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Monday
July 13, 1987

Briefings on How To Use the Federal Register—
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BOSTON, MA

WHEN: July 15, at 9 a.m.
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FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2411

Freedom of Information Act Requests; Fees To Be Charged; General Counsel and Federal Service Impasses Panel

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The Federal Labor Relations Authority, the General Counsel of the Authority, and the Federal Service Impasses Panel amend their Freedom of Information Act (FOIA) regulations to incorporate the recent changes to the FOIA regarding, among other things, establishment of fees to be charged for search, review and duplication of records in response to FOIA requests. These rules implement the Freedom of Information Reform Act, Pub. L. No. 99–570, and guidelines established by the Office of Management and Budget (OMB), 52 FR 10012 (March 27, 1987).

EFFECTIVE DATE: August 12, 1987.

FOR FURTHER INFORMATION CONTACT: William E. Persina, Deputy Solicitor, Federal Labor Relations Authority, 202–382–0781.

SUPPLEMENTARY INFORMATION: The Freedom of Information Reform Act of 1986 (FOIRA) requires the Office of Management and Budget to promulgate guidelines containing a uniform schedule of fees that are applicable to all agencies. On April 14, 1987 (52 FR 11995), the Authority, the General Counsel of the Authority, and the Federal Service Impasses Panel published their proposed rule for comment. One set of comments was received, from a public citizens group. These comments were, among other things, essentially that the OMB Guidelines are in certain instances not supported by, or are contrary to, the legislative history of the FOIRA. Accordingly, this commenter suggested that the OMB Guidelines, insofar as they are incorporated into the Authority's, General Counsel's and Panel's proposed regulation, be changed. Specifically, the commenter suggested that OMB's guidelines concerning definitions of certain groups of requestors not be adopted. Concerning the definition of a "commercial use requester" the commenter suggested that the Authority's, General Counsel's and Panel's definition be based on the identity of the requester organization (e.g., a public interest group, labor union, etc., could not be construed as a commercial use requester). However, because use, not identity, controls in this area under the FOIRA, it would be inappropriate to adopt this proposal.

Concerning the definition of "educational institution" the commenter suggested that the phrase "scholarly or scientific research" be read in conjunction with the term "education institution," so that a request from an educational institution in furtherance of either scholarly or scientific research would qualify under this definition. This same issue was addressed in OMB's final publication, and the Authority, the General Counsel, and the Panel likewise reject this suggestion. The FOIRA and its legislative history make clear that the term "scholarly" applies to "educational institution," and the term "scientific" applies to "non-commercial institution."

The commenter also suggested that the definition of "representative of the news media" should not focus on the currency of the public interest in the events the requester is concerned with; and should make clear that a free lance journalist falls within the definition with respect to requests that may be preliminary to actual preparation of a specific article, or may never lead to a publishable story. The Authority, the General Counsel, and the Panel conclude, however, that the plain meaning of the word "news" entails currency of the events. Further, concerning freelance journalists, the Authority's, General Counsel's, and Panel's intent was not to limit qualification under this definition to any particular form of proof of future publication such as a publication contract. Rather, their intent was to incorporate legitimate freelance journalists into the definition, but not anyone merely declaring himself or herself to be a freelance journalist. Accordingly, other indicia of qualification under this definition would be press accreditation, guild membership, Federal Communications Commission licensing, etc. The definition has been changed to reflect this for clarification purposes.

The commenter argued that there is no basis in the FOIRA or its legislative history for construing the automatic waiver of fees for the first two hours of search time to mean something less than that for computer searches. The Authority rejects this suggestion. Congress made it clear that each agency develop regulations based on OMB's guidelines for uniform schedule of fees. The Authority's regulations are in conformance with OMB's guidelines on this section, and therefore are considered not only appropriate but also consistent with the requirements of the FOIRA.

Finally, the commenter suggested that the Authority, the General Counsel and the Panel establish presumptions that certain categories of requesters, e.g., public interest organizations, scholars, and journalists, are entitled to fee waivers; and that it reject the guidance of the Dept. of Justice on this matter, issued on April 2, 1987. In its guidance the Dept. of Justice, among other things, suggested various factors to be taken into account by agencies when assessing whether to waive fees, i.e., whether the request is in the public interest as likely to contribute significantly to public understanding of the operations or activities of the government, and not primarily in the commercial interest of the requester.

However, the Authority, the General Counsel and the Panel are of the view that the Justice Dept's. guidance is more consistent with the FOIRA statutory standard for fee waiver or reduction than is the commenter's suggestion concerning a presumption of waiver based on the identity of the requester. The Dept. of Justice guidelines are, in the view of the Authority, the General Counsel, and the Panel, better designed to implement the FOIRA public interest standard concerning fee waivers than is any presumption based on identity of the requester. Accordingly, the Dept. of Justice guidelines will be adhered to by the Authority, the General Counsel, and the Panel in considering fee waiver

requests under § 2411.10(b)(3) of the rule. For the sake of clarification, the factors referenced in the Justice Dept. guidelines for granting waivers will be set forth in that subsection of the regulation. In this way requesters seeking a fee waiver based on public interest will know for certain the factors to be considered by the Authority, the General Counsel, and the Panel in ruling on such a request.

