 4207(d)(2) of OBRA '90 that updating the wage index be budget neutral, we determined that it is necessary to apply a budget neutrality adjustment factor of 1.078 to the labor-related portion of the July 1, 1997 cost limits. This adjustment ensures that aggregate payments to HHAs are not affected by the change to a wage index based on the hospital wage index published on August 30, 1996 (61 FR 46166). The adjustment factor of 1.078 is the same as the factor derived from the November 1996 calculations. When we updated the data for the wage index, we did not find changes significant enough to have an effect on the budget neutrality adjustment factor.

To determine this factor, we analyzed both the data obtained from the freestanding agencies used to determine the cost limits and the settled cost report data covering the same time period for the hospital-based agencies. For each agency in this database, we replaced their current wage index with the one corresponding to the 1982 hospital wage index. Some Metropolitan Statistical Areas (MSAs) that currently exist did not exist at the time this index was created and therefore have no matching 1982 wage index. In the database we are currently using, these unmatchable MSAs represented 2 percent of the total visits. Since this percentage was small, we deleted these agencies from the analysis. We then determined what Medicare program payments would be using the 1982 wage index. Next, we determined payments using the new wage index and adjusted the labor portion of the payment by the factor necessary to match program payments if the 1982 wage index was used. (See the example in section VIII.A of this notice regarding the adjustment of cost limits by the wage index and the budget neutrality factor.)

IV. Update of Limits

The methodology used to develop the schedule of limits set forth in this notice is the same as that used in setting the limits that were effective July 1, 1996. We have updated the cost limits to reflect the expected cost increases occurring between the cost reporting periods for the data contained in the database and June 30, 1998.

A. Data Used

To develop the schedule of limits that is effective July 1, 1997, we extracted actual cost per-visit data from settled Medicare cost reports for periods ending on or after June 30, 1991, and settled by October 1, 1995. The majority of the cost reports were from FY 1993. We then adjusted the data using the latest available market basket indexes to reflect expected cost increases occurring between the cost reporting periods contained in our database and June 30, 1998.

Previous to the July 1, 1996 notice, HCFA used the market basket index to adjust the cost report data to the midpoint (December 31) of the first cost reporting period to which the limits applied (July 1). The present limits adjust the data to the end of the first cost reporting period to which the limits apply (June 30, 1998), a change that will enable fiscal intermediaries to calculate the applicable adjustment factors for HHAs with a cost reporting period of fewer than 12 months. Previously, the

intermediaries had to contact HCFA's central office for this adjustment.

B. Wage Index

The wage index is used to adjust the labor-related portion of the limits to reflect differing wage levels among areas. In setting this schedule of limits, we used the FY 1997 hospital wage index, which is based on 1993 hospital wage data.

Each HHA's labor market area is determined based on the definitions of MSAs issued by the Office of Management and Budget (OMB). Section 1861(v)(1)(L) of the Act requires us to use the current hospital wage index (that is, the FY 1997 hospital wage index, which was published in the **Federal Register** on August 30, 1996 (61 FR 46256)) to establish the HHA cost limits. Therefore, this schedule of limits reflects the MSA definitions that are currently in effect under the hospital prospective payment system.

We are continuing to incorporate exceptions to the MSA classification system for certain New England counties that were identified in the July 1, 1992 notice (57 FR 29410). These exceptions have been recognized in setting hospital cost limits for cost reporting periods beginning on and after July 1, 1979 (45 FR 41218), and were authorized under section 601(g) of the Social Security Amendments of 1983 (Pubic Law 98–21). Section 601(g) of Public Law 98–21 requires that any hospital in New England that was classified as being in an urban area under the classification system in effect in 1979 will be considered urban for the purposes of the hospital prospective payment system. This provision is intended to ensure equitable treatment under the hospital prospective payment system. Under this authority, the following counties have been deemed to be urban areas for purposes of payment under the inpatient hospital prospective payment system:

- Litchfield County, CT in the Hartford, CT MSA.
- York County, ME and Sagadahoc County, ME in the Portland, ME MSA.
- Merrimack County, NH in the Boston-Brockton-Nashua, MA–NH MSA.
- Newport County, RI in the Providence Fall-Warwick, RI MSA.

We are continuing to grant these urban exceptions for the purpose of applying the HCFA hospital wage index to the HHA cost limits. These exceptions result in the same New England County Metropolitan Area (NECMA) definitions for hospitals, SNFs, and HHAs. In New England, MSAs are defined on town boundaries rather than on county lines but exclude parts of the four counties cited above that would be considered urban under the MSA definition. Under this notice, those four counties are urban under either definition, NECMA or MSA.

V. Provisions of the HHA Schedule of Limits

The schedule of limits set forth below was calculated using 112 percent of the mean per-visit costs of freestanding HHAs and is adjusted by the latest estimates in the market basket index.

The schedule of limits effective for cost reporting periods beginning on or after July 1, 1997, is based on the actual cost per-visit data from settled Medicare cost reports for periods ending on or after June 30, 1991, and settled by October 1, 1995, updated by the market basket rate of increase and provides for the following:

- A classification system based on whether an HHA is located within an MSA, a NECMA, or a non-MSA area. (See Tables 4a and 4b in section X. of this notice for the listing of MSAs, NECMAs, and rural areas.)
- The use of a single schedule of limits for hospital-based and freestanding agencies. This single limit is based on the cost experience of freestanding agencies.
- The use of a market basket index, which was developed from the price of goods and services purchased by HHAs to account for the impact of changing wage and price levels on HHA costs.
- The use of the current hospital wage index. The wage index is used to adjust the labor-related portion of the limits. The employee wage portion of the market basket index, including a proportionate share of contract services (64.226 percent), and the employee benefits portion (13.442 percent) are used to determine the labor component (77.668 percent) of all HHA per-visit costs used to set the limits.
- Separate treatment of the labor and nonlabor components of per-visit costs. The separate components of costs are calculated by obtaining actual HHA cost data for each agency for cost periods ending on or after June 30, 1991 and settled before October 1, 1995, and increasing those data by the actual and projected increases in the HHA market basket index. We then separate each HHA's per-visit costs into labor and nonlabor portions, and divide the labor portion by the wage index value for the agency's location to control for the effect of geographic variations in prevailing wage levels. Separate means are computed for the labor and nonlabor components of per-visit costs. For each comparison group, the resulting amounts are shown in Table 3 of section IX. of this notice.
- The application of a cost-of-living adjustment to the nonlabor portion of the limit for HHAs located in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.
- Limits that are determined for the per-visit cost of each type of home health service: skilled nursing care, physical therapy, speech pathology, occupational therapy, medical social services, and home health aide.
- Application of the limits in the aggregate after an HHA's actual costs are adjusted. An HHA's actual costs are adjusted for individual items of cost that are found to be excessive under Medicare principles of provider payment and for costs that are not included in the limitation amount. The limits are applied in the aggregate to the cost remaining after these adjustments are made. Payment is limited to the lower of the actual costs or the cost limits.

VI. Market Basket

The 1993-Based cost categories and weights are listed in Table 1 below.

TABLE 1.—1993-BASED COST CATEGORIES, WEIGHTS, AND PRICE PROXIES

Cost category	1993-Based market basket weight	Price proxy
Compensation, including allocated Contract Services' Labor	77.668	
Wages and Salaries, including allocated Contract Services, Labor	64.226	HHA Occupational Wage Index.
Employee benefits, including allocated Contract Services' Labor	13.442	HHA Occupational Benefits Index.
Operations & Maintenance	0.832	CPI–U Fuel & Other Utilities.
Administrative & General, including allocated Contract Services' Non-Labor	9.569	
Telephone	0.725	CPI–U Telephone.

TABLE 1.—1993-BASED COST CATEGORIES, WEIGHTS, AND PRICE PROXIES—Continued

Cost category	1993-Based market basket weight	Price proxy
Paper & Printing	0.529	CPI–U Household Paper, Paper Products & Stationery Supplies.
Postage	0.724	CPI–U Postage.
Other Administrative & General, including allocated Contract Services Non-Labor.	7.591	CPI–U Services.
Transportation	3.405	CPI–U Private Transportation.
Capital-Related	3.204	
Insurance	0.560	CPI–U Household Insurance.
Fixed Capital	1.764	CPI–U Owner's Equivalent Rent.
Movable Capital	0.880	PPI Machinery & Equipment.
Other Expenses, including allocated Contract Services' Non-Labor	5.322	CPI–U All Items Less Food & Energy.
Total	100.000	

VII. Methodology for Determining Cost-Per-Visit Limits

A. Data

For this notice, the cost-per-visit limit values were determined by extracting settled actual cost-per-visit data from Medicare cost reports for cost reporting periods ending on or after June 30, 1991, and settled before October 1, 1995. We then adjusted the data using the latest available market basket factors to reflect expected cost increases occurring between the cost reporting periods contained in our database and June 30, 1998. The following adjustment factors were used to compute the per-visit costs:

TABLE 2.—FACTORS FOR INFLATING DATABASE DOLLARS TO JUNE 30, 1998

Inflation adjustment factors [1]			
Fiscal year end	1992	1993	1994
January 31	.....	1.17097	1.13480
February 28	.....	1.16778	1.13203
March 31	.....	1.16457	1.12934
April 30	.....	1.16135	1.12672
May 31	.....	1.15816	1.12413
June 30	1.19400	1.15505	1.12152
July 31	1.19056	1.15202	1.11889
August 31	1.18719	1.14906	1.11625
September 30	1.18387	1.14614	1.11359
October 31	1.18061	1.14327	1.11091
November 30	1.17738	1.14043	1.10824
December 31	1.17417	1.13761	1.10562

B. Cost Reporting Periods Consisting of Fewer Than 12 Months

HHAs may have cost reporting periods that are fewer than 12 months in duration. This may happen, for example, when a new provider enters the Medicare program after its selected fiscal year has already begun, or when a provider experiences a change of ownership before the end of the cost reporting period. As explained in section IV. of this preamble, the data used in calculating the cost limits were updated to June 30, 1998. Therefore, the cost limits published in this notice are for a 12-month cost reporting period beginning July 1, 1997 and ending June 30, 1998. For 12-month cost reporting periods beginning after July 1, 1997 and before July 1, 1998, cost reporting year adjustment factors are provided in Table 5. However, when a cost reporting period consists of fewer than 12 months, adjustments must be made to the data that have been developed for use with 12-month cost reporting periods. To promote the efficient dissemination of cost limits to providers with cost reporting periods of fewer than 12 months, we are publishing the following examples and tables to enable intermediaries to calculate the applicable adjustment factors.

Cost reporting periods of fewer than 12 months may not necessarily begin on the first of the month or end on the last day of the month. In order to simplify the process in calculating ''short period'' adjustment factors, if the short cost reporting period begins before the sixteenth of the month, we will consider the period to have begun on the first of that month. If the start period begins on or after the sixteenth of the month, it will be considered to have begun at the beginning of the next month. Also, if the short period ends before the sixteenth of the month, we will consider the period to have ended at the end of the preceding month; if the short period ends on or after the sixteenth of the month, it will be considered to have ended at the end of that month.

Examples:

1. After approval by its intermediary, an HHA changes its fiscal year end from June 30 to December 31. Therefore, the HHA had a short cost reporting period beginning on July 1, 1997 and ending on December 31, 1997. The cost limits that apply to this short period must be adjusted as follows:

Step 1—From Table 6, sum the index levels for the months of July 1997 through December 1997: 6.81963.

Step 2—Divide the results from Step 1 by the number of months in the short period.

6.81963÷6=1.136605

Step 3—From Table 6, sum the index levels for the months in the common period of July 1997 through June 1998.

13.75528

Step 4—Divide the results from Step 3 by the number of months in the common period.

13.75528÷12=1.146273

Step 5—Divide the results from Step 2 by the results from Step 4. This is the adjustment factor to be applied to the published limits

1.136605÷1.146273=.991566

Step 6—Apply the results from Step 5 to the published cost limits.

a. Urban Skilled Nursing Labor Portion.

$79.01×.991566=$78.34

b. Urban Skilled Nursing Nonlabor Portion.

$22.28×.991566=$22.09

2. A HHA with a fiscal year end of November 30, 1997 changes ownership on September 21, 1998. The HHA is required to file a terminated cost report for the period of December 1, 1997 to September 21, 1998. The cost limits that apply to this short period must be adjusted as follows:

Step 1—From Table 6, sum the index level for the month of December 1997 through September 1998.

11.58995

Step 2—Divide the results from Step 1 by the number of months in the short period.

11.58995÷10=158995

Step 3—From Table 6, sum the index levels for the months in the common period of July 1997, through June 1998.

13.75528

Step 4—Divide the results from Step 3 by the number of months from the common period.

13.75528÷12=1.146273

Step 5—Divide the results from Step 2 by the results from Step 4.

1.158995÷1.146273=1.011099

Step 6—Apply the results from Step 5 to the published cost limits.

a. Urban Skilled Nursing Labor Portion.

$79.01×1.01199=$79.89

b. Urban Skilled Nursing Non-Labor Portion.

$22.28×1.011099=$22.53

C. Standardization for Wage Levels

After adjustment by the market basket index, we divided each HHA's per-visit costs into labor and nonlabor portions. The labor portion of costs (77.668 percent as determined by the market basket) represents the employee wage and benefit factor plus the contract services factor from the market basket. We then divided the labor portion of per-visit costs by the wage index applicable to the HHA's location to arrive at an adjusted labor cost.

D. Adjustment for ''Outliers''

We transformed all per-visit cost data into their natural logarithms and grouped them by type of service and MSA, NECMA, or non-MSA location, in order to determine the mean cost and standard deviation for each group. We then eliminated all ''outlier'' costs, retaining only those per-visit costs within two standard deviations of the mean in each service.

E. Basic Service Limit

We calculate a basic service limit equal to 112 percent of the mean labor and nonlabor portions of the per-visit costs of freestanding HHAs for each type of service. (See Table 3 in section IX.)

VIII. Computing the Adjusted Limit

A. Adjustment of Cost Limits by Wage Index

To arrive at the adjusted limit, which is to be applied to each service furnished by an HHA, the HHA's intermediary first determines the adjusted labor-related component by multiplying the labor-related component of the limit by the appropriate wage index and by multiplying the adjusted labor-related component by the special labor adjustment for budget neutrality. (See example below and Tables 4a and 4b in section X. of this notice.) The sum of the nonlabor component plus the labor-related component is the adjusted limit applicable to an HHA.

EXAMPLE—CALCULATION OF ADJUSTED OCCUPATIONAL THERAPY LIMIT FOR A FREESTANDING HHA IN DALLAS, TX

Labor component (Table 3)	$85.97
Wage index value (Table 4a)	0.9729
Labor portion	83.64
Special labor adjustment for budget neutrality	1.078
Adjusted labor portion	90.16
Nonlabor component (Table 3)	24.55
Adjusted occupational therapy limit	114.71

B. Adjustment for Reporting Year

If an HHA has a 12-month cost reporting period beginning on or after August 1, 1997, the adjusted per-visit limit for each service is again revised by an adjustment factor from Table 5 that corresponds to the month and year in which the cost reporting period begins. Each factor represents the compounded rate of monthly increase derived from the projected annual increase in the market basket index, and is used to account for inflation in costs that will occur after the date on which the limits become effective.

For example, if the HHA in the example above had a cost reporting period beginning January 1, 1998, its per-visit therapy limit would be further adjusted as follows:

COMPUTATION OF REVISED LIMIT FOR OCCUPATIONAL THERAPY

Adjusted per-visit limit	$114.71
Adjustment factor from Table 5	1.01588
Revised per-visit limit	116.53

In this example, the revised adjusted per-visit limit for occupational therapy applicable to this HHA for the cost reporting period beginning January 1, 1998, is $116.53 per visit.

If an HHA uses a cost reporting period that is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to June 30, 1998. This calculation is done using the methodology described in section VII.B.

IX. Schedule of Limits

The schedule of limits set forth below applies to cost reporting periods beginning on or after July 1, 1997. The intermediaries will compute the adjusted limits using the wage index published in Tables 4a and 4b of section X. and will notify each HHA they service of its applicable cost per-visit limit for each type of service. Each HHA's aggregate limit cannot be determined prospectively, but depends on each HHA's Medicare visits for each type of service for the cost reporting periods subject to this notice.

The HHA costs that are subject to the limits include the cost of medical supplies routinely furnished in conjunction with patient care. Durable medical equipment, orthotics, prosthetics, and other medical supplies directly identifiable as services to an individual patient are excluded from the per-visit costs and are paid without regard to this schedule of limits. (See Chapter IV of the Home Health Agency Manual (HCFA Pub. 11).)

The intermediary will determine the limit for each HHA by multiplying the number of Medicare visits for each type of service furnished by the HHA, by the respective per-visit cost limit. The sum of these amounts is compared to the HHA's total allowable cost.

Example: HHA X, a freestanding agency located in Richmond, VA, furnished 5,000 covered skilled nursing visits, 2,000 physical therapy visits, and 4,000 home health aide visits to Medicare beneficiaries during its 12-month cost reporting period beginning July 1, 1997. The aggregate cost limit for the HHA is calculated as follows:

DETERMINING THE AGGREGATE COST LIMIT

Type of visit	Visits	Nonlabor portion	Adjusted labor portion	Adjusted limit [1]	Aggregate limit
Skilled nursing	5,000	$22.28	$72.64	$100.59	$502,950
Physical therapy	2,000	24.30	79.54	110.04	220,080
Home health aide	4,000	10.88	35.25	48.88	195,520
Total Visits	11,000				
Aggregate cost limit					918,5501

[1] Includes special labor adjustment of 1.078 for budget neutrality.

Before the limits are applied during settlement of the cost report, the HHA's actual costs are reduced by the amount of individual items of cost (for example, administrative compensation and contract services) that are found to be excessive under the Medicare principles of provider payment. That is, the intermediary reviews the various reported costs, taking into account all the Medicare payment principles; for example, the cost guidelines for physical therapy furnished under arrangements (see 42 CFR 413.106) and the limitation on costs that are substantially out of line with those comparable home health agencies (see 42 CFR 413.9).