Accordingly, for reasons set out in the preamble, 5 CFR Part 2411 is amended as follows:

PART 2411—[AMENDED]

1. The authority citation for Part 2411 continues to read as follows:

Authority: 5 U.S.C. 552.

2. Section 2411.6(b) (3) and (4) are revised to read as follows:

§ 2411.6 Time limits for processing requests.

* * * * *

(b)(3) If the request is expected to involve allowed charges in excess of $250.00, the response shall specify or estimate the fee involved and shall require prepayment of any charges in accordance with the provisions of paragraph (g) of § 2411.10 before the request is processed further.

(4) Whenever possible, the response relating to a request for records that involves a fee of less than $250.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Authority, the General Counsel or the Panel.

* * * * *

3. Section 2411.10 is revised to read as follows:

§ 2411.10 Fees.

(a) *Definitions.* For the purpose of this section:

(1) The term "direct costs" means those expenditures which the Authority, the General Counsel or the Panel actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of the rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(2) The term "search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Searches may be done manually or by computer using existing programming.

(3) The term "duplication" refers to the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microfilm, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others.

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

(5) 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 interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Authority, the General Counsel or the Panel will look first to the use to which a requester will put the document requested. Where the Authority, the General Counsel or the Panel has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Authority, the General Counsel or the Panel may seek additional clarification before assigning the request to a specific category.

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

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

(8) 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 of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. In the case of "freelance" journalists, they may be regarded as working for a news organization if they demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but the Authority, the General Counsel or the Panel may also look to the past publication record of a requester, press accreditation, guild membership, business registration, Federal Communications Commission licensing, or similar credentials of a requester in making this determination.

(b) *Exceptions to fee charges.* (1) With the exception of requesters seeking documents for a commercial use, the Authority, the General Counsel or the Panel will provide the first 100 pages of duplication and the first two hours of search time without charge. The word "pages" in this paragraph refers to paper copies of standard size, usually 8½" by 11", or their equivalent in microfiche or computer disks. The term "search time" in this paragraph is based on a manual search for records. In applying this term to searches made by computer, when the cost of the search as set forth in paragraph (d)(2) of this section equals the equivalent dollar amount of two hours of the salary of the person performing the search, the Authority, the General Counsel or the Panel will begin assessing charges for computer search.

(2) The Authority, the General Counsel, or the Panel will not charge fees to any requester, including commercial use requesters, if the cost of collecting the fee would be equal to or greater than the fee itself.

(3)(i) The Authority, the General Counsel or the Panel will provide documents without charge or at reduced charges if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(ii) In determining whether disclosure is in the public interest under paragraph (b)(3)(i) of this section, the Authority, the General Counsel, and the Panel will consider the following factors:

(a) The subject of the request. Whether the subject of the requested records concerns "the operations or activities of the government";

(b) The informative value of the information to be disclosed. Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(c) The contribution to an understanding of the subject by the general public likely to result from disclosure. Whether disclosure of the requested information will contribute to "public understanding";

(d) The significance of the contribution to the public understanding. Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities;

(e) The existence and magnitude of a commercial interest. Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(f) The primary interest in disclosure. Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primary in the commercial interest of the requester."

(iii) A request for a fee waiver based on the public interest under paragraph (b)(3)(i) of this section must address these factors as they apply to the request for records in order to be considered by the Authority, the General Counsel, or the Panel.

(c) *Level of fees to be charged.* The level of fees to be charged by the Authority, the General Counsel or the Panel, in accordance with the schedule set forth in paragraph (d) of this section, depends on the category of the requester. The fee levels to be charged are as follows:

(1) A request for documents appearing to be for commercial use will be charged to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought.

(2) A request for documents from an educational or non-commercial scientific institution will be charged for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(3) The Authority, the General Counsel or the Panel shall provide documents to requesters who are representatives of the news media for the cost of reproduction alone, excluding charges for the first 100 pages.

(4) The Authority, the General Counsel or the Panel shall charge requesters who do not fit into any of the categories above fees which recover the full direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. Requests from record subjects for records about themselves filed in Authority, General Counsel, or Panel systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974, which permits fees only for reproduction.

All requesters must reasonably describe the records sought.

(d) The following fees shall be charged in accordance with paragraph (c) of this section:

(1) *Manual searches for records.* The salary rate (i.e., basic pay plus 16 percent) of the employee(s) making the search. Search time under this paragraph and paragraph (d)(2) of this section may be charged for even if the Authority, the General Counsel or the Panel fails to locate records or if records located are determined to be exempt from disclosure.

(2) *Computer searches for records.* $4.15 per quarter hour, which the Authority, the General Counsel and the Panel determined to be the actual direct cost of providing the service, including computer search time directly attributable to searching for records responsive to a FOIA request, runs, and operator salary apportionable to the search.

(3) *Review of records.* The salary rate (i.e., basic pay plus 16 percent) of the employee(s) conducting the review. This charge applies only to requesters who are seeking documents for commercial use, and only to the review necessary at the initial administrative level to determine the applicability of any relevant FOIA exemptions, and not at the administrative appeal level of an exemption already applied.

(4) *Duplication of records.* Twenty-five cents per page for paper copy reproduction of documents, which the Authority, the General Counsel and the Panel determined is the reasonable direct cost of making such copies, taking into account the average salary of the operator and the cost of the reproduction machinery. For copies of records prepared by computer, such as tapes or printouts, the Authority, the General Counsel or the Panel shall charge the actual cost, including operator time, of production of the tape or printout.

(5) *Forwarding material to destination.* Postage, insurance and special fees will be charged on an actual cost basis.

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

(f) *Charging interest.* Interest at the rate prescribed in 31 U.S.C. 3717 may be charged those requesters who fail to pay fees charged, beginning on the 30th day following the billing date. Receipt of a fee by the Authority, the General Counsel or the Panel, whether processed or not, will stay the accrual of interest.

(g) *Advanced payments.* The Authority, the General Counsel or the Panel will not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) The Authority, the General Counsel or the Panel estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. Then the Authority, the General Counsel or the Panel will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 days of the date of the billing), in which case the Authority, the General Counsel or the Panel requires the requester to pay the full amount owed plus any applicable interest as provided above or demonstrate that he has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester. When the Authority, the General Counsel or the Panel acts under paragraph (g) (1) or (2) of this section, the administrative time limits prescribed

in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extension of these time limits) will begin only after the Authority, the General Counsel or the Panel has received fee payments described above.

(h) Requests for copies of transcripts of hearings should be made to the official hearing reporter. However, a person may request a copy of a transcript of a hearing from the Authority, the Panel or the General Counsel, as appropriate. In such instances, the Authority, the General Counsel or the Panel, as appropriate, may, by agreement with the person making the request, make arrangements with commercial firms for required services to be charged directly to the requester.

(i) Payment of fees shall be made by check or money order payable to the U.S. Treasury.

Jerry L. Calhoun,

Chairman.

Henry B. Frazier III,

Member.

Jean McKee,

Member.

John C. Miller,

General Counsel.

Roy M. Brewer,

Chairman, FSIP.

[FR Doc. 87-15670 Filed 7-10-87; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1807, 1863, 1864, 1866, 1900, 1924, 1941, 1950, 1951, 1955, 1956, and 1965

Deferral, Reamortization, and Reclassification of Distressed Farmer Program Loans (ST Loans) for Softwood Timber Production

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to provide for the deferral, reamortization, and reclassification of distressed Farmer Program loans as defined in those regulations in conjunction with the production of softwood timber on marginal land as provide for in section 1254 of the Food Security Act of 1985, (Pub. L. 99-198). This action is needed to assist financially distressed FmHA borrowers to improve their financial condition and remove marginal land, including highly erodible land, from the production of other agricultural commodities. The intended effect is to assist these borrowers in developing a positive cash flow for their farming operation, increase the future production of softwood timber, take marginal land out of agricultural production, and assist in the control of soil erosion.

EFFECTIVE DATE: July 13, 1987.

FOR FURTHER INFORMATION CONTACT: Edward R. Yaxley, Jr., Senior Loan Officer, Farm Real Estate and Production Division, Farmers Home Administration, USDA, Room 5449, South Agricultural Building, 14th Street and Independence Avenue, SW., Washington, DC 20250, telephone (202) 447-4572.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor, because there will be an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities," (December 23, 1983), Emergency Loans, Farm Operating Loans, and Farm Ownership Loans are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940-J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the final action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Discussion of Final Rule

On January 26, 1987, FmHA published a proposed rule in the **Federal Register** (52 FR 2717-2722) with a comment period ending February 25, 1987. The purpose of this final rule is to implement the provisions of section 1254 of the Food Security Act of 1985 (Pub. L. 99-198) for deferring and reamortizing distressed FmHA farmer program loans as defined in these regulations or a portion of these loans in conjunction with the production of softwood timber on marginal land. Such loans could be reamortized for up to 50 years with payments deferred for up to 45 years. The marginal land must have previously produced agricultural commodities or have been used as pasture. Such marginal land may not have any lien against it other than a lien to secure such reamortized loan. The total amount of loans secured by such land cannot exceed $1,000 per acre.

A recent USDA study, "Conversion of Southern Cropland to Southern Pine Tree Planting," and a report to Congress as required by Pub. L. 98-258, "Feasibility of Using Future Revenue from Southern Pine Tree Production to Amortize the Debts of Farmers Home Administration (FmHA) Delinquent Borrowers," indicate that the maximum harvest is obtained at between 40 and 50 years for softwood timber. Usually some thinning is needed at 17 years, 25 years, and 35 years which yields mostly pulpwood with some chip and saw timber for a minor amount of income. The regulations do not permit the borrower to harvest the softwood timber for use as Christmas trees. Harvesting the trees when they are small enough for use as Christmas trees would not bring the high prices and future revenue projected in the study. Table D of the report to Congress shows that under the assumption of high prices, 5% inflation rate and final harvest at 45 years, the future revenue discounted at 10% has a present value of $882 per acre. This is

interpreted to mean that up to $882 of debt could be amortized at a compound interest rate of 10%. The results do not include any appreciation in land value.