TABLE 3.—PER VISIT LIMITS FOR HOME HEALTH AGENCIES

Type of visit	Limit	Labor portion	Nonlabor portion [1]
MSA (NECMA) location:			
Skilled nursing care	$101.20	$79.01	$22.28
Physical therapy	110.81	86.51	24.30
Speech pathology	111.60	86.96	24.64
Occupational therapy	110.52	85.97	24.55
Medical social services	146.39	114.01	32.38
Home health aide	49.22	38.34	10.88
Non-MSA location:			
Skilled nursing care	113.07	92.35	20.72
Physical therapy	123.38	100.66	22.72
Speech pathology	134.19	109.22	24.97
Occupational therapy	133.22	108.26	24.96
Medical social services	189.57	154.33	35.24
Home health aide	49.03	40.03	9.00

[1] Nonlabor portion of limits for HHAs located in Alaska, Hawaii, Puerto Rico, and the Virgin Islands are increased by multiplying them by the following cost-of-living adjustment factors:

Location	Adjustment factor
Alaska	1.250
Hawaii:	
County of Honolulu	1.225
County of Hawaii	1.150
County of Kauai	1.200
County of Maui	1.225
County of Kalawao	1.225
Puerto Rico	1.100
Virgin Islands	l.125

X. Wage Indexes

TABLE 4a.—WAGE INDEX FOR URBAN AREAS

	Urban area (Constituent counties or county equivalents)	Wage index
0040	Abilene, TX	0.8048
	Taylor, TX	
0060	Aguadilla, PR	0.4237
	Aguada, PR	
	Aguadilla, PR	
	Moca, PR	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
0080	Akron, OH	0.9853
	Portage, OH	
	Summit, OH	
0120	Albany, GA	0.8597
	Dougherty, GA	
	Lee, GA	
0160	Albany-Schenectady-Troy, NY	0.8624
	Albany, NY	
	Montgomery, NY	
	Rensselaer, NY	
	Saratoga, NY	
	Schenectady, NY	
	Schoharie, NY	
0200	Albuquerque, NM	0.9344
	Bernalillo, NM	
	Sandoval, NM	
	Valencia, NM	
0220	Alexandria, LA	0.8119
	Rapides, LA	
0240	Allentown-Bethlehem-Easton, PA	0.9992
	Carbon, PA	
	Lehigh, PA	
	Northampton, PA	
0280	Altoona, PA	0.9510
	Blair, PA	
0320	Amarillo, TX	0.8730
	Potter, TX	
	Randall, TX	
0380	Anchorage, AK	1.3224
	Anchorage, AK	
0440	Ann Arbor, MI	1.1662
	Lenawee, MI	
	Livingston, MI	
	Washtenaw, MI	
0450	Anniston, AL	0.8023
	Calhoun, AL	
0460	Appleton-Oshkosh-Neenah, WI	0.8890
	Calumet, WI	
	Outagamie, WI	
	Winnebago, WI	
0470	Arecibo, PR	0.4397
	Arecibo, PR	
	Camuy, PR	
	Hatillo, PR	
0480	Asheville, NC	0.9334
	Buncombe, NC	
	Madison, NC	
0500	Athens, GA	0.9408
	Clarke, GA	
	Madison, GA	
	Oconee, GA	
0520	*Atlanta, GA	1.0033
	Barrow, GA	
	Bartow, GA	
	Carroll, GA	
	Cherokee, GA	
	Clayton, GA	
	Cobb, GA	
	Coweta, GA	
	DeKalb, GA	
	Douglas, GA	
	Fayette, GA	
	Forsyth, GA	
	Fulton, GA	
	Gwinnett, GA	
	Henry, GA	
	Newton, GA	
	Paulding, GA	
	Pickens, GA	
	Rockdale, GA	
	Spalding, GA	
	Walton, GA	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
0560	Atlantic City—Cape May, NJ	1.1077
	Atlantic City, NJ	
	Cape May, NJ	
0600	Augusta-Aiken, GA–SC	0.8836
	Columbia, GA	
	McDuffie, GA	
	Richmond, GA	
	Aiken, SC	
	Edgefield, SC	
0640	Austin-San Marcos, TX	0.9254
	Bastrop, TX	
	Caldwell, TX	
	Hays, TX	
	Travis, TX	
	Williamson, TX	
0680	Bakersfield, CA	1.0189
	Kern, CA	
0720	*Baltimore, MD	0.9798
	Anne Arundel, MD	
	Baltimore, MD	
	Baltimore City, MD	
	Carroll, MD	
	Harford, MD	
	Howard, MD	
	Queen Annes, MD	
0733	Bangor, ME	0.9391
	Penobscot, ME	
0743	Barnstable-Yarmouth, MA	1.3651
	Barnstable, MA	
0760	Baton Rouge, LA	0.8433
	Ascension, LA	
	East Baton Rouge, LA	
	Livingston, LA	
	West Baton Rouge, LA	
0840	Beaumont-Port Arthur, TX	0.8576
	Hardin, TX	
	Jefferson, TX	
	Orange, TX	
0860	Bellingham, WA	1.1317
	Whatcom, WA	
0870	Benton Harbor, MI	0.8506
	Berrien, MI	
0875	*Bergen-Passaic, NJ	1.1785
	Bergen, NJ	
	Passaic, NJ	
0880	Billings, MT	0.9086
	Yellowstone, MT	
0920	Biloxi-Gulfport-Pascagoula, MS	0.8554
	Hancock, MS	
	Harrison, MS	
	Jackson, MS	
0960	Binghamton, NY	0.8822
	Broome, NY	
	Tioga, NY	
1000	Birmingham, AL	0.9036
	Blount, AL	
	Jefferson, AL	
	St. Clair, AL	
	Shelby, AL	
1010	Bismarck, ND	0.7923
	Burleigh, ND	
	Morton, ND	
1020	Bloomington, IN	0.8652
	Monroe, IN	
1040	Bloomington-Normal, IL	0.8990
	McLean, IL	
1080	Boise City, ID	0.9383
	Ada, ID	
	Canyon, ID	
1123	*Boston-Worcester Lawrence-Lowell-Brockton, MA–NH	1.1613
	Bristol, MA	
	Essex, MA	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
	Middlesex, MA	
	Norfolk, MA	
	Plymouth, MA	
	Suffolk, MA	
	Worcester, MA	
	Hillsborough, NH	
	Merrimack, NH	
	Rockingham, NH	
	Strafford, NH	
1125	Boulder-Longmont, CO	0.9522
	Boulder, CO	
1145	Brazoria, TX	0.9201
	Brazoria, TX	
1150	Bremerton, WA	1.0901
	Kitsap, WA	
1240	Brownsville-Harlingen-San Benito, TX	0.8542
	Cameron, TX	
1260	Bryan-College Station, TX	0.8851
	Brazos, TX	
1280	*Buffalo-Niagara Falls, NY	0.9107
	Erie, NY	
	Niagara, NY	
1303	Burlington, VT	1.0068
	Chittenden, VT	
	Franklin, VT	
	Grand Isle, VT	
1310	Caguas, PR	0.4573
	Caguas, PR	
	Cayey, PR	
	Cidra, PR	
	Gurabo, PR	
	San Lorenzo, PR	
1320	Canton-Massillon, OH	0.8648
	Carroll, OH	
	Stark, OH	
1350	Casper, WY	0.8821
	Natrona, WY	
1360	Cedar Rapids, IA	0.8458
	Linn, IA	
1400	Champaign-Urbana, IL	0.9391
	Champaign, IL	
1440	Charleston-North Charleston, SC	0.8963
	Berkeley, SC	
	Charleston, SC	
	Dorchester, SC	
1480	Charleston, WV	0.9526
	Kanawha, WV	
	Putnam, WV	
1520	*Charlotte-Gastonia-Rock Hill, NC–SC	0.9620
	Cabarrus, NC	
	Gaston, NC	
	Lincoln, NC	
	Mecklenburg, NC	
	Rowan, NC	
	Union, NC	
	York, SC	
1540	Charlottesville, VA	0.9155
	Albemarle, VA	
	Charlottesville City, VA	
	Fluvanna, VA	
	Greene, VA	
1560	Chattanooga, TN–GA	0.8847
	Catoosa, GA	
	Dade, GA	
	Walker, GA	
	Hamilton, TN	
	Marion, TN	
1580	Cheyenne, WY	0.7678
	Laramie, WY	
1600	*Chicago, IL	1.0760
	Cook, IL	
	DeKalb, IL	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
	DuPage, IL Grundy, IL	
	Kane, IL	
	Kendall, IL	
	Lake, IL	
	McHenry, IL	
	Will, IL	
1620	Chico-Paradise, CA	1.0417
	Butte, CA	
1640	*Cincinnati, OH–KY–IN	0.9570
	Dearborn, IN	
	Ohio, IN	
	Boone, KY	
	Campbell, KY	
	Gallatin, KY	
	Grant, KY	
	Kenton, KY	
	Pendleton, KY	
	Brown, OH	
	Clermont, OH	
	Hamilton, OH	
	Warren, OH	
1660	Clarksville-Hopkinsville, TN–KY	0.7716
	Christian, KY	
	Montgomery, TN	
1680	*Cleveland-Lorain-Elyria, OH	0.9886
	Ashtabula, OH	
	Cuyahoga, OH	
	Geauga, OH	
	Lake, OH	
	Lorain, OH	
	Medina, OH	
1720	Colorado Springs, CO	0.9341
	El Paso, CO	
1740	Columbia, MO	0.8899
	Boone, MO	
1760	Columbia, SC	0.9160
	Lexington, SC	
	Richland, SC	
1800	Columbus, GA–AL	0.7779
	Russell, AL	
	Chattanoochee, GA	
	Harris, GA	
	Muscogee, GA	
1840	*Columbus, OH	0.9681
	Delaware, OH	
	Fairfield, OH	
	Franklin, OH	
	Licking, OH	
	Madison, OH	
	Pickaway, OH	
1880	Corpus Christi, TX	0.8881
	Nueces, TX	
	San Patricio, TX	
1900	Cumberland, MD–WV	0.8671
	Allegany, MD	
	Mineral, WV	
1920	*Dallas, TX	0.9729
	Collin, TX	
	Dallas, TX	
	Denton, TX	
	Ellis, TX	
	Henderson, TX	
	Hunt, TX	
	Kaufman, TX	
	Rockwall, TX	
1950	Danville, VA	0.8497
	Danville City, VA	
	Pittsylvania, VA	
1960	Davenport-Rock Island-Moline, IA–IL	0.8388
	Scott, IA	
	Henry, IL	
	Rock Island, IL	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
2000	Dayton-Springfield, OH	0.9559
	Clark, OH	
	Greene, OH	
	Miami, OH	
	Montgomery, OH	
2020	Daytona Beach, FL	0.8871
	Flagler, FL	
	Volusia, FL	
2030	Decatur, AL	0.8384
	Lawrence, AL	
	Morgan, AL	
2040	Decatur, IL	0.7848
	Macon, IL	
2080	*Denver, CO	1.0166
	Adams, CO	
	Arapahoe, CO	
	Denver, CO	
	Douglas, CO	
	Jefferson, CO	
2120	Des Moines, IA	0.8815
	Dallas, IA	
	Polk, IA	
	Warren, IA	
2160	*Detroit, MI	1.0724
	Lapeer, MI	
	Macomb, MI	
	Monroe, MI	
	Oakland, MI	
	St. Clair, MI	
	Wayne, MI	
2180	Dothan, AL	0.7740
	Dale, AL	
	Houston, AL	
2190	Dover, DE	0.8997
	Kent, DE	
2200	Dubuque, IA	0.8112
	Dubuque, IA	
2240	Duluth-Superior, MN–WI	0.9416
	St. Louis, MN	
	Douglas, WI	
2281	Dutchess County, NY	1.0589
	Dutchess, NY	
2290	Eau Claire, WI	0.8678
	Chippewa, WI	
	Eau Claire, WI	
2320	El Paso, TX	0.9464
	El Paso, TX	
2330	Elkhart-Goshen, IN	0.8801
	Elkhart, IN	
2335	Elmira, NY	0.8417
	Chemung, NY	
2340	Enid, OK	0.7862
	Garfield, OK	
2360	Erie, PA	0.9159
	Erie, PA	
2400	Eugene-Springfield, OR	1.1271
	Lane, OR	
2440	Evansville-Henderson, IN–KY	0.8983
	Posey, IN	
	Vanderburgh, IN	
	Warrick, IN	
	Henderson, KY	
2520	Fargo-Moorhead, ND–MN	0.9045
	Clay, MN	
	Cass, ND	
2560	Fayetteville, NC	0.9007
	Cumberland, NC	
2580	Fayetteville-Springdale-Rogers, AR	0.7220
	Benton, AR	
	Washington, AR	
2620	Flagstaff, AZ–UT	0.9019
	Coconino, AZ	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
	Kane, UT	
2640	Flint, MI	1.1248
	Genesee, MI	
2650	Florence, AL	0.7938
	Colbert, AL	
	Lauderdale, AL	
2655	Florence, SC	0.8594
	Florence, SC	
2670	Fort Collins-Loveland, CO	1.0562
	Larimer, CO	
2680	*Ft. Lauderdale, FL	1.0548
	Broward, FL	
2700	Fort Myers-Cape Coral, FL	0.9032
	Lee, FL	
2710	Fort Pierce-Port St. Lucie, FL	1.0169
	Martin, FL	
	St. Lucie, FL	
2720	Fort Smith, AR–OK	0.7864
	Crawford, AR	
	Sebastian, AR	
	Sequoyah, OK	
2750	Fort Walton Beach, FL	0.9192
	Okaloosa, FL	
2760	Fort Wayne, IN	0.8800
	Adams, IN	
	Allen, IN	
	DeKalb, IN	
	Huntington, IN	
	Wells, IN	
	Whitley, IN	
2800	*Forth Worth-Arlington, TX	1.0153
	Hood, TX	
	Johnson, TX	
	Parker, TX	
	Tarrant, TX	
2840	Fresno, CA	1.1183
	Fresno, CA	
	Madera, CA	
2880	Gadsden, AL	0.8881
	Etowah, AL	
2900	Gainesville, FL	0.9434
	Alachua, FL	
2920	Galveston-Texas City, TX	1.0997
	Galveston, TX	
2960	Gary, IN	0.9641
	Lake, IN	
	Porter, IN	
2975	Glens Falls, NY	0.8562
	Warren, NY	
	Washington, NY	
2980	Goldsboro, NC	0.8393
	Wayne, NC	
2985	Grand Forks, ND–MN	0.9011
	Polk, MN	
	Grand Forks, ND	
2995	Grand Junction, CO	0.8336
	Mesa, CO	
3000	Grand Rapids-Muskegon-Holland, MI	1.0119
	Allegan, MI	
	Kent, MI	
	Muskegon, MI	
	Ottawa, MI	
3040	Great Falls, MT	0.8681
	Cascade, MT	
3060	Greeley, CO	0.9690
	Weld, CO	
3080	Green Bay, WI	0.9038
	Brown, WI	
3120	*Greensboro-Winston-Salem-High Point, NC	0.9332
	Alamance, NC	
	Davidson, NC	
	Davie, NC	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
	Forsyth, NC	
	Guilford, NC	
	Randolph, NC	
	Stokes, NC	
	Yadkin, NC	
3150	Greenville, NC	0.9078
	Pitt, NC	
3160	Greenville-Spartanburg-Anderson, SC	0.8927
	Anderson, SC	
	Cherokee, SC	
	Greenville, SC	
	Pickens, SC	
	Spartanburg, SC	
3180	Hagerstown, MD	0.9175
	Washington, MD	
3200	Hamilton-Middletown, OH	0.9490
	Butler, OH	
3240	Harrisburg-Lebanon-Carlisle, PA	1.0158
	Cumberland, PA	
	Dauphin, PA	
	Lebanon, PA	
	Perry, PA	
3283	*Hartford, CT	1.2367
	Hartford, CT	
	Litchfield, CT	
	Middlesex, CT	
	Tolland, CT	
3285	Hattiesburg, MS	0.7252
	Forrest, MS	
	Lamar, MS	
3290	Hickory-Morganton-Lenoir, NC	0.8626
	Alexander, NC	
	Burke, NC	
	Caldwell, NC	
	Catawba, NC	
3320	Honolulu, HI	1.1461
	Honolulu, HI	
3350	Houma, LA	0.7853
	Lafourche, LA	
	Terrebonne, LA	
3360	*Houston, TX	1.0000
	Chambers, TX	
	Fort Bend, TX	
	Harris, TX	
	Liberty, TX	
	Montgomery, TX	
	Waller, TX	
3400	Huntington-Ashland, WV–KY–OH	0.9174
	Boyd, KY	
	Carter, KY	
	Greenup, KY	
	Lawrence, OH	
	Cabell, WV	
	Wayne, WV	
3440	Huntsville, AL	0.8206
	Limestone, AL	
	Madison, AL	
3480	*Indianapolis, IN	0.9903
	Boone, IN	
	Hamilton, IN	
	Hancock, IN	
	Hendricks, IN	
	Johnson, IN	
	Madison, IN	
	Marion, IN	
	Morgan, IN	
	Shelby, IN	
3500	Iowa City, IA	0.9361
	Johnson, IA	
3520	Jackson, MI	0.9045
	Jackson, MI	
3560	Jackson, MS	0.7884

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
	Hinds, MS	
	Madison, MS	
	Rankin, MS	
3580	Jackson, TN	0.8288
	Madison, TN	
	Chester, TN	
3600	Jacksonville, FL	0.9086
	Clay, FL	
	Duval, FL	
	Nassau, FL	
	St. Johns, FL	
3605	Jacksonville, NC	0.7055
	Onslow, NC	
3610	Jamestown, NY	0.7670
	Chautaqua, NY	
3620	Janesville-Beloit, WI	0.8645
	Rock, WI	
3640	Jersey City, NJ	1.1382
	Hudson, NJ	
3660	Johnson City-Kingsport-Bristol, TN–VA	0.8884
	Carter, TN	
	Hawkins, TN	
	Sullivan, TN	
	Unicoi, TN	
	Washington, TN	
	Bristol City, VA	
	Scott, VA	
	Washington, VA	
3680	Johnstown, PA	0.8398
	Cambria, PA	
	Somerset, PA	
3700	Jonesboro, AR	0.7220
	Craighead, AR	
3710	Joplin, MO	0.7638
	Jasper, MO	
	Newton, MO	
3720	Kalamazoo-Battlecreek, MI	1.0542
	Calhoun, MI	
	Kalamazoo, MI	
	Van Buren, MI	
3740	Kankakee, IL	0.9115
	Kankakee, IL	
3760	*Kansas City, KS–MO	0.9478
	Johnson, KS	
	Leavenworth, KS	
	Miami, KS	
	Wyandotte, KS	
	Cass, MO	
	Clay, MO	
	Clinton, MO	
	Jackson, MO	
	Lafayette, MO	
	Platte, MO	
	Ray, MO	
3800	Kenosha, WI	0.9145
	Kenosha, WI	
3810	Killeen-Temple, TX	1.0392
	Bell, TX	
	Coryell, TX	
3840	Knoxville, TN	0.8502
	Anderson, TN	
	Blount, TN	
	Knox, TN	
	Loudon, TN	
	Sevier, TN	
	Union, TN	
3850	Kokomo, IN	0.8590
	Howard, IN	
	Tipton, IN	
3870	La Crosse, WI–MN	0.8618
	Houston, MN	
	La Crosse, WI	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
3880	Lafayette, LA	0.8163
	Acadia, LA	
	Lafayette, LA	
	St. Landry, LA	
	St. Martin, LA	
3920	Lafayette, IN	0.8781
	Clinton, IN	
	Tippecanoe, IN	
3960	Lake Charles, LA	0.8034
	Calcasieu, LA	
3980	Lakeland-Winter Haven, FL	0.8774
	Polk, FL	
4000	Lancaster, PA	0.9583
	Lancaster, PA	
4040	Lansing-East Lansing, MI	1.0010
	Clinton, MI	
	Eaton, MI	
	Ingham, MI	
4080	Laredo, TX	0.7073
	Webb, TX	
4100	Las Cruces, NM	0.8497
	Dona Ana, NM	
4120	*Las Vegas, NV–AZ	1.0870
	Mohave, AZ	
	Clark, NV	
	Nye, NV	
4150	Lawrence, KS	0.8597
	Douglas, KS	
4200	Lawton, OK	0.8365
	Comanche, OK	
4243	Lewiston-Auburn, ME	0.9410
	Androscoggin, ME	
4280	Lexington, KY	0.8293
	Bourbon, KY	
	Clark, KY	
	Fayette, KY	
	Jessamine, KY	
	Madison, KY	
	Scott, KY	
	Woodford, KY	
4320	Lima, OH	0.8732
	Allen, OH	
	Auglaize, OH	
4360	Lincoln, NE	0.9161
	Lancaster, NE	
4400	Little Rock-North Little Rock, AR	0.8597
	Faulkner, AR	
	Lonoke, AR	
	Pulaski, AR	
	Saline, AR	
4420	Longview-Marshall, TX	0.8645
	Gregg, TX	
	Harrison, TX	
	Upshur, TX	
4480*	Los Angeles-Long Beach, CA	1.2343
	Los Angeles, CA	
4520	Louisville, KY–IN	0.9447
	Clark, IN	
	Floyd, IN	
	Harrison, IN	
	Scott, IN	
	Bullitt, KY	
	Jefferson, KY	
	Oldham, KY	
4600	Lubbock, TX	0.8510
	Lubbock, TX	
4640	Lynchburg, VA	0.8052
	Amherst, VA	
	Bedford, VA	
	Bedford City, VA	
	Campbell, VA	
	Lynchburg City, VA	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
4680	Macon, GA	0.8824
	Bibb, GA	
	Houston, GA	
	Jones, GA	
	Peach, GA	
	Twiggs, GA	
4720	Madison, WI	1.0021
	Dane, WI	
4800	Mansfield, OH	0.8524
	Crawford, OH	
	Richland, OH	
4840	Mayaguez, PR	0.4215
	Anasco, PR	
	Cabo Rojo, PR	
	Hormigueros, PR	
	Mayaguez, PR	
	Sabana Grande, PR	
	San German, PR	
4880	McAllen-Edinburg-Mission, TX	0.8485
	Hidalgo, TX	
4890	Medford-Ashland, OR	1.0068
	Jackson, OR	
4900	Melbourne-Titusville-Palm Bay, FL	0.9068
	Brevard, Fl	
4920	*Memphis, TN–AR–MS	0.8166
	Crittenden, AR	
	DeSoto, MS	
	Fayette, TN	
	Shelby, TN	
	Tipton, TN	
4940	Merced, CA	1.0660
	Merced, CA	
5000	*Miami, FL	0.9938
	Dade, FL	
5015	*Middlesex-Somerset-Hunterdon, NJ	1.0883
	Hunterdon, NJ	
	Middlesex, NJ	
	Somerset, NJ	
5080	*Milwaukee-Waukesha, WI	0.9645
	Milwaukee, WI	
	Ozaukee, WI	
	Washington, WI	
	Waukesha, WI	
5120	*Minneapolis-St. Paul, MN–WI	1.0777
	Anoka, MN	
	Carver, MN	
	Chisago, MN	
	Dakota, MN	
	Hennepin, MN	
	Isanti, MN	
	Ramsey, MN	
	Scott, MN	
	Sherburne, MN	
	Washington, MN	
	Wright, MN	
	Pierce, WI	
	St. Croix, WI	
5160	Mobile, AL	0.7981
	Baldwin, AL	
	Mobile, AL	
5170	Modesto, CA	1.0600
	Stanislaus, CA	
5190	*Monmouth-Ocean, NJ	1.0833
	Monmouth, NJ	
	Ocean, NJ	
5200	Monroe, LA	0.8211
	Ouachita, LA	
5240	Montgomery, AL	0.7876
	Autauga, AL	
	Elmore, AL	
	Montgomery, AL	
5280	Muncie, IN	0.9714

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
	Delaware, IN	
5330	Myrtle Beach, SC	0.7790
	Horry, SC	
5345	Naples, FL	1.0199
	Collier, FL	
5360	*Nashville, TN	0.9081
	Cheatham, TN	
	Davidson, TN	
	Dickson, TN	
	Robertson, TN	
	Rutherford TN	
	Sumner, TN	
	Williamson, TN	
	Wilson, TN	
5380	*Nassau-Suffolk, NY	1.3547
	Nassau, NY	
	Suffolk, NY	
5483	*New Haven-Bridgeport-Stamford-Danbury-Waterbury, CT	1.2704
	Fairfield, CT	
	New Haven, CT	
5523	New London-Norwich, CT	1.2262
	New London, CT	
5560	*New Orleans, LA	0.9294
	Jefferson, LA	
	Orleans, LA	
	Plaquemines, LA	
	St. Bernard, LA	
	St. Charles, LA	
	St. James, LA	
	St. John Baptist, LA	
	St. Tammany, LA	
5600	*New York, NY	1.4154
	Bronx, NY	
	Kings, NY	
	New York, NY	
	Putnam, NY	
	Queens, NY	
	Richmond, NY	
	Rockland, NY	
	Westchester, NY	
5640	*Newark, NJ	1.1762
	Essex, NJ	
	Morris, NJ	
	Sussex, NJ	
	Union, NJ	
	Warren, NJ	
5660	Newburgh, NY–PA	1.0803
	Orange, NY	
	Pike, PA	
5720	*Norfolk-Virginia Beach-Newport News, VA–NC	0.8348
	Currituck, NC	
	Chesapeake City, VA	
	Gloucester, VA	
	Hampton City, VA	
	Isle of Wight, VA	
	James City, VA	
	Mathews, VA	
	Newport News City, VA	
	Norfolk City, VA	
	Poquoson City, VA	
	Portsmouth City, VA	
	Suffolk City, VA	
	Virginia Beach City VA	
	Williamsburg City, VA	
	York, VA	
5775	*Oakland, CA	1.4991
	Alameda, CA	
	Contra Costa, CA	
5790	Ocala, FL	0.9105
	Marion, FL	
5800	Odessa-Midland, TX	0.8482
	Ector, TX	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
	Midland, TX	
5880	*Oklahoma City, OK	0.8371
	Canadian, OK	
	Cleveland, OK	
	Logan, OK	
	McClain, OK	
	Oklahoma, OK	
	Pottawatomie, OK	
5910	Olympia, WA	1.0689
	Thurston, WA	
5920	Omaha, NE–IA	0.9480
	Pottawattamie, IA	
	Cass, NE	
	Douglas, NE	
	Sarpy, NE	
	Washington, NE	
5945	*Orange County, CA	1.1966
	Orange, CA	
5960	*Orlando, FL	0.9470
	Lake, FL	
	Orange, FL	
	Osceola, FL	
	Seminole, FL	
5990	Owensboro, KY	0.7575
	Daviess, KY	
6015	Panama City, FL	0.8061
	Bay, FL	
6020	Parkersburg-Marietta, WV–OH	0.7877
	Washington, OH	
	Wood, WV	
6080	Pensacola, FL	0.8202
	Escambia, FL	
	Santa Rosa, FL	
6120	Peoria-Pekin, IL	0.8905
	Peoria, IL	
	Tazewell, IL	
	Woodford, IL	
6160	*Philadelphia, PA–NJ	1.1237
	Burlington, NJ	
	Camden, NJ	
	Gloucester, NJ	
	Salem, NJ	
	Bucks, PA	
	Chester, PA	
	Delaware, PA	
	Montgomery, PA	
	Philadelphia, PA	
6200	*Phoenix-Mesa, AZ	0.9810
	Maricopa, AZ	
	Pinal, AZ	
6240	Pine Bluff, AR	0.7886
	Jefferson, AR	
6280	*Pittsburgh, PA	0.9701
	Allegheny, PA	
	Beaver, PA	
	Butler, PA	
	Fayette, PA	
	Washington, PA	
	Westmoreland, PA	
6323	Pittsfield, MA	1.0552
	Berkshire, MA	
6340	Pocatelo, ID	0.8784
	Bannock ID	
6360	Ponce, PR	0.4685
	Guayanilla, PR	
	Juana Diaz, PR	
	Penuelas, PR	
	Ponce, PR	
	Villalba, PR	
	Yauco, PR	
6403	Portland, ME	0.9619
	Cumberland, ME	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
	Sagadahoc, ME	
	York, ME	
6440	*Portland-Vancouver, OR–WA	1.1235
	Clackamas, OR	
	Columbia, OR	
	Multnomah, OR	
	Washington, OR	
	Yamhill, OR	
	Clark, WA	
6483	Providence-Warwick-Pawtucket, RI	1.1092
	Bristol, RI	
	Kent, RI	
	Newport, RI	
	Providence, RI	
	Washington, RI	
	Statewide, RI	
6520	Provo-Orem, UT	1.01116
	Utah, UT	
6560	Pueblo, CO	0.8284
	Pueblo, CO	
6580	Punta Gorda, FL	0.8999
	Charlotte, FL	
6600	Racine, WI	0.8835
	Racine, WI	
6640	Raleigh-Durham-Chapel Hill, NC	0.9728
	Chatham, NC	
	Durham, NC	
	Franklin, NC	
	Johnston, NC	
	Orange, NC	
	Wake, NC	
6660	Rapid City, SD	0.8455
	Pennington, SD	
6680	Reading, PA	0.9445
	Berks, PA	
6690	Redding, CA	1.1605
	Shasta, CA	
6720	Reno, NV	1.1018
	Washoe, NV	
6740	Richland-Kennewick-Pasco, WA	0.9970
	Benton, WA	
	Franklin, WA	
6760	Richmond-Petersburg, VA	0.9194
	Charles City County, VA	
	Chesterfield, VA	
	Colonial Heights City, VA	
	Dinwiddie, VA	
	Goochland, VA	
	Hanover, VA	
	Henrico, VA	
	Hopewell City, VA	
	New Kent, VA	
	Petersburg City, VA	
	Powhatan, VA	
	Prince George, VA	
	Richmond City, VA	
6780	*Riverside-San Bernardino, CA	1.1379
	Riverside, CA	
	San Bernardino, CA	
6800	Roanoke, VA	0.8702
	Botetourt, VA	
	Roanoke, VA	
	Roanoke City, VA	
	Salem City, VA	
6820	Rochester, MN	1.0428
	Olmsted, MN	
6840	*Rochester, NY	0.9649
	Genesee, NY	
	Livingston, NY	
	Monroe, NY	
	Ontario, NY	
	Orleans, NY	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
	Wayne, NY	
6880	Rockford, IL	0.8994
	Boone, IL	
	Ogle, IL	
	Winnebago, IL	
6895	Rocky Mount, NC	0.8955
	Edgecombe, NC	
	Nash, NC	
6920	*Sacramento, CA	1.2351
	El Dorado, CA	
	Placer, CA	
	Sacramento, CA	
6960	Saginaw-Bay City-Midland, MI	0.9612
	Bay, MI	
	Midland, MI	
	Saginaw, MI	
6980	St. Cloud, MN	0.9457
	Benton, MN	
	Stearns, MN	
7000	St. Joseph, MO	0.8551
	Andrews, MO	
	Buchanan, MO	
7040	*St. Louis, MO–IL	0.9022
	Clinton, IL	
	Jersey, IL	
	Madison, IL	
	Monroe, IL	
	St. Clair, IL	
	Franklin, MO	
	Jefferson, MO	
	Lincoln, MO	
	St. Charles, MO	
	St. Louis, MO	
	St. Louis City, MO	
	Warren, MO	
7080	Salem, OR	0.9728
	Marion, OR	
	Polk, OR	
7120	Salinas, CA	1.3803
	Monterey, CA	
7160	*Salt Lake City-Ogden, UT	0.9677
	Davis, UT	
	Salt Lake, UT	
	Weber, UT	
7200	San Angelo, TX	0.7577
	Tom Green, TX	
7240	*San Antonio, TX	0.8390
	Bexar, TX	
	Comal, TX	
	Guadalupe, TX	
	Wilson, TX	
7320	*San Diego, CA	1.2134
	San Diego, CA	
7360	*San Francisco, CA	1.4260
	Marin, CA	
	San Francisco, CA	
	San Mateo, CA	
7400	*San Jose, CA	1.4519
	Santa Clara, CA	
7440	*San Juan-Bayamon, PR	0.4506
	Aguas Buenas, PR	
	Barceloneta, PR	
	Bayamon, PR	
	Canovanas, PR	
	Carolina, PR	
	Catano, PR	
	Ceiba, PR	
	Comerio, PR	
	Corozal, PR	
	Dorado, PR	
	Fajardo, PR	
	Florida, PR	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
	Guaynabo, PR	
	Humacao, PR	
	Juncos, PR	
	Los Piedras, PR	
	Loiza, PR	
	Luguillo, PR	
	Manati, PR	
	Morovis, PR	
	Naguabo, PR	
	Naranjito, PR	
	Rio Grande, PR	
	San Juan, PR	
	Toa Alta, PR	
	Toa Baja, PR	
	Trujillo Alto, PR	
	Vega Alta, PR	
	Vega Baja, PR	
	Yabucoa, PR	
7460	San Luis Obispo-Atascadero-Paso Robles, CA	1.1561
	San Luis Obispo, CA	
7480	Santa Barbara-Santa Maria-Lompoc, CA	1.1242
	Santa Barbara, CA	
7485	Santa Cruz-Watsonville, CA	1.3520
	Santa Cruz, CA	
7490	Santa Fe, NM	1.0823
	Los Alamos, NM	
	Santa Fe, NM	
7500	Santa Rosa, CA	1.2526
	Sonoma, CA	
7510	Sarasota-Bradenton, FL	0.9789
	Manatee, FL	
	Sarasota, FL	
7520	Savannah, GA	0.9649
	Bryan, GA	
	Chatham, GA	
	Effingham, GA	
7560	Scranton-Wilkes-Barre-Hazleton, PA	0.8752
	Columbia, PA	
	Lackawanna, PA	
	Luzerne, PA	
	Wyoming, PA	
7600	*Seattle-Bellevue-Everett, WA	1.1384
	Island, WA	
	King, WA	
	Snohomish, WA	
7610	Sharon, PA	0.8885
	Mercer, PA	
7620	Sheboygan, WI	0.7764
	Sheboygan, WI	
7640	Sherman-Denison, TX	0.8614
	Grayson, TX	
7680	Shreveport-Bossier City, LA	0.9359
	Bossier, LA	
	Caddo, LA	
	Webster, LA	
7720	Sioux City, IA–NE	0.8313
	Woodbury, IA	
	Dakota, NE	
7760	Sioux Falls, SD	0.8620
	Lincoln, SD	
	Minnehaha, SD	
7800	South Bend, IN	0.9934
	St. Joseph, IN	
7840	Spokane, WA	1.0524
	Spokane, WA	
7880	Springfield, IL	0.8671
	Menard, IL	
	Sangamon, IL	
7920	Springfield, MO	0.7823
	Christian, MO	
	Greene, MO	
	Webster, MO	

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
8003	Springfield, MA	1.0586
	Hampden, MA	
	Hampshire, MA	
8050	State College, PA	0.9538
	Centre, PA	
8080	Steubenville-Weirton, OH–WV	0.8266
	Jefferson, OH	
	Brooke, WV	
	Hancock, WV	
8120	Stockton-Lodi, CA	1.1330
	San Joaquin, CA	
8140	Sumter, SC	0.7699
	Sumter, SC	
8160	Syracuse, NY	0.9395
	Cayuga, NY	
	Madison, NY	
	Onondaga, NY	
	Oswego, NY	
8200	Tacoma, WA	1.0860
	Pierce, WA	
8240	Tallahassee, FL	0.8313
	Gadsden, FL	
	Leon, FL	
8280	*Tampa-St. Petersburg-Clearwater, FL	0.9250
	Hernando, FL	
	Hillsborough, FL	
	Pasco, FL	
	Pinellas, FL	
8320	Terre Haute, IN	0.8591
	Clay, IN	
	Vermillion, IN	
	Vigo, IN	
8360	Texarkana, AR-Texarkana, TX	0.8503
	Miller, AR	
	Bowie, TX	
8400	Toledo, OH	1.0361
	Fulton, OH	
	Lucas, OH	
	Wood, OH	
8440	Topeka, KS	1.0086
	Shawnee, KS	
8480	Trenton, NJ	1.0549
	Mercer, NJ	
8520	Tucson, AZ	0.9068
	Pima, AZ	
8560	Tulsa, OK	0.8095
	Creek, OK	
	Osage, OK	
	Rogers, OK	
	Tulsa, OK	
	Wagoner, OK	
8600	Tuscaloosa, AL	0.7784
	Tuscaloosa, AL	
8640	Tyler, TX	0.9996
	Smith, TX	
8680	Utica-Rome, NY	0.8413
	Herkimer, NY	
	Oneida, NY	
8720	Vallejo-Fairfield-Napa, CA	1.3947
	Napa, CA	
	Solano, CA	
8735	Ventura, CA	1.1454
	Ventura, CA	
8750	Victoria, TX	0.8393
	Victoria, TX	
8760	Vineland-Millville-Bridgeton, NJ	0.9993
	Cumberland, NJ	
8780	Visalia-Tulare-Porterville, CA	1.0151
	Tulare, CA	
8800	Waco, TX	0.7772
	McLennan, TX	
8840	*Washington, DC–MD–VA–WV	1.0823

TABLE 4a.—WAGE INDEX FOR URBAN AREAS—Continued

	Urban area (Constituent counties or county equivalents)	Wage index
	District of Columbia, DC	
	Calvert, MD	
	Charles, MD	
	Frederick, MD	
	Montgomery, MD	
	Prince Georges, MD	
	Alexandria City, VA	
	Arlington, VA	
	Clarke, VA	
	Culpepper, VA	
	Fairfax, VA	
	Fairfax City, VA	
	Falls Church City, VA	
	Fauquier, VA	
	Fredericksburg City, VA	
	King George, VA	
	Loudoun, VA	
	Manassas City, VA	
	Manassas Park City, VA	
	Prince William, VA	
	Spotsylvania, VA	
	Stafford, VA	
	Warren, VA	
	Berkeley, WV	
	Jefferson, WV	
8920	Waterloo-Cedar Falls, IA	0.8705
	Black Hawk, IA	
8940	Wausau, WI	1.0323
	Marathon, WI	
8960	West Palm Beach-Boca Raton, FL	1.0202
	Palm Beach, FL	
9000	Wheeling, OH–WV	0.7563
	Belmont, OH	
	Marshall, WV	
	Ohio, WV	
9040	Wichita, KS	0.9369
	Butler, KS	
	Harvey, KS	
	Sedgwick, KS	
9080	Wichita Falls, TX	0.8041
	Archer, TX	
	Wichita, TX	
9140	Williamsport, PA	0.8467
	Lycoming, PA	
9160	Wilmington-Newark, DE–MD	1.1315
	New Castle, DE	
	Cecil, MD	
9200	Wilmington, NC	0.9046
	New Hanover, NC	
	Brunswick, NC	
9260	Yakima, WA	1.0026
	Yakima, WA	
9270	Yolo, CA	1.1444
	Yolo, CA	
9280	York, PA	0.9104
	York, PA	
9320	Youngstown-Warren, OH	0.9742
	Columbiana, OH	
	Mahoning, OH	
	Trumbull, OH	
9340	Yuba City, CA	1.0414
	Sutter, CA	
	Yuba, CA	
9360	Yuma, AZ	0.9497
	Yuma, AZ	

*Large Urban Area.