The program is limited to 50,000 acres. Each borrower is required to place at least 50 acres of marginal land into the program. Therefore, the maximum number of borrowers could not exceed 1,000. At this time, no funds have been appropriated for the program for new loans. The Congressional Report estimates a direct cost of $43.00 per acre for planting trees and a $4.00 per acre cost for maintenance purposes for a total cost of $47.00 per acre. Therefore, it is likely that a borrower could obtain funds for these costs from income, other sources, including cost-sharing programs, or obtain an FmHA operating loan for establishing the softwood timber. Forestry is also an authorized purpose for farm ownership and soil and water loans. However, security requirements eliminate the use of these programs to finance the production of softwood timber on land that is marginal.

When an eligible borrower only owes FmHA loans which include the borrower's dwelling as security for these loans, and these loans are reclassified as Softwood Timber loans, the borrower will be required to make payments equal to the market value rent of the dwelling or the minimum installment. It is reasonable to require the borrower to make payments on the loan equal to the market value of the rent for the dwelling or the minimum equally amortized installment for the term of the loan, whichever is less. If FmHA does not receive any payment under these circumstances, the borrower would be living in the dwelling with all payments deferred on the loan until the timber produces income. In most cases, this would be 45 years. It would be an unreasonable financial burden on FmHA to provide housing free of charge to these borrowers for this length of time.

In most cases, there will be very little income from the timber until the final harvest. It is anticipated that normally payment would be deferred until final harvest, except for the requirement of the payment of income from culled and thinned timber. Therefore, the initial note will be all due and payable at the time of the final harvest, but not later than 46 years from the date of the initial note. However, if the final harvest is delayed and the borrower is unable to pay the note as agreed, the note could be reamortized for a term not to exceed 50 years from the date of the initial note. The total years of deferred payments will not exceed a total of 45 years, including the payments deferred in the initial note.

The final regulations appear in § 1951.46 which is in Subpart A of Part 1951, "Account Servicing Policies." The final regulations define the policy, purposes, and terms used in the reclassified ST loan program. The eligibility requirements, reamortization requirements, and additional special requirements for processing the reamortized ST loans are also described. The final regulation also explains how the reamortized ST loans will be serviced. Appropriate conforming changes are also made to FmHA regulations which categorize reamortized ST loan(s) as farmer program loans and specify the general requirements which then apply. The conforming changes appear in the final rule in the following Parts: 1807; 1863; 1864; 1866; 1900, Subpart B; 1924, Subpart B; 1941, Subpart A; 1950, Subpart C; 1951, Subparts F and L; 1955, Subpart A, B and C; 1956, Subpart B; 1965, Subpart A. An additional change is also made to update a citation in § 1950.104 from Part 1872 to Part 1965.

Discussion of Comments

One comment letter was received. The letter indicated concern for financing the planting of the softwood timber and suggested that a cost-sharing program be set up for this or existing cost-sharing programs be used for this purpose. FmHA has no authority to establish such a program. However, we believe the regulation is written so that such programs from other agencies could be used as a source of funds. We did add to the regulations that cost-sharing programs could be used. There was concern that the Soil Conservation Service (SCS) rather than a forestry agency was named as the agency to identify the land suitable for softwood timber.

Since a forestry agency will be involved in developing a timber management plan and the SCS is involved in developing a conservation plan for other programs, we see no reason to change the rule on this point. There was also concern about what is sufficient training and experience. We have had similar language in other programs for a number of years with very few problems and see no reason to change the rule on this point.

Discussion of Changes

In addition to the changes made as a result of the comment received as addressed above, upon a further review and due to changes made by recent publication of other regulations, we have made a few additional changes in the final rule that are different from the proposed rule.

We have added § 1950.105 to Subpart C of Part 1950 to meet the statutory requirement of the Soldiers and Sailors Relief Act. Any borrower who enters full-time active military duty may not be charged more than six percent interest on any outstanding loan while on duty. Since this is a statutory requirement it is published as a final rule.

We have removed from § 1941.46(d)(2)(ii) the requirement of developing a feasible farm plan after the deferral period. It would be impossible to project a reasonable estimate of the borrower's financial condition and a cash flow projection 46 years down the road. Similarly, we have removed the requirement contained in §§ 1951.46(d)(2)(ii) and 1951.46(g) that the State Director issue a State supplement projecting timber prices 46 years in the future.

We have revised § 1951.44(c)(9) to clarify when borrowers will be notified of the reclassified softwood timber loan program. This section was also clarified to state that FmHA will consider a borrower for the softwood timber option only after FmHA determines the borrower cannot develop a feasible plan with use of a deferral.

In § 1951.46(b)(4), we have revised the definition for a positive cash flow to make the definition uniform for all farmer program loans. No new requirements have been added. The revisions are the result of 12 comments received on similar definition of positive cash flow which FmHA published as a proposed rule in the **Federal Register** (52 FR 1706–1804) on January 15, 1987, as part of its general revision of farmer program regulations. The definition has simply been refined to detail the requirements that FmHA considers essential for its borrowers. The comments were received from State government officials, interest groups, an FmHA employee, and an individual. The major concerns with the definition are that the definition would: (1) Require funds for two years of taxes; (2) require a capital reserve which will be determined on the depreciation value rate of assets; (3) not provide any guidelines for a reasonable standard of living; (4) require funds for the payment of all debts including all open accounts and carryover debts; and (5) in general, the requirements were subjective without any guidelines.