TABLE 4b.—WAGE INDEX FOR RURAL AREAS

Nonurban area	Wage index
Alabama	0.7122
Alaska	1.2444
Arizona	0.7928
Arkansas	0.6954
California	1.0002
Colorado	0.8092
Connecticut	1.2759
Delaware	0.9447
Florida	0.8668
Georgia	0.7653
Hawaii	1.0245
Idaho	0.8277
Illinois	0.7553
Indiana	0.8124
Iowa	0.7373
Kansas	0.7107
Kentucky	0.7753
Louisiana	0.7232
Maine	0.8317
Maryland	0.8427
Massachusetts	1.0070
Michigan	0.8830
Minnesota	0.8144
Mississippi	0.6793
Missouri	0.7261
Montana	0.8128
Nebraska	0.7214
Nevada	0.8775
New Hampshire	0.9745
New Jersey [1]	
New Mexico	0.8000
New York	0.8558
North Carolina	0.7950
North Dakota	0.7358
Ohio	0.8332
Oklahoma	0.6942
Oregon	0.9664
Pennsylvania	0.8453
Puerto Rico	0.4026
Rhode Island [1]	
South Carolina	0.7668
South Dakota	0.7063
Tennessee	0.7341
Texas	0.7462
Utah	0.8848
Vermont	0.8921
Virginia	0.7713
Washington	0.9933
West Virginia	0.7904
Wisconsin	0.8430
Wyoming	0.8177

[1] All counties within the State are classified urban.

TABLE 5.—COST REPORTING YEAR ADJUSTMENT FACTOR [1]

If the HHA cost reporting period begins	The adjustment factor is
August 1, 1997	1.00251
September 1, 1997	1.00509
October 1, 1997	1.00771
November 1, 1997	1.01038
December 1, 1997	1.01311
January 1, 1998	1.01588
February 1,1998	1.01871
March 1, 1998	1.02154
April 1, 1998	1.02435

TABLE 5.—COST REPORTING YEAR ADJUSTMENT FACTOR [1]—Continued

If the HHA cost reporting period begins	The adjustment factor is
May 1, 1998	1.02714
June 1, 1998	1.02993

[1] Based on compounded projected market basket inflation rates.

These adjustment factors are subject to change based on later estimates of cost increases.

If, for any reason, we do not publish a new schedule of limits to be effective on July 1, 1998 or do not announce other changes in the current schedule by that date, the current limits will continue in effect. Intermediaries will be notified of the adjustment factors to be applied until a new schedule of limits or other provision is issued.

TABLE 6.—MONTHLY INDEX LEVELS FOR CALCULATING INFLATION FACTORS TO BE APPLIED TO HOME HEALTH AGENCY COST LIMITS

Month	Index level
July 1997	1.12866
August 1997	1.13200
September 1997	1.13499
October 1997	1.13799
November 1997	1.14100
December 1997	1.14499
January 1998	1.14899
February 1998	1.15300
March 1998	1.15500
April 1998	1.15700
May 1998	1.15900
June 1998	1.16266
July 1998	1.16632
August 1998	1.17000
September 1998	1.17299
October 1998	1.17599
November 1998	1.17900
December 1998	1.18266
January 1999	1.18632
February 1999	1.19000
March 1999	1.19233
April 1999	1.19466
May 1999	1.19700

Source: DRI/McGraw-Hill HCC, 1st QTR 1996; @USSIM/TREND 25YR0296 @CISSIM/CONTROL961.

XI. Regulatory Impact Statement

For notices such as this, we generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless we certify that the notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all HHAs are treated as small entities.

As discussed below, this notice has an impact of less than $5 million on aggregate Medicare expenditures and we have no evidence that the economic impact on most HHAs will be significant. Moreover, this notice is necessary to implement the provisions of section 1861(v)(1)(L) of the Act; thus no alternatives to the provisions set forth in this notice are available. However, because this notice may have some effect on a large number of providers, we are providing a voluntary regulatory flexibility analysis.

This notice with comment period sets forth a revised schedule of HHA cost limits for cost reporting periods beginning on or after July 1, 1997. The methodology used to develop the schedule of limits set forth in this notice is the same as that used in setting the limits effective July 1, l996. In accordance with section 1861(v)(1)(L)(I) of the Act, we are continuing to set the limits not to exceed 112 percent of the mean of the labor-related and nonlabor per-visit costs for freestanding HHAs. As required by section 1861(v)(1)(L)(iii) of the Act, we are using the most recent hospital wage index to calculate the HHA cost limits, that is, the hospital wage index effective for discharges on or after October 1, 1996, which is based on 1993 wage survey data. The wage index is used to adjust the labor-related portion of the limits to reflect differing wage levels among areas. As discussed in section II. of this notice, we are applying a budget neutrality adjustment factor of 1.078 to the labor-related portion of the limits to ensure that aggregate payments to HHAs are not affected by the updating of the wage index. Based on the database used to calculate the cost limits, there is no significant discernable redistribution of expenditures between types of agencies (freestanding or hospital-based) or regions as a result of this notice.

We are using settled cost report data from Medicare cost reports for cost reporting periods ending on or after June 30, 1991, and settled before October 1, 1995, to develop the HHA cost-per visit limit values for each type of home health service: skilled nursing care, physical therapy, speech pathology, occupational therapy, medical social services, and home health aide. The majority of the cost reports were from FY 1993. The data have been adjusted by the most recent market basket factors to reflect the expected cost increases occurring between the cost reporting periods for the data contained in the database and June 30, 1998. The intermediary determines the aggregate cost limit for each HHA by multiplying the number of Medicare visits for each type of service furnished by the HHA by the respective

per-visit cost limit. Each HHA's aggregate limit cannot be determined prospectively, but depends on each HHA's Medicare visits for each type of service and actual costs for the cost reporting period subject to this notice.

The methodology used to calculate these new limits is the same as the 1996 cost limit methodology. The projected aggregate Medicare expenditures under the new limits are approximately equal to the projected aggregate expenditures under the old limits in effect for cost reporting periods beginning on or after July 1, 1996, updated by the market basket increases since those limits took effect. In the absence of this notice, these market basket increases will still take effect under current law. Therefore, this notice is expected to change Medicare expenditures by less than $5 million.

The cost limits for HHAs are statutorily driven and the impact of the market basket increases has already been reflected in the current law baseline of the President's FY 1998 budget.

We are unable to identify the effects of changes to the cost limits on individual HHAs. In general, we believe that most HHAs will experience small revenue increases under the new limits; the degree of that increase will vary depending on the proportion of an HHA's revenues that come from Medicare, the distribution of services provided by the HHA, and the HHA's ability to operate within the cost limits. As stated earlier, there is no significant discernable redistribution effect between freestanding and hospital-based home health agencies in the aggregate.

Table 7 below illustrates the proportion of HHAs that are likely to be affected by the limits. The results are based on both the data used to determine the limits and all available settled hospital-based cost reports for the same time period:

TABLE 7.—HHAS EXCEEDING THE COST LIMITS

	HHAs in database	HHAs exceeding the limits	Percentage of HHAs exceeding the limits
Total HHAs	4986	1569	31
Freestanding	3202	698	22
Hospital-based	1784	871	49

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital located outside a Metropolitan Statistical Area with fewer than 50 beds.

We are not preparing a rural impact statement because we have determined, and certify, that this notice will not have a significant impact on a substantial number of rural hospitals.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

XII. Other Required Information

A. Waiver of Proposed Notice

In adopting notices such as this, we ordinarily publish a proposed notice in the **Federal Register** with a 60-day period for public comment as required under section 1871(b)(1) of the Act. However, we may waive this procedure if we find good cause that prior notice and comment are impracticable, unnecessary or contrary to public interest.

Section 1861(v)(1)(L)(iii) of the Act requires that the Secretary establish revised HHA cost limits for cost reporting periods beginning on or after July 1, 1991 and annually thereafter (except for cost reporting periods beginning on or after July 1, 1994 and before July 1, 1996). As discussed in section III above, in accordance with the statute, we have used the same methodology to develop the schedule of limits that was used in setting the limits effective for cost reporting periods beginning on or after July 1, 1996. The cost limits have been updated by the appropriate market basket adjustment factor to reflect the cost increases occurring between the cost reporting periods for the data contained in the database and June 30, 1998. In addition, as required under section 1861(v)(1)(L)(iii) of the Act, we have updated the wage index using the most recent hospital wage index.

If HHAs are to receive timely the benefits of these new cost limits based on the updated wage index and market basket adjustment factors, it is necessary that these limits be published in time to take effect for cost reporting periods beginning on or after July 1, 1997. Because the methodology used to develop this schedule of limits is for the most part dictated by the statute and has been previously published for public comment, we believe that in this instance it would be impracticable, unnecessary and contrary to the public interest to publish a proposed notice. Therefore, we find good cause to waive publication of a proposed notice. However, we are providing a 60-day period for public comment, as indicated at the beginning of this notice.

C. Public Comments

Because of the large number of items of correspondence we normally receive on a notice with comment period, we are not able to acknowledge or respond to them individually. However, we will consider all comments concerning the provisions of this notice that we receive by the date and time specified in the **DATES** section of this notice, and we will respond to those comments in a subsequent notice.

Authority: Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)); section 4207(d) of Pub. L. 101–508 (42 U.S.C. 1395x (note)).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance)

Dated: April 9, 1997.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: April 30, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–17235 Filed 6–30–97; 8:45 am]

BILLING CODE 4120–01–P

federal register

Tuesday
July 1, 1997

Part VI

Department of Education

National Institute on Disability and Rehabilitation Research; Final Funding Priorities for Fiscal Years 1997–1998 for Rehabilitation Research and Training Centers and a Knowledge Dissemination and Utilization Project; and Office of Special Education and Rehabilitative Services; Inviting Applications for New Awards Under Certain Programs for Fiscal Year 1997; Notices

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Notice of Final Funding Priorities for Fiscal Years 1997–1998 for Rehabilitation Research and Training Centers and a Knowledge Dissemination and Utilization Project

AGENCY: Department of Education.

SUMMARY: The Secretary announces final funding priorities for the Rehabilitation Research and Training Center (RRTC) Program and the Knowledge Dissemination and Utilization (D&U) Program under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1997–1998. The Secretary takes this action to focus research attention on areas of national need to improve rehabilitation services and outcomes for individuals with disabilities, and to assist in the solutions to problems encountered by individuals with disabilities in their daily activities.

EFFECTIVE DATE: These priorities take effect on July 31, 1997.

FOR FURTHER INFORMATION CONTACT: David Esquith. Telephone: (202) 205–8801. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–2742. Internet: David__Esquith@ed.gov.

SUPPLEMENTARY INFORMATION: This notice contains final priorities to establish RRTCs for research related to persons who are late-deafened (L–D) or hard-of-hearing (HOH), substance abuse, and rural rehabilitation. In addition there is a D&U project on parenting.

These final priorities support the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Note: This notice of final priorities does not solicit applications. A notice inviting applications under these competitions is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

On April 21, 1997, the Secretary published a notice of proposed priorities in the **Federal Register** (62 FR 19432–19439). The Department of Education received 19 letters commenting on the notice of proposed priorities by the deadline date. Three additional comments were received after the deadline date and were not considered in this response. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under statutory authority—are not addressed.

Rehabilitation Research and Training Centers

Priority 1: Maintaining the Employment Status and Addressing the Personal Adjustment Needs of Individuals Who Are Late-Deafened or Hard-of-Hearing

Comment: Three commenters made a number of different suggestions about the experience and expertise of the RRTC's key personnel. They suggested that key personnel: have extensive experience with vocational rehabilitation policies and procedures at the Federal and State level; have experience working with children who are HOH or L–D enrolled in mainstream programs; include individuals who are L–D; and include individuals who have demonstrated background, interest, and skill working with individuals who are L–D or HOH.

Discussion: The peer review process evaluates the degree to which an applicant's key personnel are qualified to accomplish the purposes of the priority. The selection criteria for RRTCs are used to determine the degree to which: the staffing plan for the Center provides evidence that the project director, research director, training director, principal investigators, and other personnel have appropriate training and experience in disciplines required to conduct the proposed activities; the commitment of staff time is adequate to conduct all proposed activities; and the Center, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping conditions. These selection criteria address the issues raised by the commenters, and no further requirements are necessary.

Changes: None.

Comment: Five commenters suggested that the RRTC should address the needs of adolescents and young adults who are L–D or HOH. The commenters indicated that recent research suggests that for a significant number of young people hearing loss may be taking place earlier than previously expected and may go undiagnosed for extended periods of time. The commenters indicated that very little research has been conducted on the personal adjustment needs of adolescents and young adults who are L–D or HOH.

Discussion: There is a need for research and training on personal adjustment and, to a lesser extent, employment issues affecting adolescents and young adults who are L–D or HOH. It is desirable and feasible to expand the scope of RRTC's work in the area of personal adjustment and in transition-related employment areas to address the needs of adolescents and young adults who are L–D or HOH.

Changes: The priority has been changed to require the RRTC, where appropriate, to address the needs of adolescents and young adults who are L–D or HOH.

Comment: Three commenters suggested that the priority distinguish between the personal adjustment needs and mental health needs of persons who are L–D or HOH.

Discussion: In order to provide applicants with general guidance, at various points the background statement elaborates on issues related to personal adjustment. Parts of that guidance refer to issues that are commonly understood as mental health issues (e.g., feelings of alienation, alcohol and drug abuse). However, ''personal adjustment'' is not defined, and the term ''mental health'' is not used in the priority in order to provide applicants with the discretion to propose the specific parameters of the research and training the RRTC will conduct in this area. The peer review process will evaluate the merits of each applicant's view of personal adjustment issues affecting persons who are L–D or HOH.

Changes: None.

Comment: Three commenters suggested that the RRTC address not only maintaining employment for persons who are L–D or HOH, but also underemployment and unemployment.

Discussion: In regard to employment, the focus of the RRTC is maintenance of employment status because the majority of the target population are employed when they begin to experience hearing loss and because research has determined that interventions that effect maintenance of employment are more effective than restorative interventions. However, the first activity of the priority refers to ''employment status'' and provides applicants with the authority to propose research and training on other aspects of employment, so long as such activities are in addition to those related to maintenance of employment.

Changes: None.

Comment: Three commenters suggested specific disability organizations that the RRTC should consult with or include in their training and technical assistance activities.

Discussion: The fifth activity requires the RRTC to provide training and technical assistance to organizations representing persons who are L–D or HOH. There are a large number of

organizations representing the interests of persons who are L–D and HOH, and applicants have the discretion to select the organizations that will participate in their training and technical assistance activities. The peer review process will determine the merits of their selections.

As necessary, all RRTCs are expected to consult with a wide range of entities. NIDRR declines to single out specific organizations for this purpose.

Changes: None.

Comment: The RRTC should be required to consult with NIDRR grantees addressing the needs of persons who are deaf including the RRTC for Persons Who Are Deaf or HOH.

Discussion: The priority includes a requirement, in part, to coordinate with NIDRR's other research projects that address the needs of individuals who are L–D or HOH. There are areas of research common to persons who are L–D, HOH, and deaf, and research projects addressing the needs of persons who are deaf should be included in this coordination requirement.

Changes: The priority has been revised to require the RRTC to coordinate with NIDRR research projects addressing the needs of individuals who are deaf.

Comment: Two commenters recommended changes to the definitions of L–D and HOH, and a third commenter suggested that the RRTC generate definitions of L–D and HOH based on research. The first commenter recommended that the definition be revised to recognize that the needs of persons who are L–D or HOH may include issues related to deaf culture and the need for appropriate accommodations. The second commenter recommended that the definition of HOH be revised to indicate that these individuals can understand conversational speech ''through the ear'' in order to clearly distinguish this population from persons who are late-deafened and can speechread.

Discussion: The definitions that are included in the background statement are purposefully broad in order to provide applicants with the discretion to refine their approach to the RRTC's target population. Applicants have the discretion to propose research that incorporates the idea that needs of persons who are L–D or HOH may include issues related to deaf culture and the need for appropriate accommodations. In addition, an applicant may propose to distinguish the needs of persons who are HOH from those who are L–D, in part, by their ability to understand normal conversation ''through the ear.'' While these two recommendations are reasonable refinements of the definitions included in the priority, there are many others that could be proposed, and there is no compelling reason to require all applicants to utilize the two that were recommended.