As a result of the comments, we further researched the subject. We conducted analysis of current information in the FmHA FARMS data

base for 19,504 FmHA borrowers. We contacted the Economic Research Service, the Extension Service, the National Agriculture Statistical Service and several Land Grant Colleges. In view of the comments received, the contacts with the aforementioned agencies, and the analyses performed, we have revised the definition to provide specific guidelines for reserve investments, risk and uncertainties. The State Director will issue a State supplement to provide guidelines for farm family living expenses. We have also clarified the requirement for meeting scheduled payments and operating expenses. For specific details, see § 1951.46(b)(4) of Subpart A of Part 1951 of this document. We believe these changes will improve the definition and respond to the major concerns of the comments on the subject.

In § 1951.46 (d)(5), we have added the words *including NP loans* to clarify that security for Non Program (NP) loans can be released from the parcel of land that is security for the ST loans. The statute mandates that only ST loan liens will be secured by the parcel of land for the production of softwood timber.

In § 1951.46 (j)(1) we have added the words *including NP loans* and also the words *paid current* for clarification.

In the introductory paragraph of § 1965.12 Subpart A of Part 1965 of this Chapter, we made an addition that borrowers convicted of a controlled substances violations (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and available in any FmHA offices, for a definition of a controlled substances) after December 31, 1985, are ineligible for a subordination for the crop year of the conviction and for four succeeding crop years. This change is required by the Food Security Act of 1985 (Pub. L. 99-198) and was inadvertently dropped in the proposed rule. Also in the introductory paragraph of 1965.13 we have added a statement for clarification when a borrower has a combination of different types of loans.

List of Subjects

7 CFR Parts 1807, 1863, 1864, 1866, 1900, 1955, and 1956

Agriculture, Loan programs—Agriculture, Loan programs—housing and community development, Low and moderate income housing, Rural areas.

7 CFR Part 1924

Agriculture, Construction and repair, Loan programs—Agriculture.

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture, Rural, areas, Youth.

7 CFR Part 1950

Accounting, Loan programs—Agriculture, Military personnel.

7 CFR Part 1951

Account servicing, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Mortgages, Rural areas.

7 CFR Part 1965

Foreclosure, Loan programs—Agriculture, Rural areas.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1807—TITLE CLEARANCE AND LOAN CLOSING

1. The authority citation for Part 1807 continues to read as follows:

Authority: Secs. 307, 339, 75 Stat. 308, 318, Secs. 502, 510, 63 Stat. 433, as amended, 437, Sec. 4, 64 Stat. 100; 7 U.S.C. 1927, 1989; 42 U.S.C. 1472, 1480; 40 U.S.C. 442; Orders of Sec. of Agr. 19 FR 74, 26 FR 8403, 27 FR 5005, 9957, unless otherwise noted.

2. Section 1807.1 is amended by revising paragraph (a) to read as follows:

§ 1807.1 General.

(a) *Farm Ownership, Rural Housing, and Individual Soil and Water Conservation and Softwood Timber Loans.* This part contains the title clearance and loan closing authorities, policies, and procedures for all Farm Ownership, Rural Housing, and Individual Soil and Water Conservation and Softwood Timber loans, except loans in connection with transfers and assumption agreements or credit sales by the Farmers Home Administration.

* * * * *

PART 1863—REAL ESTATE TAX SERVICING

3. The authority citation for Part 1863 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70; unless otherwise noted.

4. Section 1863.1 is revised to read as follows:

§ 1863.1 General.

This instruction applies to borrowers with a Farm Ownership (FO), Operating Loan (OL), Soil and Water (SW), Recreation Loan (RL), Emergency (EM), Economic Opportunity (EO), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Labor Housing (LH), Softwood Timber (ST), and Non-Program (NP) loans secured by real estate. It also applies to Section 502 and Section 504 Rural Housing borrowers (Single Family Housing (SFH)) who also have a Farmer Program loan. *It does not apply to borrowers who have a SFH loan only;* those will be serviced under § 1965.105 of Subpart C of Part 1965 of this chapter. Borrowers are responsible for paying taxes on the real estate security to the proper taxing authorities before taxes become delinquent. This obligation is set forth in the security instrument securing the loan.

PART 1864—DEBT SETTLEMENT

5. The authority citation for Part 1864 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

6. Section 1864.2 is amended by revising paragraph (a)(5) to read as follows:

§ 1864.2 General policies.

(a) * * *

(5) "Farmer program loans" means Farm Ownership (FO), Operating (OL), Soil and Water (SW), Economic Emergency (EE), Emergency (EM), Recreation (RL), Economic Opportunity (EO), Special Livestock (SL), Softwood Timber (ST) loans and/or Rural Housing loans for farm service buildings (RHF).

* * * * *

PART 1866—FINAL PAYMENT ON LOANS SECURED BY REAL ESTATE

7. The authority citation for Part 1866 continues to read as follows:

Authority: Secs. 339, 510, 75 Stat. 318, 63 Stat. 437; (7 U.S.C. 1989; 42 U.S.C. 1480); Orders of the Secretary of Agriculture, 29 FR 16210, 32 FR 6650, unless otherwise noted.