In regard to the recommendation for the RRTC to generate a definition of L–D and HOH based on research, an applicant could propose to conduct this research as long at it furthered the purposes of the RRTC as set forth in the priority. The peer review process will evaluate the merits of such a project.

Changes: None.

Comment: One commenter recommended using a different database to indicate the number of persons who are L–D or HOH, and a second commenter indicated that the Bureau of the Census data underestimated the number of persons who have a functional limitation in hearing normal conversation because many people may fail to realize they have a mild hearing loss.

Discussion: The priority cites data from the Bureau of the Census, the National Center for Health Statistics, and the Association of Late-Deafened Adults. Neither commenter presented compelling evidence to indicate that these databases are incorrect.

Changes: None.

Comment: The RRTC should address the needs of various racial and ethnic groups who are L–D or HOH.

Discussion: By statute, each applicant must demonstrate how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds. No further requirements are necessary to address the commenter's concern.

Changes: None.

Comment: Five commenters suggested numerous specific activities for the RRTC to carry out. These suggestions include, but are not limited to, specific age group focus, development of educational materials, incidence studies, model demonstrations, and family dynamics.

Discussion: Applicants have the discretion to propose the specific activities that the RRTC will undertake in order to fulfill the purposes of the RRTC as set forth in the priority. Providing this degree of discretion to applicants is an acknowledgement of the wide range of approaches that applicants could take. The peer review process will determine the merits of the suggested activities.

Changes: None.

Comment: All of the RRTC's activities and information should be fully accessible to individuals who are deaf, L–D, or HOH.

Discussion: All of NIDRR's grantees must conduct all activities in a manner that is accessible to and usable by individuals with disabilities. No further requirements are necessary.

Changes: None.

Comment: The RRTC should be capable of rigorous scientific research combined with a strong commitment to consumer involvement with equal attention given to individuals who are L–D and HOH.

Discussion: Using the relevant selection criteria, the peer review process will evaluate the quality of the research design that an applicant proposes. No further requirements are necessary to ensure the scientific rigor of the RRTC's research activities.

In regard to consumer involvement, the general requirements for all RRTCs state that the RRTC must involve individuals with disabilities and, if appropriate, their family members, as well as rehabilitation service providers, in planning and implementing the research and training programs, in interpreting and disseminating the research findings, and in evaluating the Center.

In regard to providing equal attention to individuals who are L–D and HOH, each applicant is expected to propose and justify its allocation of research and training efforts, which must include attention to both population groups. The peer review process will evaluate the merits of this allocation.

Changes: None.

Priority 3: Improving Employment and Independent Living Outcomes for Persons With Disabilities in Rural Areas

Comment: The project should include a scientifically valid, credible, and outcome-based evaluation program.

Discussion: Applicants have the discretion to propose the RRTC's plan of evaluation. Plans of evaluation that are scientifically valid, credible, and outcome-based are consistent with the plan of evaluation selection criteria for RRTCs. These selection criteria are used to determine the degree to which the plan for evaluation of the Center provides for an annual assessment of the outcomes of the research, the impact of the training and dissemination activities on the target populations, and the extent to which the overall objectives have been accomplished.

Changes: None.

Comment: The third, fourth and six activities specifically call for the development of new strategies and services, while the first, second, and fifth activities require the project to carry out identification, analysis, and evaluation activities. May a project carry

out additional activities than those included in priority?

Discussion: An applicant must propose to address each of the specific activities included in the priority, but may propose additional activities as well.

Changes: None.

Comment: The fifth activity refers to people with ''significant'' disabilities. Is this term synonymous with ''severe'' disabilities, and is it NIDRR's intent to restrict the fifth activity to services affecting only persons with significant disabilities?

Discussion: The terms ''severe'' and ''significant'' are used synonymously. By statute, NIDRR research must have a particular emphasis on problems of individuals with severe disabilities. This provision applies equally to all priorities in all Centers. The fifth activity of the proposed priority unnecessarily restricted the RRTC to address services provided to persons with significant disabilities.

Changes: The reference to persons with significant disabilities in the fifth activity has been eliminated.

Comment: One commenter suggested that the collaboration requirement should be broadened to include other Federal agencies, in addition to USDA and DHHS, that may be carrying out projects related to persons with disabilities in rural areas. A second commenter suggested broadening the collaboration requirement to include RRTCs that address the needs of underserved and minority populations of consumers with disabilities.

Discussion: The priority establishes the minimum collaboration requirements that the project must meet. While an applicant may choose to propose to undertake additional collaborative activities, including those suggested by the commenters, additional collaboration is not specifically required by NIDRR.

Changes: None.

Comment: Is it NIDRR's intent to restrict training and information services to the entities included in the sixth activity, and to limit training activities?

Discussion: An applicant must propose to provide training and information services to the entities identified in the sixth activity, but may propose to provide training and information services to additional entities. In regard to the nature of the training activities, an applicant may propose to undertake a variety of training activities, and the peer review process will evaluate the merits of the activities.

Changes: None.

Comment: A seventh activity should be added to the priority, requiring the RRTC to identify, evaluate, develop, and disseminate information about appropriate assistive technology that enables persons with disabilities living in rural areas to live more independently and improve their employment outcomes.

Discussion: Access to assistive technology is an important issue, and an applicant could propose to integrate assistive technology into the fourth and fifth activities of the priority. Adding a seventh activity to the priority related exclusively to assistive technology would significantly limit the RRTC's capacity to carry out the six activities in the priority.

Changes: None.

Comment: While the third activity addresses the participation of persons with disabilities in local public planning for community development, it should include service providers such as independent living centers and vocational rehabilitation agencies.

Discussion: An applicant may propose to include service providers in the strategies that are developed to increase participation of persons with disabilities in local planning for community development. The peer review process will evaluate merits of the proposal. There is insufficient information regarding the role of service providers in local public planning for community development to warrant requiring all applicants to include them.

Changes: None.

Priority 4: Parenting With a Disability Technical Assistance Center

Comment: The priority should specifically include ''research'' among the information that the Center identifies, disseminates, and synthesizes across various activities in the priority.

Discussion: The background statement clearly indicates that the Center should utilize research findings in its various information dissemination activities. It would be redundant to include ''research'' among the specific activities included in the priority.

Changes: None.

Comment: Pre-service training activities should have a relatively equal weight with the other training activities required by the Center.

Discussion: Each applicant is expected to propose and justify its allocation of training efforts, which must include attention to organizations and institutions of higher education that provide pre-service and in-service training. The peer review process will evaluate the merits of this allocation.

Changes: None.

Comment: The inter-disciplinary focus of the priority should be wider and include related health service providers such as occupational therapists, physical therapists, speech and language pathologists, and psychologists.

Discussion: The priority refers to a range of ''fields of social services, law, and medicine.'' The health service providers included in the comment fall within this range.

Changes: None.

Comment: It is important to emphasize the importance of technical competence, access to technology resources, and potential for multi-site national collaboration of the successful applicant.

Discussion: All of the characteristics included in the comment are within the purview of the application review process.

Changes: None.

Rehabilitation Research and Training Centers

Authority for the RRTC program of NIDRR is contained in section 204(b)(2) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762). Under this program the Secretary makes awards to public and private organizations, including institutions of higher education and Indian tribes or tribal organizations for coordinated research and training activities. These entities must be of sufficient size, scope, and quality to effectively carry out the activities of the Center in an efficient manner consistent with appropriate State and Federal laws. They must demonstrate the ability to carry out the training activities either directly or through another entity that can provide that training.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

Under the regulations for this program (see 34 CFR 352.32) the Secretary may establish research priorities by reserving funds to support particular research activities.

Description of the Rehabilitation Research and Training Center Program

RRTCs are operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services. RRTCs serve

as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates or authorized representatives of the individuals.

RRTCs conduct coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, to alleviate or stabilize disabling conditions, and to promote maximum social and economic independence of individuals with disabilities.

RRTCs provide training, including graduate, pre-service, and in-service training, to assist individuals to more effectively provide rehabilitation services. They also provide training including graduate, pre-service, and in-service training, for rehabilitation research personnel and other rehabilitation personnel.

RRTCs serve as informational and technical assistance resources to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of these individuals through conferences, workshops, public education programs, in-service training programs and similar activities.

NIDRR encourages all Centers to involve individuals with disabilities and minorities as recipients in research training, as well as clinical training.

Applicants have considerable latitude in proposing the specific research and related projects they will undertake to achieve the designated outcomes. However, the regulatory selection criteria for the program (34 CFR 352.31) state that the Secretary reviews the extent to which applicants justify their choice of research projects in terms of the relevance to the priority and to the needs of individuals with disabilities. The Secretary also reviews the extent to which applicants present a scientific methodology that includes reasonable hypotheses, methods of data collection and analysis, and a means to evaluate the extent to which project objectives have been achieved.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

General

The following requirements will apply to these RRTCs pursuant to the priorities unless noted otherwise:

Each RRTC must conduct an integrated program of research to develop solutions to problems confronted by individuals with disabilities.

Each RRTC must conduct a coordinated and advanced program of training in rehabilitation research, including training in research methodology and applied research experience, that will contribute to the number of qualified researchers working in the area of rehabilitation research.

Each RRTC must disseminate and encourage the use of new rehabilitation knowledge. They must publish all materials for dissemination or training in alternate formats to make them accessible to individuals with a range of disabling conditions.

Each RRTC must involve individuals with disabilities and, if appropriate, their family members, as well as rehabilitation service providers, in planning and implementing the research and training programs, in interpreting and disseminating the research findings, and in evaluating the Center.

Priorities

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet one of the following priorities. The Secretary will fund under these competitions only applications that meet one of these absolute priorities:

Priority 1: Maintaining the Employment Status and Addressing the Personal Adjustment Needs of Individuals Who are Late-Deafened or Hard-of-Hearing

Background

Individuals whose hearing is impaired, but who can understand conversational speech with, or without, amplification are hard-of-hearing (HOH). Adults who are late-deafened (L–D) become deaf after having experienced hearing as well as speech and language development. Adults who are late-onset HOH and those who are L–D have common and different employment-related and personal adjustment needs. A third group of persons who are considered hearing impaired are those persons who are prelingually deaf. Because the prelingually deaf have been and continue to be the focus of other NIDRR-funded research, this proposed priority is for research that addresses the needs of adults who are L–D or late-onset HOH.

According to data from the Bureau of the Census, the number of individuals who have a functional limitation in hearing normal conversation is approximately 10.9 million (McNeil, J., ''Americans with Disabilities: 1991–1992,'' *Household Economic Studies*, P70–33, December, 1993). The National Center for Health Statistics (NCHS) estimates the number of persons who are HOH ranges from 20 million to 22 million (''National Health Survey,'' Series 10, No. 188, 1994). The NCHS studies use the ''Gallaudet Hearing Scale'' which is self-reporting and quantifies the amount of interference with hearing in ordinary day-to-day situations. According to the Association of Late-Deafened Adults, the number of persons who are L–D is estimated to be between 800,000 and 1.5 million. For 1991 and 1992, of all persons 21 to 64 years old who had some functional limitation hearing normal conversation, 3,335,000 individuals or 63.6 percent were employed, while 189,000 individuals, or 58.2 percent of those who were totally unable to hear normal conversation, were employed (McNeil, J., 1993).

Over the years, NIDRR has supported a number of research efforts to address the problems caused by various hearing impairments. At various times these efforts have included: developing hearing aids and telecommunication devices; enhancing the use and teaching of sign language interpreters; developing interventions for ''low-functioning'' deaf persons with multiple disabilities; developing more effective interventions and service models for hearing impaired vocational rehabilitation clients; and studying mental health issues of persons who are deaf, HOH, or L–D.

As the population ages, as people recover from serious illness with hearing impairments, and as environmental factors contribute to the incidence of hearing loss, it has become clear that there is a growing population of persons who experience disabling hearing loss as adults. The time of onset is likely to be in older adulthood, but this population is distinguished by the fact that the hearing loss occurs after the person has developed spoken language, has completed substantial formal education, and may have worked, married, had children, or developed social relationships—as a hearing person with ''normal'' speech.

These individuals face major adjustment problems in all phases of their lives, and may undergo depression

and disruption in family or community life, as well as in their ability to perform their work and maintain their career. Such individuals need to learn ways to maintain communication skills—both receptive and expressive—and frequently need interventions to enable them to maintain speech quality (i.e., volume, modulation, articulation). Because they socialize and work with colleagues, family, and friends in a hearing and speaking environment, and because of their age, they are not likely to make a transition to deaf culture even if they do learn some sign language. Most will depend on lip-reading, amplification, or written communication. Multiple personal adjustment and work performance issues confront these individuals ranging from safety (e.g., driving and traffic noise, fire alarms, public announcement warning systems) to following instructions at work, to communicating with doctors, dentists, and therapists about their health and medications.

The impact of partial or complete hearing loss may have compound effects on the work status of individuals who are L–D or HOH. In addition to the functional impact of the hearing loss on an employee's performance, the employee may be unfamiliar with his or her civil rights and concerned about disclosing his or her condition for fear of dismissal, demotion, or loss of potential career advancement. This fear of disclosure not only produces additional anxiety, but also may delay or prevent the employee from obtaining needed assistance. Even if the employee discloses his or her condition, human resource personnel, family counselors, and other employment and social service providers may not be familiar with the sundry impacts that hearing loss and impairment can have on work performance and personal life. The inability of human resource personnel, family counselors, and others to provide effective services can increase the individual's sense of isolation and anxiety.

Factors such as early identification, family support, and the provision of reasonable accommodations can play an important role in enabling the individual to adjust to the hearing impairment and maintain employment, family, and community status. Providing such individuals with appropriate assistive technology (e.g., assistive listening devices, realtime computer assisted captioning) in a timely manner can make a significant difference in job performance and morale.

The onset of a hearing impairment or the increased loss of hearing ability also can have a significant impact on the personal life of an individual who is L–D or HOH. It is not uncommon for those individuals to experience feelings of disorientation and alienation and to withdraw from family and friends. That withdrawal reinforces the individual's isolation and can, in extreme instances, lead to secondary complications such as alcohol and drug abuse.

Priority 1:

The Secretary will establish an RRTC for the purpose of conducting research on the maintenance of employment status and personal adjustment of persons who are L–D or HOH. The RRTC shall:

(1) Identify and analyze the factors that negatively impact the employment status and the personal life of persons who are L–D or HOH;

(2) Develop and disseminate interventions that address these employment and personal adjustment problems, including early identification, reasonable accommodations, counseling, and assistive technology;

(3) Develop information materials on effective interventions and disseminate those materials to employers, human resource organizations, appropriate counseling organizations, and organizations representing persons who are L–D or HOH;

(4) Identify materials that address the rights of persons who are L–D or HOH under the Americans with Disabilities Act, and other disability rights laws, disseminate these materials to organizations representing those persons, and inform those organizations about opportunities to receive training and technical assistance from entities such as the Disability and Business Technical Assistance Centers (DBTACs); and

(5) Develop training and technical assistance materials and provide training and technical assistance to employers, human resource organizations, appropriate counseling organizations, and organizations representing persons who are L–D or HOH to enable them to address effectively the employment and personal adjustment problems experienced by persons who are L–D or HOH.

In carrying out the purposes of the priority, the RRTC shall:

- Identify and address the employment and personal adjustment issues that are common to both persons who are L–D and those who are HOH, as well as those issues that are unique to each population;
- Coordinate with NIDRR's other research projects addressing individuals who are L–D, HOH, or deaf, the DBTACs, and the Assistive Technology Projects; and
- Where appropriate, address the needs of adolescents and young adults who are L–D or HOH.

Priority 2: Improving Vocational Rehabilitation Outcomes for Individuals Who Are Substance Abusers

Background

In 1993, NIDRR funded the establishment of a three-year RRTC on Substance Abuse and Disability to address the vocational rehabilitation needs of two major categories of eligible individuals served by the State Vocational Rehabilitation (VR) Services program. The two categories of VR eligible individuals were: (1) Those whose substance abuse has resulted in a work disability; and (2) those who have some other disability but whose substance abuse interferes with their ability to benefit from vocational rehabilitation services.

In addition, the 1993 priority authorizing the RRTC limited the scope of substance abuse to substances other than alcohol abuse (although the presence of alcohol abuse in conjunction with other substance abuse was within the scope of the RRTC). For the purposes of this priority, substance abuse includes alcohol abuse with or without the presence of other substance abuse. The RRTC is expected to address the needs of VR eligible individuals who abuse alcohol, other substances, or alcohol and other substances.

Individuals with a disability that results in a substantial impediment to employment and who can benefit from VR services, including those individuals whose disabling condition is due to substance abuse, are eligible for services through the State Vocational Rehabilitation (SVR) Services Program, authorized under Title I of the Rehabilitation Act. Program data for fiscal year 1995 show that substance abuse was reported as the primary disabling condition for 51,339 eligible individuals who exited the program in that year. Of the 51,339 individuals with a primary disability of substance abuse, 22,708 persons' primary disabling condition was alcohol abuse and 28,631 persons' primary disabling condition was drug abuse. Of the 40,766 eligible individuals with a primary disabling condition of substance abuse who received services before exiting the program, 21,718 (53 percent) achieved an employment outcome (Rehabilitation

Services Administration, Caseload Services data, 1995).

There are also individuals with disabilities served by the SVR program for whom substance abuse is a co-existing, and sometimes hidden, condition. In addition to those individuals who exited the SVR program in 1995 for whom substance abuse was reported as the primary disabling condition, another 33,808 individuals were reported to have a secondary disability of substance abuse. Findings from a State-wide survey of alcohol, tobacco, illicit drugs, and medication among applicants for vocational rehabilitation services from Michigan Rehabilitation Services indicate that while alcohol use patterns approximate the general population, the percent of applicants who report current tobacco use or lifetime use of illicit drugs appear considerably higher than the general population (Moore, D. and Li, L., ''Substance Abuse Among Applicants for Vocational Rehabilitation Services,'' *Journal of Rehabilitation*, Vol. 60, No. 4, pgs. 48–53, 1994).

Unrecognized or untreated substance abuse as a co-existing condition can be a greater barrier to employment than the primary disability. Chief among those barriers are complications of psychological and social adjustment to the disability, impaired learning processes, decreased chances for vocational preparation and employment, and increased risk of adverse medical effects from the interaction of abused substances with treatment medications.