8. Section 1866.3 is amended by revising the introductory text of paragraphs (b)(1) and (b)(2) to read as follows:

§ 1866.3 County Office actions.

* * * * *

(b) * * *

(1) For direct and insured Farm Ownership (FO), Soil and Water (SW), Recreation Loans (RL), Softwood Timber (ST), and RH loans to individuals; direct Operating-type loans secured by real estate; and direct and insured loans to organizations, the amount to be collected for payment of the account in full will be calculated by the County Supervisor based on the information

shown on the latest Form FHA 451–26, "Transaction Record," or Form FHA 451–31, "Borrower Transaction Record," for the borrower. The final payment will be calculated as outlined in Item 19 of the Forms Manual Insert for Form FHA 451–26 or Item 16 of the Forms Manual Insert for Form FHA 451–31.

* * * * *

(2) For Non-Program (NP) loans, whether secured by real estate or other property, the County Supervisor will request a Statement of Account from the Finance Office by use of Form FHA 451–10, "Request for Statement of Account." (In an unusual case, where the borrower has the cash or a check on hand and insists on paying the account that day, the County Supervisor will calculate the interest and accept the payment. The County Supervisor will advise the borrower that the payment may or may not be sufficient to pay the loan in full and that he will be notified of the status of his account as soon as the County Supervisor receives the statement from the Finance Office.)

* * * * *

PART 1900—GENERAL

9. The authority citation for Part 1900 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Farmers Home Administration Appeal Procedure

10. Section 1900.52 is amended by revising paragraph (d) to read as follows:

§ 1900.52 Definitions.

* * * * *

(d) *Farmer program loans* means Farm Ownership (FO), Operating (OL), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO), Special Livestock (SL), Softwood Timber (ST) loans, and/or Rural Housing loans for farm service buildings (RHF).

* * * * *

PART 1924—CONSTRUCTION AND REPAIR

11. The authority citation for Part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Management Advice to Individual Borrowers and Applicants

12. Section 1924.51 is revised to read as follows:

§ 1924.51 General.

This subpart sets forth policies for providing management advice to farmer program loan individual applicants and borrowers. The term "individual" as used in this subpart applies to individuals and to farming partnerships, joint operations, corporations and cooperatives. The term "farmer program loan" as used in this subpart includes Farm Ownership (FO), Soil and Water (SW), Operating (OL), Emergency (EM), Economic Emergency (EE), Recreation (RL), Special Livestock (SL), and Economic Opportunity (EO), Softwood Timber (ST) loans, and/or Rural Housing loans for farm service buildings (RHF). This subpart applies to insured farm program loan applicants/borrowers who depend on farm income for loan repayment. It also includes Rural Housing (RH) borrowers who are also indebted for a farmer program loan that is not collection-only or a judgment account, and those FO, SW and/or OL loan applicants and borrowers who use the services of a "New Full-Time Family Farmer and Rancher Development Committee." (See Exhibit A of this subpart.) This subpart does not apply to individuals who owe non-program loans (defined in § 1965.7(h) of Subpart A of Part 1965 of this chapter).

13. Section 1924.60 is amended by adding a new paragraph (d)(7) to read as follows:

§ 1924.60 Analysis.

* * * * *

(d) * * *

(7) Who have softwood timber loan(s).

PART 1941—OPERATING LOANS

14. The authority citation for Part 1941 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

15. Section 1941.16 is amended by adding a new paragraph (m) to read as follows:

§ 1941.16 Loan purpose.

* * * * *

(m) To plant softwood timber on marginal land which was previously used to produce an agricultural commodity or as pasture.

16. Section 1941.19 is amended by adding paragraph (a)(7) to read as follows:

§ 1941.19 Security.

* * * * *

(a) * * *

(7) A lien will not be taken on timber or the marginal land for a loan for planting softwood timber trees on marginal land in conjunction with a softwood timber (ST) loan.

* * * * *

PART 1950—GENERAL

17. The authority citation for Part 1950 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Servicing Accounts of Borrowers Entering the Armed Forces

18. Section 1950.103 is amended by revising paragraph (a) to read as follows:

§ 1950.103 Borrower owing FmHA loans which are secured by chattels.

(a) *Policy.*

(1) Borrowers who owe loans *other than* Farm Ownership (FO), Operating (OL), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO), Special Livestock (SL), Softwood Timber (ST) loans, and/or Rural Housing loans for farm service buildings (RHF). When information is received that a borrower is entering the armed forces, the County Supervisor will be responsible for contacting the borrower immediately for the purpose of reaching an understanding concerning the actions to take in connection with the FmHA loan indebtedness. The borrower will be permitted to retain the chattel security if arrangements can be worked out which are satisfactory to the borrower and FmHA. However, because of the nature of chattel security, the borrower will be informed of the usual depreciation of such property and will be encouraged to sell the property and apply the proceeds to the loan(s). In most cases, the interests of both the borrower and the Government can best be served by arranging for a voluntary sale of the security. A borrower retaining security will be expected to make payments on the loan(s) equal to the scheduled payments.

(2) *Borrowers who owe FO, SW, RL, OL, EE, EM, SL, EO, ST and/or RHF loans.* If the borrower is delinquent or otherwise in default, the County Supervisor will send the borrower Forms FmHA 1924–14, "Notice—Farmer Program Borrower Servicing Options Including Deferrals and Borrower Responsibilities," Form FmHA 1924–25, "Notice of Intent to Take Adverse Action," and Form FmHA 1924–26, "Borrower Acknowledgement of Notice of Intent to Take Adverse Action," and

follow the directions in Subpart A of Part 1962 of this chapter for liquidating chattel security. If the borrower is not delinquent, the County Supervisor will explain the options set out in paragraph (b) of this section.

* * * * *

19. Section 1950.104 is amended by revising the introductory paragraph and paragraph (d) to read as follows:

§ 1950.104 Borrower owing FmHA loans which are secured by real estate.

County Supervisors, to the greatest extent possible, should keep themselves informed of the plans of borrowers with FmHA loans secured by real estate who may enter the armed forces. They should encourage any borrower who is definitely entering the armed forces to consult with them before the borrower's military service begins concerning the most advantagous arrangements that can be made regarding the security. County Supervisors will assist these borrowers in working out mutually satisfactory arrangements. Borrowers who owe FO, SW, RL, OL, EE, EM, SL, EO, ST and/or RHF loans and who are delinquent or otherwise in default must be sent Forms FmHA 1924–14, 1924–25, and 1924–26. The County Supervisor will follow the directions in Subpart A of Part 1965 of this chapter for liquidating real estate security. FO, SW, RL, OL, EE, EM, SL, EO, ST and/or RHF borrowers who are not delinquent will have their accounts handled as set out in the following paragraphs.

* * * * *

(d) *Borrower abandons the security or fails to make satisfactory arrangements.* This paragraph does *not* apply to borrowers with FO, SW, RL, OL, EE, EM, SL, EO, ST and/or RHF loans. Those borrowers should be sent Forms FmHA 1924–14, 1924–25, and 1924–26. When a borrower abandons the security or fails to make satisfactory arrangements for maintenance of the security and payment of taxes, insurance, and installations on the loan, the County Supervisor will send a complete report on the case to the State Director. The report will include all the information that can be obtained regarding the borrower's plans for the security and any evidence to indicate that abandonment has, in fact, taken place. In these instances, it must be recognized that the borrower may have entered into verbal arrangements for the care of the security without properly advising the County Superviser. Whether such cases may be construed to be in violation of the provisions of the mortgage, so as to support foreclosure by order of the Court under the provisions of the Soldier's and Sailor's Civil Relief Act of 1940, will need to be determined on an individual case basis by the State Director and OGC. Clear-cut abandonment cases or instances in which the borrower fails to take action to transfer or sell the property, while evidencing no interest in it or desire to retain it, will be processed in accordance with applicable procedures.

* * * * *

20. Section 1950.105 is added to read as follows:

§ 1950.105 Interest rate.

(a) The Soldiers and Sailors Relief Act requires that the effective interest rate charged a borrower who enters active military duty after a loan is closed will not exceed 6 percent. This applies only to full-time active military duty and does not include military reserve status or National Guard participation.

(b) As soon as the County Supervisor verifies that a borrower is on active duty, the County Supervisor will send the borrower a letter which states that the interest rate on the borrower's FmHA loans will not exceed 6 percent. At the same time, the County Supervisor will send the Finance Office a memorandum which states that the borrower is on active duty and that interest of not more than 6 percent should accrue on the borrower's loans, effective as of the date of the memorandum or as of the date of the last payment, whichever is later, until further notice. If a borrower's interest rate on any loan is less than 6 percent, the loan will continue to accrue interest at the lower rate. The assistance under this section may not be retroactively applied.

(c) As soon as the County Supervisor verifies that a borrower is no longer on active duty, the County Supervisor will send the Finance Office a memorandum advising them to terminate the 6 percent interest rate. The rate will revert to the note rate (or the interest credit rate), effective with the next scheduled payment. The 6 percent interest rate will not be cancelled retroactively.

(d) Additional directions for handling Single Family Housing Loans are contained in Subpart G of Part 1951 of this chapter.

PART 1951—SERVICING AND COLLECTIONS

21. The authority citation for Parf 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Account Servicing Policies

22. Section 1951.1 is revised to read as follows:

§ 1951.1 Purpose.

This subpart sets forth the policies and procedures to use in servicing Farmer Program loans (FP) which include Softwood Timber (ST), Operating Loan (OL), Farm Ownership (FO), Soil and Water (SW), Recreation Loan (RL), Emergency Loan (EM), Economic Emergency Loan (EE), Special Livestock Loan (SL), Economic Opportunity Loan (EO), and Rural Housing Loan for farm service buildings (RHF) accounts. This subpart also applies to Rural Rental Housing Loan (RRH), Rural Cooperative Housing Loan (RCH), Labor Housing Loan (LH), Rural Housing Site Loan (RHS), and Site Option Loan (SO) accounts not covered under the Predetermined Amortization Schedule System (PASS). Loans on PASS will be administered under Subpart K of Part 1951 of this chapter. Cases involving unauthorized assistance will be serviced under Subparts L and N of this part. Cases involving graduation of borrowers to other sources of credit will be serviced under Subpart F of this part.