One of the primary modes of transmission of HIV is through injection drug use when an HIV-infected syringe is shared between individuals. The higher incidence of intravenous drug abuse in socio-economically depressed communities means that resultant HIV is concentrated among individuals who lack health care, have low education and little prior work experience, and lack access to transportation, assistive technology, and other community supports that facilitate vocational rehabilitation and job maintenance. Substance abuse also leads to more high risk sexual behaviors, further increasing the incidence of HIV infection in this population. The presence of HIV infection can be a complicating factor in the vocational rehabilitation of substance abusers. There is a need for research on the specific vocational rehabilitation needs of substance abusers with HIV.

The need for an expanded understanding of the relationship between vocational rehabilitation, substance abuse, and disability has been further underscored by recent changes in legislation, including welfare reform and discontinuance of Social Security Insurance and Social Security Disability Insurance benefits for individuals who previously were eligible based on addictions to alcohol and other drugs. The removal of substantial numbers of substance abusers from income supports and medical assistance is likely to cause strains on the SVR service delivery system by increasing the demand for services, decreasing the ''comparable benefits'' dollars available for SVR services, decreasing access to general health care during rehabilitation, and increasing client financial instability. Changes in the management and financing of health care in both the public and private sector, including managed care, may also have an impact on SVR agencies' financial arrangements with third party payers and access to comparable benefits for substance abuse treatment.

Although there is an increasing prevalence of substance abuse among a diverse population of individuals undergoing rehabilitation, many service providers communicate that they have an inadequate understanding about substance abuse and co-existing disability and that this adversely impacts their ability to address the problem effectively (Heinemann, A. W.,''An Introduction to Substance Abuse and Physical Disability,'' *Substance Abuse and Physical Disability*, New York: The Haworth Press, 1993). Practitioners in a growing number of disciplines within the rehabilitation field need information about substance abuse and co-existing disability, including rehabilitation educators, vocational rehabilitation counselors, health care providers, independent living specialists, community-based rehabilitation providers, rehabilitation administrators, chemical dependence counselors, and directors of State vocational rehabilitation programs.

In order to address this need and because there are other Federal agencies that focus significant resources on individuals whose sole or primary disability is substance abuse, this RRTC will focus its efforts, although not exclusively, on issues affecting individuals with co-existing disabilities. Particular emphasis would be given to SVR eligible individuals for whom substance abuse is not their sole or primary disabling condition, but whose substance abuse interferes with their ability to benefit from vocational rehabilitation services.

Priority 2: The Secretary will establish an RRTC for the purpose of improving vocational rehabilitation outcomes for SVR eligible individuals whose substance abuse has resulted in a work disability, or who have some other disability that results in a substantial impediment to employment but whose substance abuse interferes with their ability to benefit from vocational rehabilitation services. The RRTC shall:

(1) Conduct epidemiological studies to advance the understanding of the relationship between substance abuse and disability among individuals who are eligible for the State Vocational Rehabilitation Services program, including determining the relative prevalence of substance abuse among persons with more severe disabilities;

(2) Develop, identify, and evaluate information about effective methods for providing vocational rehabilitation services to individuals who are substance abusers;

(3) Investigate the impact of recent legislative changes (including welfare reform and SSA eligibility) and changes in health care management and financing of substance abuse treatment on the provision of vocational rehabilitation services to individuals who are substance abusers; and

(4) Disseminate informational materials and provide technical assistance and training to SVR eligible individuals whose substance abuse has resulted in a work disability, or who have some other disability that results in a substantial impediment to employment but whose substance abuse interferes with their ability to benefit from vocational rehabilitation services, vocational rehabilitation personnel, and related rehabilitation disciplines concerning effective strategies for providing vocational rehabilitation services.

In carrying out the purposes of the priority, the RRTC shall:

- Give special emphasis to issues affecting the vocational rehabilitation of individuals with co-existing disabilities, particularly issues affecting SVR eligible individuals for whom substance abuse is not their sole or primary disabling condition, but whose substance abuse interferes with their ability to benefit from vocational rehabilitation services.
- Address the vocational rehabilitation needs of individuals with HIV/AIDS who are SVR eligible individuals whose substance abuse has resulted in a work disability, or who have some other disability that results in a substantial impediment to employment but whose substance abuse interferes with their ability to benefit from vocational rehabilitation services;
- Where appropriate, address the needs of transitioning special education

students who may have substance abuse problems, their special education teachers, and administrators; and

• Coordinate with projects on substance abuse supported by the Substance Abuse and Mental Health Services Administration and with NIDRR centers and projects on vocational rehabilitation and emerging disability populations.

Priority 3: Improving Employment and Independent Living Outcomes for Persons with Disabilities in Rural Areas

Background

Between 11 and 15 million persons living in rural areas have a chronic or permanent disability, a higher per capita rate of disability than exists in cities with populations over 50,000 (Young, C. and O'Day, B., ''Issues in Rural Independence: Funding,'' *Rural Monograph Series*.'' Compared to their counterparts in metropolitan areas, persons with disabilities in rural areas have higher rates of activity limitation (16.4% versus 14.6%), work limitation (14.2% versus 10.9%), and personal care limitation (4.7% versus 3.8%) (LaPlante, M. et al., ''Disability Statistics Report #7,'' *Disability in the United States: Prevalence and Causes, 1992,* Institute for Health and Aging, University of California, San Francisco, July, 1996). Persons with disabilities in rural areas face challenges that are quite different from their peers living in and around metropolitan areas. The quality of life for many people with disabilities residing in rural America is characterized by: (1) Limited job opportunities; (2) inadequate health care; (3) isolation and inadequate transportation; (4) lack of accessible housing; and (5) underfunded social services.

For many rural areas, social and economic vitality hinges on overcoming the problems posed by remoteness from urban centers—such as the lack of easy access to advanced education, medical knowledge, and enterprise development opportunities. People with disabilities living in rural communities often live a long distance from vocational rehabilitation (VR) agencies, independent living centers (ILCs), and other social service agencies. Although these resources have great potential for reducing the impact of disability, service delivery challenges limit their availability in rural areas.

Currently, Federal, State, and local initiatives such as Empowerment Zones (EZ) or Enterprise Communities (EC) are addressing community and economic development in rural areas. The Federal government, working across agency lines and in a new partnership with State and local government and the private sector, has provided distressed communities with the tools they need and flexibility they desire, in the form of block grants, tax breaks and waivers. In return, EZ/EC communities—residents, community leaders, businesses, State and local governments and schools—must demonstrate that they are taking responsibility for their own futures by developing and implementing a plan to utilize these tools. The U.S. Department of Agriculture (USDA) is authorized to designate three rural EZs and thirty ECs.

These projects are intended to demonstrate that innovative economic development and service delivery approaches can make a difference for people with disabilities living in rural areas. It is important for individuals with disabilities living in rural communities to participate in long-range community development planning. Their involvement is crucial to ensure that the unique needs of people with disabilities for employment, economic self-sufficiency, transportation, affordable and accessible housing, and access to generic community facilities are addressed. Research is needed to study current approaches, and to develop new models, for increasing their participation in public and private economic development and services improvement initiatives.

The health problems experienced by people with disabilities living in rural areas are complicated by the burden of travelling long distances and the general shortage of primary health care providers. As a result, people with disabilities living in rural areas may experience a high rate of secondary conditions each year such as pressure sores, physical deconditioning, urinary tract infections, depression and pain (Seekins, T. et al., ''A Descriptive Study of Secondary Conditions Reported by a Population of Adults with Physical Disabilities Served by Three Independent Living Centers in a Rural State,'' *Journal of Rehabilitation*, Vol. 60, No. 2, pgs. 47–51, 1994). Proper education, support delivered by health clinics and independent living centers, and utilization of telemedicine can dramatically improve the health of adults with disabilities and reduce medical service utilization.

The USDA's Rural Utilities Service, which funds telecommunications infrastructure in many rural areas, provides grants to link rural health clinics with larger hospitals to better serve rural residents. The U.S. Department of Health and Human Services' (DHHS') Health Care Financing Administration funds Rural Telemedicine Grants which demonstrate and collect information on the feasibility, costs, appropriateness, and acceptability of telemedicine for improving access to health services for rural residents and reducing the isolation of rural practitioners. The intended beneficiaries of these grants are rural health care providers, patients, and rural communities which gain from this program.

Changes in health care policy, such as managed care, are significantly affecting the lives of people with disabilities living in rural areas. For example, managed care emphasizes primary care and control of access to specialized services. Persons with significant disabilities in rural areas, however, have difficulty obtaining primary care and often need extensive services and access to highly specialized providers to prevent death or further disability (''Medicaid Managed Care: Serving the Disabled Challenges State Programs,'' *U.S. General Accounting Office (GAO)/ Health, Education, and Human Services-96–136).*

The use of telecommunications technologies may be a critical element in efforts to provide social services as well as maintain and foster economic development. Advanced telecommunications technologies—the Internet, videoconferencing and high-speed data transmission—offer rural areas the chance to overcome some of the problems they face as a result of their geographic isolation. These technologies can link rural areas with other communities and expertise to improve medical services, create new jobs, and increase rural residents' access to education (''Rural Development: Steps Toward Realizing the Potential of Telecommunications Technologies,'' *GAO/Resources, Community, and Economic Development-96–155).*

Interactive technology can link isolated rural settings with comprehensive services at distant facilities. With these linkages, the distant facility can review X-rays, CAT scans, and other medical evidence to diagnose an illness and prescribe treatment without having the patient make long, and sometimes difficult, trips to the larger institution. Colleges and schools can offer classes, and even degree programs, to students in remote locations. Large businesses can establish or maintain branch offices in rural areas by using videoconferencing or on-line access to hold meetings and conduct business. There is a need to design ways to apply these emerging interactive technologies to the lives of people with

disabilities living in rural areas, particularly as Federal and other public and private programs expand their uses of interactive technology.

Priority 3

The Secretary will establish an RRTC for the purpose of examining means to improve the employment status and ability of persons with disabilities to live independently in rural areas. The RRTC shall:

(1) Identify, analyze and evaluate the impact of rural economic development strategies in improving the employment outcomes and economic status of people with disabilities living in rural communities;

(2) Identify and examine issues of access to health care for persons with disabilities living in rural areas, particularly those issues contributing to the onset of secondary conditions;

(3) Develop and evaluate strategies to increase the participation of people with disabilities in local public planning for community development;

(4) Identify, develop, and evaluate strategies to improve rural transportation, accessible housing, and access to generic community facilities services for people with disabilities;

(5) Identify and evaluate strategies to improve the use of telecommunications technologies for the delivery of health, employment, education, and social services to people with disabilities living in rural communities; and

(6) Develop training and informational materials and provide training and information to persons with disabilities, and providers of health care, vocational rehabilitation, and independent living services, on effective strategies for improving the employment, health, and independent living outcomes of people with disabilities living in rural areas.

In carrying out the purposes of the priority, the RRTC shall:

- Coordinate with NIDRR-funded research, training and demonstration activities on delivery of rehabilitation and independent living services in rural areas, including those sponsored by RSA and the RRTC on managed care;
- Where appropriate, address the needs of transitioning special education students and their special education teachers and administrators;
- Coordinate with rural projects affecting persons with disabilities funded by USDA and DHHS; and
- Address the needs of persons with disabilities in rural communities in all parts of the country, including persons from ethnic and racial minority backgrounds.

Knowledge Dissemination and Utilization Projects

Authority for the D&U program of NIDRR is contained in sections 202 and 204(a) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762). Under this program the Secretary makes awards to public and private organizations, including institutions of higher education and Indian tribes or tribal organizations. Under the regulations for this program (see 34 CFR 355.32), the Secretary may establish research priorities by reserving funds to support particular research activities.

Priority

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this competition only applications that meet this absolute priority:

Priority 4: Parenting With a Disability Technical Assistance Center

Background

Approximately one in eleven families with children at home includes one or more parents with a disability (LaPlante, M., ''Disability in the Family,'' presented at the annual meeting of the American Public Health Association, Atlanta, GA, 1991). This proportion can be expected to increase as a correlate of the gains that persons with disabilities have achieved in their efforts to live and work independently in the community. In the course of becoming parents and rearing children, persons with disabilities may encounter a variety of attitudinal, physical, medical, and legal barriers. They may also find misinformation or an absence of information regarding advances in fields that address issues related to parenting.

NIDRR has been addressing the physical barriers and reproductive issues faced by parents with disabilities through a variety of research and development projects. Since 1993 NIDRR has supported a Rehabilitation Research and Training Center on Families in which one or more adult parent or guardian has a disability. The Center has investigated a wide range of parenting issues, including the assistive technology needs of parents with disabilities, training obstetricians to deal with the needs of women with disabilities, and needs of mothers with visual disabilities. The Center has created and identified a wide range of valuable information for parents and professionals. In addition, over the last ten years, NIDRR has supported research projects on the design and development of new adaptive equipment for parents with physical disabilities and parenting assessment techniques. A wide array of parenting equipment has been developed, for example, a lifting harness and an adapted baby bathing cart. Information is also available on the social service needs of parents with disabilities. As a result of these and other research, training, and development efforts, a substantial body of knowledge now exists related to parenting with a disability.

Persons with disabilities who want to become, or remain parents, may need information and technical assistance. A NIDRR-sponsored focus group on women and disabilities held in 1994 recommended that NIDRR explore issues related to sexuality, reproductive health, pregnancy and parenting for women with disabilities, including ''the level of information that women have about these topics'' (''Focus Group on Women and Disabilities,'' unpublished ''Report of Proceedings,'' NIDRR, pg. 8, July, 1994). Parents with disabilities and prospective parents with disabilities need information about related advances in the field of assistive technology and medicine, public policy and legal developments, and parenting resources.

One source of information and valuable experience is persons with disabilities who are parents. These individuals have a wealth of knowledge and can not only share their experiences and practical information, but also serve as uniquely qualified sources of support. Currently, this ''parent to parent'' networking is primarily informal and limited in scope.

Persons with disabilities may encounter substantial attitudinal and legal barriers in their efforts to become pregnant, gain or maintain custody, or adopt children. Barbara Faye Waxman, an expert on reproductive rights, notes that laws allowing sterilization of persons with disabilities remain on the books in some States and that social service agencies are often too quick to put the non-disabled children of parents with disabilities up for adoption (Mathews, J., ''The Disabled Fight to Raise Their Children,'' *Washington Post Health Section*, August 18, 1992). Most States treat disability as prima facie evidence of parental unfitness and a possible detriment to the child (Conly-Jung, C., ''The Early Parenting Experiences of Mothers with Visual Impairments and Blindness,'' Dissertation, California School of Professional Psychology, Alameda, CA, pg. 21, May, 1996). One important strategy in the effort to overcome these attitudinal and legal barriers is

providing social service, legal, and medical professionals with information that dispels stereotypes and describes advances in the related fields that enable persons with disabilities to provide a safe and nurturing environment for their children.

Priority 4

The Secretary will establish a center for the purpose of providing technical assistance and disseminating parenting information to persons with disabilities and to social service, medical, and legal service providers. The technical assistance center shall:

(1) Identify and disseminate technological, legal, and medical information on parenting, pregnancy, custody, and adoption to parents, and prospective parents with disabilities, and service providers in related field of social services, law, and medicine;

(2) Develop training materials on parenting with a disability and disseminate those materials to organizations and institutions of higher education that provide pre-service and in-service training to professionals in related fields of social services, law, and medicine, as well as to organizations representing persons with disabilities;

(3) Provide technical assistance on parenting with a disability to persons with disabilities and service providers, including making referrals and serving as a clearinghouse of technical information; and

(4) Develop and establish a parent-to-parent network that enables experienced parents with disabilities to voluntarily provide information and support to persons with disabilities interested in becoming or remaining parents.

In carrying out the purposes of the priority, the technical assistance center shall:

- Collect and synthesize information from other NIDRR-funded projects and centers that could be relevant to parenting with a disability including, but not limited to, the Assistive Technology Projects;
- Collaborate with other NIDRR and Office of Special Education Programs-funded projects and centers that address issues related to parenting and to disability rights of persons with disabilities; and
- Establish a national toll-free telephone hotline and publish a quarterly newsletter.

Applicable Program Regulations

34 CFR Parts 350, 352, and 355.

Program Authority: 29 U.S.C. 760–762.

Dated: June 25, 1997.

(Catalog of Federal Domestic Assistance Numbers: 84.133B, Rehabilitation Research and Training Center Program, 84.133D, Knowledge Dissemination and Utilization Program)

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–17206 Filed 6–30–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.133B and 84.133D]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under Certain Programs for Fiscal Year 1997

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the programs and applicable regulations governing the programs, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under these competitions.

These programs support the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The estimated funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

APPLICABLE REGULATIONS: The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86; and the following program regulations:

(a) *Rehabilitation Research and Training Centers (RRTCs)*—34 CFR Parts 350 and 352; and

(b) *Knowledge Dissemination and Utilization Program (D&U)*—34 CFR Parts 350 and 355.

Program Title: Rehabilitation Research and Training Centers.

CFDA Number: 84.133B.

Purpose of Program: RRTCs conduct coordinated and advanced programs of research on disability and rehabilitation that will produce new knowledge that will improve rehabilitation methods and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence for individuals with disabilities. RRTCs provide training to service providers at the pre-service, in-service training, undergraduate, and graduate levels, to improve the quality and effectiveness of rehabilitation services. They also provide advanced research training to individuals with disabilities and those from minority backgrounds, engaged in research on disability and rehabilitation. RRTCs serve as national and regional technical assistance resources, and provide training for service providers, individuals with disabilities and families and representatives, and rehabilitation researchers.

APPLICATION NOTICE FOR FISCAL YEAR 1997
REHABILITATION RESEARCH AND TRAINING CENTERS CFDA NO. 84.133B

Funding Priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year)*	Project period (months)
Maintaining the Employment and Addressing the Personal Adjustment of Individuals Who are L–D or HOH	8/15/97	1	$500,000	60
Improving the VR Outcomes for Individuals Who Are Substance Abusers	8/15/97	1	500,000	60
Improving Employment and IL Outcomes for Persons with Disabilities in Rural Areas	8/15/97	1	550,000	60

Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount (See 34 CFR 75.104(b)).

Rehabilitation Research and Training Centers

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications under the RRTC program.

(a) *Relevance and importance of the research program* (20 points). The Secretary reviews each application to determine to what degree—

(1) The proposed activities are responsive to a priority established by the Secretary and address a significant need of a disabled target population and rehabilitation service providers;

(2) The overall research program of the Center includes appropriate interdisciplinary and collaborative research activities, is likely to lead to new and useful knowledge in the priority area, and is likely to become a nationally recognized source of scientific knowledge; and

(3) The applicant demonstrates that all component activities of the Center are related to the overall objective of the Center, and will build upon and complement each other to enhance the likelihood of solving significant rehabilitation problems.

(b) *Quality of the research design* (35 points). The Secretary reviews each application to determine to what degree—

(1) The applicant proposes a comprehensive research program for the entire project period, including at least three interrelated research projects;

(2) The research design and methodology of each proposed activity are meritorious in that—

(i) The literature review is appropriate and indicates familiarity with current research in the field;

(ii) The research hypotheses are important and scientifically relevant;

(iii) The sample populations are appropriate and significant;

(iv) The data collection and measurement techniques are appropriate and likely to be effective;

(v) The data analysis methods are appropriate; and

(vi) The applicant assures that human subjects, animals, and the environment are adequately protected; and

(3) The application discusses the anticipated research results and demonstrates how those results would satisfy the original hypotheses and could be used for planning future research, including generation of new hypotheses where applicable.

(c) *Quality of the training and dissemination program* (25 points). The Secretary reviews each application to determine the degree to which—

(1) The proposed plan for training and dissemination provides evidence that research results will be effectively disseminated and utilized based on the identification of appropriate and accessible target groups; the proposed training materials and methods are appropriate; the proposed activities are relevant to the regional and national needs of the rehabilitation field; and the training materials and dissemination packages will be developed in alternate media that are usable by people with various types of disabilities.

(2) The proposed plan for training and dissemination provides for—

(i) Advanced training in rehabilitation research;

(ii) Training rehabilitation service personnel and other appropriate individuals to improve practitioner skills based on new knowledge derived from research;

(iii) Training packages that make research results available to service providers, researchers, educators, individuals with disabilities, parents, and others;

(iv) Technical assistance or consultation that is responsive to the concerns of service providers and consumers;

(v) Dissemination of research findings through publication in professional journals, textbooks, and consumer and other publications, and through other appropriate media such as audiovisual materials and telecommunications.

(vi) Widespread dissemination of findings and other appropriate materials to providers of rehabilitation and other relevant services to individuals with disabilities, family members of individuals with disabilities, and other authorized representatives, advocates, and organizations that provide information and support to individuals with disabilities and their families; and

(vii) Dissemination of research findings and other materials in appropriate formats and accessible media for use by individuals with various disabilities.

(d) *Quality of the organization and management* (20 points). The Secretary reviews each application to determine the degree to which——

(1) The staffing plan for the Center provides evidence that the project director, research director, training director, principal investigators, and other personnel have appropriate training and experience in disciplines required to conduct the proposed activities; the commitment of staff time is adequate to conduct all proposed activities; and the Center, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping conditions;

(2) The budgets for the Center and for each component project are reasonable, adequate, and cost-effective for the proposed activities;

(3) The facilities, equipment, and other resources are adequate and are appropriately accessible to persons with disabilities;

(4) The plan of operations is adequate to accomplish the Center's objectives and to ensure proper and efficient management of the Center;

(5) The proposed relationships with Federal, State, and local rehabilitation service providers and consumer organizations are likely to ensure that the Center program is relevant and applicable to the needs of consumers and service providers;

(6) The past performance and accomplishments of the applicant indicate an ability to complete successfully the proposed scope of work;

(7) The application demonstrates appropriate commitment and support by the host institution and opportunities for interdisciplinary activities and collaboration with other institutions and organizations; and

(8) The plan for evaluation of the Center provides for an annual assessment of the outcomes of the research, the impact of the training and dissemination activities on the target populations, and the extent to which the overall objectives have been accomplished.

Eligible Applicants: Institutions of higher education and public or private agencies and organizations collaborating with institutions of higher education, including Indian tribes and tribal organizations, are eligible to apply for awards under this program.

Program Authority: 29 U.S.C. 762.

APPLICATION NOTICE FOR FISCAL YEAR 1997
KNOWLEDGE DISSEMINATION AND UTILIZATION PROGRAM, CFDA NO. 84.133D

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year)*	Project period (months)
Parenting with a Disability Technical Assistance Center	8/15/97	1	$500,000	60

*Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount (See 34 CFR 75.104(b)).

Program Title: Knowledge Dissemination and Utilization Program.

CFDA Number: 84.133D.

Purpose of Program: The Knowledge Dissemination and Utilization is designed to support activities that will ensure that rehabilitation knowledge generated from projects and centers funded by NIDRR and from other sources is fully utilized to improve the lives of individuals with disabilities and their families.

Knowledge Dissemination and Utilization Program

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications under the D&U program.

(a) *Potential Impact of Outcomes: Importance of Program* (Weight 3.0). The Secretary reviews each application to determine to what degree—

(1) The proposed activity relates to the announced priority;

(2) The research is likely to produce new and useful information (research activities only);

(3) The need and target population are adequately defined;

(4) The outcomes are likely to benefit the defined target population;

(5) The training needs are clearly defined (training activities only);

(6) The training methods and developed subject matter are likely to meet the defined need (training activities only); and

(7) The need for information exists (utilization activities only).

(b) *Potential Impact of Outcomes: Dissemination/Utilization* (Weight 3.0). The Secretary reviews each application to determine to what degree—

(1) The research results are likely to become available to others working in the field (research activities only);

(2) The means to disseminate and promote utilization by others are defined;

(3) The training methods and content are to be packaged for dissemination and use by others (training activities only);

(4) The utilization approach is likely to address the defined need (utilization activities only); and

(5) There is likely to be widespread dissemination of the results, in a usable and effective manner, to all appropriate target populations, including individuals with disabilities and their family members.

(c) *Probability of Achieving Proposed Outcomes; Program/ Project Design* (Weight 5.0). The Secretary reviews each application to determine to what degree—

(1) The objectives of the project(s) are clearly stated;

(2) The hypothesis is sound and based on evidence (research activities only);

(3) The project design/methodology is likely to achieve the objectives;

(4) The measurement methodology and analysis is sound (research and development/demonstration activities only);

(5) The conceptual model (if used) is sound (development/ demonstration activities only);

(6) The sample populations are correct and significant (research and development/demonstration activities only);

(7) The human subjects are sufficiently protected (research and development/demonstration activities only);

(8) The device(s) or model system is to be developed in an appropriate environment;

(9) The training content is comprehensive and at an appropriate level (training activities only);

(10) The training methods are likely to be effective (training activities only);

(11) The new materials (if developed) are likely to be of high quality and uniqueness (training activities only);

(12) The target populations are linked to the project (utilization activities only);

(13) The format of the dissemination medium is the best to achieve the desired result (utilization activities only); and

(14) The materials to be used in the project and the materials to be disseminated are likely to be in formats that are accessible to the appropriate populations.

(d) *Probability of Achieving Proposed Outcomes: Key Personnel* (Weight 4.0). The Secretary reviews each application to determine to what degree —

(1) The principal investigator and other key staff have adequate training and/or experience and demonstrate appropriate potential to conduct the proposed research, demonstration, training, development, or dissemination activity;

(2) The principal investigator and other key staff are familiar with pertinent literature and/or methods;

(3) All required disciplines are effectively covered;

(4) Commitments of staff time are adequate for the project; and

(5) The applicant is likely, as part of its non-discriminatory employment practices, to encourage applications for employment from persons who are members of groups that traditionally have been underrepresented, such as—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly.

(e) *Probability of Achieving Proposed Outcomes: Evaluation Plan* (Weight 1.0). The Secretary reviews each application to determine to what degree —

(1) There is a mechanism to evaluate plans, progress and results;

(2) The evaluation methods and objectives are likely to produce data that are quantifiable; and

(3) The evaluation results, where relevant, are likely to be assessed in a service setting.

(f) *Program/Project Management: Plan of Operation* (Weight 2.0). The Secretary reviews each application to determine to what degree—

(1) There is an effective plan of operation that insures proper and efficient administration of the project(s);

(2) The applicant's planned use of its resources and personnel is likely to achieve each objective;

(3) Collaboration between institutions, if proposed, is likely to be effective; and

(4) There is a clear description of how the applicant will include eligible project participants who have been traditionally underrepresented, such as—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly.

(g) *Program/Project Management: Adequacy of Resources* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) The facilities planned for use are adequate;

(2) The equipment and supplies planned for use are adequate; and

(3) The commitment of the applicant to provide administrative support and adequate facilities is evident.

(h) *Program/Project Management: (Budget and Cost Effectiveness* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) The budget for the project(s) is adequate to support the activities;

(2) The costs are reasonable in relation to the objectives of the project(s); and

(3) The budget for subcontracts (if required) is detailed and appropriate.

Eligible Applicants: Parties eligible to apply for grants under this program are public and private nonprofit and for-profit agencies and organizations, including institutions of higher education and Indian tribes and tribal organizations.

Program Authority: 29 U.S.C. 761a and 762.

Instructions for Application Narrative

The Secretary strongly recommends that applicants include a one-page abstract in their application. The Secretary strongly recommends that the narrative for Knowledge Dissemination and Utilization Program applications be limited to no more than 50 double-spaced, typed pages (on one side only), not including appendices. The Secretary strongly recommends that the narrative for Rehabilitation Research and Training Center applications be limited to no more than 100 double-spaced, typed pages (on one side only), not including appendices. These recommended page limits apply only to the narrative and not to the abstract, application forms, assurances, certifications and attachments to those forms, assurances, and certifications.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, D.C. 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, D.C. time] on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Form—Non-Construction Programs (Standard Form 524A) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters: and Drug-Free Work-Place Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014) and instructions. (NOTE: ED Form GCS–014 is intended for the use of primary participants and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure Lobbying Activities Continuation Sheet (Standard Form LLL-A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature.* No grant may be awarded unless a completed application form has been received.

For Applications Contact: The Grants and Contracts Service Team, Department of Education, 600 Independence Avenue S.W., Switzer Building, 3317, Washington, D.C. 20202, or call (202) 205–8207. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9860. The preferred method for requesting information is to FAX your request to (202) 205–8717.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 29 U.S.C. 760–762.

Dated: June 25, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix

Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this Section. Applicants are required to submit an original and two copies of each application as provided in this Section.

Frequent Questions

1. Can I get an extension of the due date?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

2. What should be included in the application?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and all subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is *not* useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. What format should be used for the application?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. May I submit applications to more than one NIDRR program competition or more than one application to a program?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. What is the allowable indirect cost rate?

The limits on indirect costs vary according to the program and the type of application.

An applicant for a project in the D&U grant program is limited to the organization's approved indirect cost rate. If the organization does not have an approved indirect cost rate, the application should include an estimated actual rate.

An applicant for a project in the RRTC program is limited to an indirect cost rate of 15 percent.

6. Can profitmaking businesses apply for grants?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. Can individuals apply for grants?

No. Only organizations are eligible to apply for *grants* under NIDRR programs. However, individuals are the only entities eligible to apply for fellowships.

8. Can NIDRR staff advise me whether my project is of interest to NIDRR or likely to be funded?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

9. How do I assure that my application will be referred to the most appropriate panel for review?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including a project title that describes the project.

10. How soon after submitting my application can I find out if it will be funded?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

11. Can I call NIDRR to find out if my application is being funded?

No. When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. If my application is successful, can I assume I will get the requested budget amount in subsequent years?

No. Funding in subsequent years is subject to availability of funds and project performance.

13. Will all approved applications be funded?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

BILLING CODE 4000–01–P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ■ ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE_____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4000–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.
2. Data application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
—''New'' means a new assistance award.
—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.
—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project, if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4000–01–P

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1875-0102

Expiration Date: 9/30/98

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

BILLING CODE 4000-01-C

Public reporting burden of this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202–4651; and the Office of Management and Budget, Paperwork Reduction Project 1875–0102, Washington, D.C. 20503.

Instructions for ED Form No. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A—Budget Summary

U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1–11.

Lines 1–11, columns (a)–(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1–11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns, (a)–(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B—Budget Summary

Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1–11 of Section B.

Lines 1–11, columns (a)–(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1–11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)–(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C—Other Budget Information

Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

Public reporting burden for these collections of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to: the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820–0027, Washington, D.C. 20503.

Rehabilitation Research and Training Center (CFDA No. 84.133B) 34 CFR Parts 350 and 352.

Knowledge Dissemination and Utilization Program (CFDA No. 84.133D) 34 CFR Parts 350 and 355.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title XI of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;

(e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C.§ 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients

in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of authorized certifying official

_____

Title

_____

Applicant organization

_____

Date submitted

Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, ''New Restricts on Lobbying,'' and 34 CFR Part 85, ''Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).'' The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. Debarment, Suspension, and Other Responsibility Matters

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. Drug-Free Workplace (Grantees Other Than Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The Penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);'

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(d) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under

subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202–4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

Drug-Free Workplace (Grantees Who Are Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.650 and 85.610—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202–4571. Notice shall include the identification number(s) of each affected grant.

_____

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

_____

Name of Applicant

_____

PR/award number and/or project name

_____

Printed name and title of authorized representative

_____

Signature

_____

Date

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms ''covered transaction,'' ''debarred,'' ''suspended,'' ''Ineligible,'' ''lower tier covered transaction,'' ''participant,'' ''person,'' ''primary covered transaction,'' ''principal,'' ''proposal,'' and ''voluntarily excluded,'' as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide that method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

_____

Name of applicant

_____

PR/award number and/or project name

_____

Printed name and title of authorized representative

_____

Signature

_____

Date

BILLING CODE 4000–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change

For Material Change Only:
year _____ quarter ____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known:*

Congressional District, *if known:*

5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known:*

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known:*

9. Award Amount, *if known:*

$

10. a. Name and Address of Lobbying ~~Entity~~ Registrant *(if individual, last name, first name, MI):*

b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI):*

~~**11. Amount of Payment** *(check all that apply):*~~

~~$ _____ ☐ actual ☐ planned~~

~~**12. Form of Payment** *(check all that apply):*~~

~~☐ a. cash~~
~~☐ b. in-kind; specify: nature _____~~
~~value _____~~

~~**13. Type of Payment** *(Check all that apply):*~~

~~☐ a. retainer~~
~~☐ b. one-time fee~~
~~☐ c. commission~~
~~☐ d. contingent fee~~
~~☐ e. deferred~~
~~☐ f. other; specify: _____~~

~~**14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:**~~

~~*(attach Continuation Sheet(s) SF-LLL-A, if necessary)*~~

~~**15. Continuation Sheet(s) SF-LLL attached:** ☐ Yes ☐ No~~

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ **Date:** _____

~~**Federal Use Only**~~

Authorized for Local Reproduction
Standard Form - LLL

BILLING CODE 4000–01–C

Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawards, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks ''Subawardee'' then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency make the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Cost Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number of grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., ''RFP–DE–90–001.''

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, zip code of the registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, D.C. 20503.

[FR Doc. 97–17207 Filed 6–30–97; 8:45 am]

BILLING CODE 4000–01–P

Reader Aids

Federal Register

Vol. 62, No. 126

Tuesday, July 1, 1997

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**

Laws

For additional information	**523–5227**

Presidential Documents

Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**

Other Services

Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
TDD for the hearing impaired	**523–5229**

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and list of documents on public inspection. **202–275–0920**

FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, JULY

35337–35658..... 1

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:

July 9, 1910 (Revoked in part by PLO 7272).....35221

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JULY 1, 1997

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton classing, testing, and standards:
- Classification services to growers; 1997 user fees; published 5-12-97

Potatoes (Irish) grown in—
- Washington; published 4-14-97

AGRICULTURE DEPARTMENT

Food and Consumer Service

Child nutrition programs:
- Child and adult care food program—
  - Day care home reimbursements; targeting improvement; published 1-7-97
  - Day care home reimbursements; targeting improvement; published 2-6-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - Bering Sea and Aleutian Islands groundfish; published 12-2-96
- Atlantic shark; published 5-14-97
- West Coast States and Westen Pacific fisheries—
  - Western Pacific crustacean; published 6-23-97
- West Coast States and Western Pacific fisheries—
  - Western Pacific crustacean; published 5-23-97

Ocean and coastal resource management:
- Marine sanctuaries—
  - Florida Keys National Marine Sanctuary; published 6-12-97
- Monterey Bay National Marine Sanctuary, CA—
  - Shark attraction by chum or other means; restriction or prohibition; correction; published 7-1-97

DEFENSE DEPARTMENT

Base closure communities revitalization and community assistance:
- Community redevelopment and homeless assistance; published 7-1-97

EDUCATION DEPARTMENT

Grants and cooperative agreements; availability, etc.:
- Federal family education loan program
  - Reporting and recordkeeping requirements; published 3-21-97

Postsecondary education:
- Federal family education loan program
  - Due diligence requirements; published 11-27-96
  - Guaranty agencies—conflicts of interest; published 11-27-96
- Student assistance; published 5-16-97
- Student assistance general provisions—
  - Compliance audits and financial responsibility standards; published 11-29-96
  - Federal Perkins loan, Federal work-study, Federal supplemental educational opportunity grant, etc., programs; Federal regulatory review; published 11-29-96
  - Records maintenance and retention; three year time period; published 11-27-96
- Sudent assistance general provisions—
  - Federal Perkins loan; Federal work-study; Federal supplemental; published 11-27-96
- William D. Ford Federal direct student loan program; published 7-1-97

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- California; published 5-6-97
- Mississippi et al.; published 7-1-97

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
- Maine; published 5-2-97

Reporting and recordkeeping requirements; published 6-30-97

Superfund program:
- Nationl oil and hazardous substances contingency plan—
  - National priorities list update; published 7-1-97

FEDERAL DEPOSIT INSURANCE CORPORATION

General policy:
- Securities of nonmember insured banks; published 2-14-97

Government securities sales practices:
- Banks' conduct of business as government securities brokers or dealers; standards; published 3-19-97
  - Correction; published 4-2-97

FEDERAL RESERVE SYSTEM

Government securities sales practices:
- Banks' conduct of business as government securities brokers or dealers; standards; published 3-19-97
  - Correction; published 4-2-97

Home mortgage disclosure (Regulation C):
- Depository institutions asset exemption threshold increase, disclosure requirements modification, etc.
  - Correction; published 6-19-97

Home Mortgage Disclosure (Regulation C):
- Depository institutions asset-size exemption threshold; technical amendments to loan/application register; published 5-27-97

FEDERAL TRADE COMMISSION

Trade regulation rules:
- Textile wearing apparel and piece goods; care labeling; published 2-6-97
- Textile wearing apparel and piece goods; care labeling—
  - Care symbols use; conditional exemption; published 5-29-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Migratory bird hunting and conservation stamp (Federal Duck Stamp) contest; published 5-7-97

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Cable compulsory licenses; cable systems definition; published 4-17-97

NORTHEAST DAIRY COMPACT COMMISSION

Compact over-order price regulations; proceedings or petitions to modify or exempt; published 6-30-97

Over-order price regulations:
- Compact over-order price regulation for Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; published 5-30-97

PENSION BENEFIT GUARANTY CORPORATION

Single-employer plans:
- Allocation of assets—
  - Interest assumptions for valuing benefits; published 6-13-97

POSTAL RATE COMMISSION

Practice and procedure:
- Domestic mail classification schedule; rules applicable to requests for establishing or changing; published 7-1-97

POSTAL SERVICE

Domestic Mail Manual:
- Address correction information requests by mailers; published 3-28-97
- Miscellaneous amendments; published 6-4-97

SECURITIES AND EXCHANGE COMMISSION

Securities:
- Social Security numbers, natural persons; elimination from forms; published 7-1-97

SMALL BUSINESS ADMINISTRATION

Disaster loan programs:
- Legal business entities engaged in agricultural enterprises and non-agricultural business ventures; published 7-1-97

TRANSPORTATION DEPARTMENT

Coast Guard

Civil monetary penalties; inflation adjustments
- Correction; published 7-1-97

Lifesaving equipment:
- Inflatable liferafts
  - Correction; published 7-1-97

Ports and waterways safety:

Lower Mississippi River; regulated navigation area; published 6-30-97
Savannah, GA; safety zone; published 7-1-97

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Railroad power brakes and drawbars:
Train and locomotive power braking systems; advanced technology use; two-way end-of-train telemetry devices; published 6-4-97

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:
Lamps, reflective devices, and associated equipment—
Retroreflective sheeting or reflex reflectors for rear of truck tractors; published 8-8-96
Retroreflective sheeting or reflex reflectors for rear of truck tractors; published 4-8-97

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:
Hazardous materials transportation—
Regulations harmonization with dangerous goods international standards; published 12-16-96

TREASURY DEPARTMENT

Comptroller of the Currency

Government securities sales practices:
Banks' conduct of business as government securities brokers or dealers; standards; published 3-19-97
Correction; published 4-2-97

TREASURY DEPARTMENT

Thrift Supervision Office

Federal savings associations:
De novo charter applications; published 5-19-97
Correction; published 5-29-97

VETERANS AFFAIRS DEPARTMENT

Vocational rehabilitation and education:
Veterans education—
State approving agencies, school catalog submission; published 7-1-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton research and promotion order:
Imported cotton and cotton content of imported products; supplemental assessment calculation; comments due by 7-7-97; published 6-6-97
Limes grown in Florida and imported; comments due by 7-7-97; published 6-4-97
Milk marketing orders:
Texas; comments due by 7-11-97; published 6-27-97
Peaches grown in—
Georgia; comments due by 7-7-97; published 6-4-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Animal welfare:
Marine mammals and certain other regulated animals; perimeter fence requirements; comments due by 7-7-97; published 5-6-97
Interstate transportation of animals and animal products (quarantine):
Tuberculosis in cattle and bison—
Accredited-free State status; Wisconsin; comments due by 7-7-97; published 5-7-97
Plant-related quarantine, foreign:
Unroasted coffee, coffee berries and fruits, etc.; importation into Hawaii and Puerto Rico; prohibition; comments due by 7-8-97; published 5-9-97
Plants-related quarantine; foreign:
Imported plants and plant products—
Potato tubers from Bermuda and potato plants from Newfoundland et al.; comments due by 7-7-97; published 5-7-97

AGRICULTURE DEPARTMENT

Farm Service Agency

Program regulations:
Rural rental housing assistance; comments due by 7-7-97; published 5-7-97

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

Program regulations:
Rural rental housing assistance; comments due by 7-7-97; published 5-7-97

AGRICULTURE DEPARTMENT

Rural Housing Service

Program regulations:
Rural rental housing assistance; comments due by 7-7-97; published 5-7-97

AGRICULTURE DEPARTMENT

Rural Utilities Service

Program regulations:
Rural rental housing assistance; comments due by 7-7-97; published 5-7-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
Magnuson Act Provisions; public meetings; comments due by 7-8-97; published 6-12-97
Permits:
Marine mammals; comments due by 7-7-97; published 6-6-97
South Atlantic Fishery Management Council; public hearings; comments due by 7-11-97; published 6-12-97

CONSUMER PRODUCT SAFETY COMMISSION

Freedom of Information Act; implementation; comments due by 7-7-97; published 5-6-97
Poison prevention packaging:
Child-resistant packaging requirements—
Household products containing petroleum distillates and other hydrocarbons; comments due by 7-11-97; published 4-28-97

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):
Affirmative action reform in Federal procurement; comments due by 7-8-97; published 5-9-97
Freedom of Information Act; implementation; comments due by 7-11-97; published 5-12-97
Military recruiting and Reserve Officer Training Corps program access to institutions of higher education; comments due by 7-7-97; published 4-8-97

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
Hazardous air pollutants list; additions and deletions—
Research and development facilities; comments due by 7-11-97; published 6-11-97
Mineral wool production; comments due by 7-7-97; published 5-8-97
Polymer and resin production facilities (Group IV); comments due by 7-7-97; published 6-6-97
Wood furniture manufacturing operations; wood furniture component definition; comments due by 7-9-97; published 6-9-97
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 7-7-97; published 6-6-97
Arizona; comments due by 7-11-97; published 6-11-97
Illinois; comments due by 7-9-97; published 6-9-97
Louisiana; comments due by 7-9-97; published 6-9-97
Maryland; comments due by 7-7-97; published 6-5-97
Pennsylvania; comments due by 7-11-97; published 6-11-97
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Oregon; comments due by 7-9-97; published 6-9-97
Washington; comments due by 7-9-97; published 6-9-97
Clean Air Act:
Special exemptions—
Virgin Islands; comments due by 7-10-97; published 6-10-97
Hazardous waste:
Identification and listing—
Petroleum refining process wastes; land disposal restrictions for newly hazardous wastes;

comment period extension; comments due by 7-11-97; published 5-27-97
Land disposal restrictions—
Metal wastes and mineral processing wastes treatment standards, etc. (Phase IV); comments due by 7-11-97; published 5-12-97
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
(S)-hydroprene biochemical pest control agent; comments due by 7-7-97; published 6-4-97
Aminoethoxyvinylglycine; comments due by 7-7-97; published 5-7-97
Bifenthrin; comments due by 7-7-97; published 6-6-97
Opuntia lindheimeri etc.; comments due by 7-7-97; published 5-7-97
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 7-7-97; published 6-4-97
Toxic chemical release reporting; community-right-to-know—
Dioxin etc.; comments due by 7-7-97; published 5-7-97
Water pollution control:
Water quality standards—
Alaska; arsenic human health criteria; withdrawal; comments due by 7-7-97; published 5-21-97

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Foreign participation in U.S. telecommunications market; effective competitive opportunities test changes; comments due by 7-9-97; published 6-17-97
Telecommunications Act of 1996; implementation—
Guam telephone authority and other similarly situated carriers local exchange carrier; comments due by 7-7-97; published 5-30-97
Radio stations; table of assignments:
Idaho; comments due by 7-7-97; published 5-21-97
Illinois et al.; comments due by 7-7-97; published 5-21-97
Minnesota; comments due by 7-7-97; published 5-21-97
Nevada; comments due by 7-7-97; published 5-21-97
Television broadcasting:
Local marketing agreements; terms and characteristics; comments due by 7-8-97; published 6-23-97

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Affirmative action reform in Federal procurement; comments due by 7-8-97; published 5-9-97
Federal property management:
Federal advisory committee management; comments due by 7-10-97; published 6-10-97
Utilization and disposal—
Real property appraisals; reliability, integrity, and confidentiality; comments due by 7-7-97; published 5-5-97

HEALTH AND HUMAN SERVICES DEPARTMENT
Centers for Disease Control and Prevention
Medicare, Medicaid, and clinical laboratories improvement:
Clinical laboratory requirements; effective dates extension; comments due by 7-11-97; published 5-12-97

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food additives:
Adjuvants, production aids, and sanitizers—
N,N-bis(2-hydroxyethyl) dodecanamide; comments due by 7-10-97; published 6-10-97
Triisopropanolamine; comments due by 7-7-97; published 6-4-97
Food for human consumption:
Food labeling—
Health claims; soluble fiber from certain foods and coronary heart disease; comments due by 7-7-97; published 5-22-97
Nutrient content claim; use of term ≥plus≥ as synonym for ≥added≥; comments due by 7-9-97; published 6-9-97
Medical devices:
Cigarettes and smokeless tobacco products; restriction of sale and distribution to protect children and adolescents
Federal preemption; State and local government exemption applications; comments due by 7-7-97; published 6-23-97
Electrode lead wires and patient cables; performance standard; comments due by 7-8-97; published 5-9-97

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare, Medicaid, and clinical laboratories improvement:
Clinical laboratory requirements; effective dates extension; comments due by 7-11-97; published 5-12-97
Medicare:
Individual claims under Part A or B; appeal procedures; comments due by 7-11-97; published 5-12-97

HEALTH AND HUMAN SERVICES DEPARTMENT
Individual health insurance market requirements; comments due by 7-7-97; published 4-8-97

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Community development block grants:
New York small cities program; comments due by 7-11-97; published 6-11-97
Public and Indian housing:
Admission and occupancy regulations; Federal regulatory review; comments due by 7-7-97; published 5-9-97
Real Estate Settlement Procedures Act:
Employer payments to employees who make like-provider referrals; exemption and other amendments; comments due by 7-8-97; published 5-9-97

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Kansas; comments due by 7-7-97; published 6-4-97
Kentucky; comments due by 7-7-97; published 6-4-97
North Dakota; comments due by 7-7-97; published 6-5-97
West Virginia; correction; comments due by 7-10-97; published 6-23-97

JUSTICE DEPARTMENT
Drug Enforcement Administration
Schedules of controlled substances:
Fenfluramine; comments due by 7-7-97; published 5-6-97

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Affirmative action reform in Federal procurement; comments due by 7-8-97; published 5-9-97

PERSONNEL MANAGEMENT OFFICE
Employment:
Qualification requirements, general; comments due by 7-7-97; published 6-5-97
Federal Employee Travel Reform Act of 1996; implementation:
Location-based pay entitlements; official duty station determinations; comments due by 7-8-97; published 5-9-97

TRANSPORTATION DEPARTMENT
Coast Guard
Anchorage regulations:
California; comments due by 7-7-97; published 5-5-97
Vessel inspection alternatives:
Streamlined inspection program; establishment; comments due by 7-7-97; published 4-8-97

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Boeing; comments due by 7-7-97; published 5-6-97
Bombardier; comments due by 7-7-97; published 5-28-97
Fokker; comments due by 7-11-97; published 5-30-97
New Piper Aircraft, Inc.; comments due by 7-10-97; published 5-7-97
Airworthiness standards:
Special conditions—
McDonnell-Douglas model DC-9-31/-32 airplanes;

comments due by 7-7-97; published 5-21-97

Class D airspace; comments due by 7-7-97; published 5-19-97

Class E airspace; comments due by 7-7-97; published 5-21-97

VOR Federal airways; comments due by 7-11-97; published 6-2-97

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Occupant crash protection—

Air bag depowering; anthropomorphic test dummy neck flexion, extension, and tension measuring requirements; comments due by 7-7-97; published 5-20-97

TRANSPORTATION DEPARTMENT

Surface Transportation Board

Rail carriers:

Class 1 track safety standards; service obligations over excepted track; comments due by 7-7-97; published 5-7-97

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcohol; viticultural area designations:

Davis Mountains, Jeff Davis County, TX; comments due by 7-7-97; published 5-6-97

TREASURY DEPARTMENT

Community Development Financial Institutions Fund

Bank enterprise award program; comments due by 7-7-97; published 3-7-97

TREASURY DEPARTMENT

Customs Service

Financial and accounting procedures:

Harbor maintenance fee, ports subject to; list update; comments due by 7-7-97; published 6-4-97

TREASURY DEPARTMENT

Fiscal Service

Electronic benefits transfer;

Financial institutions designation as financial agents; comments due by 7-8-97; published 5-9-97

TREASURY DEPARTMENT

Internal Revenue Service

Excise taxes:

Group health plans; access, portability, and renewability requirements; comments due by 7-7-97; published 4-8-97

Group health plans; health insurance portability; comments due by 7-7-97; published 4-8-97

VETERANS AFFAIRS DEPARTMENT

Loan guaranty:

Electronic payment of all funding fees; comments due by 7-7-97; published 5-7-97

Loan guaranty;

Home loans; credit standards; comments due by 7-7-97; published 5-7-97

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/nara/fedreg/fedreg.html.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.R. 956/P.L. 105–20

Drug-Free Communities Act of 1997 (June 27, 1997; 111 Stat. 224)

H.J. Res. 32/P.L. 105–21

To consent to certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920. (June 27, 1997; 111 Stat. 235)

S. 342/P.L. 105–22

To extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices. (June 27, 1997; 111 Stat. 236)

June 20, 1997

CFR ISSUANCES 1997
January—July 1997 Editions and Projected October, 1997 Editions

This list sets out the CFR issuances for the January–July 1997 editions and projects the publication plans for the **October, 1997** quarter. A projected schedule that will include the **January, 1998** quarter will appear in the first **Federal Register** issue of January.

For pricing information on available 1996–1997 volumes consult the CFR checklist which appears every Monday in the Federal Register.

Pricing information is not available on projected issuances. The weekly CFR checklist and the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR titles and parts, revision date and price of each volume.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

Titles revised as of January 1, 1997:

Title

CFR Index

1–2 (Revised as of Feb. 1, 1997)

3 (Compilation)

4

5 Parts:
1–699
700–1199
1200–End

6 [Reserved]

7 Parts:
0–26
27–52
53–209
210–299
300–399
400–699
700–899
900–999
1000–1199
1200–1499
1500–1899
1900–1939
1940–1949
1950–1999
2000–End

8

9 Parts:
1–199
200–End

10 Parts:
0–50
51–199
200–499
500–End

11

12 Parts:
1–199
200–219
220–299
300–499
500–599
600–End

13

14 Parts:
1–59
60–139
140–199
200–1199
1200–End

15 Parts:
0–299
300–799
800–End

16 Parts:
0–999
1000–End

Titles revised as of April 1, 1997:

Title

17 Parts:
1–199
200–239
240–End

18 Parts:
1–399
400–End

19 Parts:
1–140
141–199
200–End

20 Parts:
1–399
400–499
500–End

21 Parts:
1–99
100–169
170–199
200–299
300–499
500–599
600–799
800–1299
1300–End

22 Parts:
1–299
300–End

23

24 Parts:
0–199
200–219
220–499
500–699
700–1699
1700–End

25

26 Parts:
1 (§§ 1.0-1–1.60)
1 (§§ 1.61–1.169)
1 (§§ 1.170–1.300)
1 (§§ 1.301–1.400)
1 (§§ 1.401–1.440)
1 (§§ 1.441–1.500)
1 (§§ 1.501–1.640)
1 (§§ 1.641–1.850)
1 (§§ 1.851–1.907)
1 (§§ 1.908–1.1000)
1 (§§ 1.1001–1.1400)
1 (§ 1.1401–End)
2–29
30–39
40–49
50–299
300–499
500–599 (Cover only)
600–End

27 Parts:
1–199
200–End

Titles revised as of July 1, 1997:

Title

28 Parts:
0–42
43–End

29 Parts:
0–99
100–499
500–899
900–1899
1900–1910.999
1910.1000–End
1911–1925
1926
1927–End

30 Parts:
1–199
200–699
700–End

31 Parts:
0–199
200–End

32 Parts:
1–190
191–399
400–629
630–699
700–799
800–End

33 Parts:
1–124
125–199
200–End

34 Parts:
1–299
300–399
400–End

35

36 Parts:
1–199
200–299
300–End

37

38 Parts:
0–17
18–End

39

40 Parts:
1–49
50–51
52.01–52.1018
52.1019–End
53–59
60
61–62
63–71
72–80
81–85
86
87–135
136–149
150–189
190–259
260–265
266–299
300–399
400–424
425–699
700–789
790–End

41 Parts:

Chs. 1–100
Ch. 101
Chs. 102–200
Ch. 201–End

Projected October 1, 1997 editions:

Title

42 Parts:
1–399
400–429
430–End

43 Parts:
1–999
1000–End

44

45 Parts:
1–199
200–499
500–1199
1200–End

46 Parts:
1–40
41–69
70–89
90–139
140–155
156–165
166–199
200–499
500–End

47 Parts:
0–19
20–39
40–69
70–79
80–End

48 Parts:
Ch. 1 (1–51)
Ch. 1 (52–99)
Ch. 2 (201–299)
Chs. 3–6
Chs. 7–14
Ch. 15–28
Ch. 29–End

49 Parts:
1–99
100–185
186–199
200–399
400–999
1000–1199
1200–End

50 Parts:
1–199
200–599
600–End

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 1997

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
July 1	July 16	July 31	August 15	September 2	September 29
July 2	July 17	August 1	August 18	September 2	September 30
July 3	July 18	August 4	August 18	September 2	October 1
July 7	July 22	August 6	August 21	September 5	October 6
July 8	July 23	August 7	August 22	September 8	October 6
July 9	July 24	August 8	August 25	September 8	October 7
July 10	July 25	August 11	August 25	September 8	October 8
July 11	July 28	August 11	August 25	September 9	October 9
July 14	July 29	August 13	August 28	September 12	October 14
July 15	July 30	August 14	August 29	September 15	October 14
July 16	July 31	August 15	September 2	September 15	October 14
July 17	August 1	August 18	September 2	September 15	October 15
July 18	August 4	August 18	September 2	September 16	October 16
July 21	August 5	August 20	September 4	September 19	October 20
July 22	August 6	August 21	September 5	September 22	October 20
July 23	August 7	August 22	September 8	September 22	October 21
July 24	August 8	August 25	September 8	September 22	October 22
July 25	August 11	August 25	September 8	September 23	October 23
July 28	August 12	August 27	September 11	September 26	October 27
July 29	August 13	August 28	September 12	September 29	October 27
July 30	August 14	August 29	September 15	September 29	October 28
July 31	August 15	September 2	September 15	September 29	October 29