23. Section 1951.9 is amended by adding a new paragraph (a)(4) to read as follows:

§ 1951.9 Distribution of payments when a borrower owes more than one type of FmHA loan. * * *

(a) * * *

(4) Any income received from the sale of softwood timber on marginal land converted to the production of softwood timber must be applied on the ST loan(s).

* * * * *

24. Section 1951.44 is amended by adding a new paragraph (c)(9) to read as follows:

§ 1951.44 Deferral of existing OL, FO, SW, RL, EM, EO, SL, RHF, and EE loans.

* * * * *

(c) * * *

(9) Is unable to develop a feasible farm plan in accordance with § 1924.57 of Subpart B of Part 1924 of this chapter with the use of deferral in accordance with this paragraph. In such cases, the FmHA official will inform the borrower about the reclassified softwood timber loan program by a letter similar to Exhibit H of this subpart (available in any FmHA office).

* * * * *

25. Section 1951.46 is added to read as follows:

§ 1951.46 Deferral, reamortization and reclassification of distressed FP loans (ST loans) for softwood timber production.

All borrowers are expected to repay their loans according to established repayment schedules. However, borrowers with distressed FP loans, as defined in this subpart, with 50 or more acres of marginal land may request assistance under the provisions of this section. Such distressed FP loans may be reamortized with the use of future revenue produced from the planting of softwood timber on marginal land as set out in this section. The basic objectives of the FmHA is reamortizing and deferring payments of distressed FP loans (called ST loans) to financially distressed farmers are to develop a positive cash flow to assist eligible FmHA borrowers to improve their financial condition, to repay their outstanding FmHA debts in an orderly manner, to carry on a feasible farming operation, and to take marginal land, including highly erodible land, out of the production of agricultural commodities other than for the production of softwood timber. County Supervisors are authorized to approve ST loans subject to the limitations in paragraph (h) of this section.

(a) *Management assistance.* Management assistance will be provided borrowers to assist them to achieve loan objectives and protect the Government's interest, in accordance with Subpart B of Part 1924 of this chapter.

(b) *Definitions.* (1) "Distressed FmHA loan". An FP loan which is delinquent as provided in § 1924.72 of this chapter or in financial distress, which exists because a borrower cannot project a positive cash flow by using other authorities including rescheduling, reamortizing or deferral at the maximum term.

(2) "Farm plan". Annual "Farm and Home Plan" (Form FmHA 432–1) or other plans or documents acceptable to FmHA which include similar information necessary for FmHA to make a decision.

(3) "Marginal land" Land determined suitable for softwood timber production by the Soil Conservation Service (SCS) that was previously (within the last five years) used for the production of agricultural commodities, as defined in § 12.2(a)(1) of Subpart A of Part 12 of this title and which is Attachment 1 of Exhibit M of Subpart G of Part 1940 of this chapter, or pasture. This could include, but is not limited to, highly erodible land as defined or classified by the SCS. However, marginal land shall not include wetlands as defined in § 12.2(a)(26) of Subpart A of Part 12 of this title and which is Attachment 1 of Exhibit M of Subpart G of Part 1940 of this chapter.

(4) "Positive cash flow" A positive cash flow must indicate that all of the anticipated cash farm and non-farm income equals or exceeds all the anticipated cash outflows for the planned period. A positive cash flow must show that a borrower will at least be able to:

(i) Pay all operating expenses and all taxes which are due during the projected farm budget period.

(ii) Meet scheduled payments on all open accounts and on carryover debts which would include delinquent taxes.

(iii) Provide a reserve, of at least 5 percent above the amount due and payable as recorded in Table K of the Farm and Home Plan or other similar plans of operation acceptable by FmHA. The reserve will allow for new investments, risk and uncertainties associated with the farm operation.

(iv) Provide an average standard of living for the family members of an individual borrower or a wage for an average standard of living for the farm operator in the case of a cooperative, corporation, partnership, or joint operation borrower. Family members include the individuel borrower or farm operator in the case of an entity and the immediate members of the family which resides in the same household. The State Director will consult with the State Land Grant College including 1890 Land Grant College or State Agricultural College to establish average family living expenses for farm families with adjustment factors for family size. The State Director will establish, either on a State-wide basis or regional basis, a State supplement to be issued annually to comply with the farm planning season outlining acceptable family living expenses. Those applicants which indicate their living expenses are in excess or significantly below this established level must provide justification which will be documented in the running record. The State-wide or regional figures are advisory only. They are not intended to be a basis for a claim of entitlement that FmHA must release the amount established on an annual basis from crop proceeds which it has a lien on.

(5) "Softwood timber" The wood of a coniferous tree having soft wood that is easy to work or finish and is commonly grown and commercially sold for pulpwood, chip and sawtimber.

(c) *ST loan eligibility.* A borrower must:

(1) Have the debt repayment ability and reliability, managerial ability and industry to carry out the proposed operation.

(2) Be willing to place not less than 50 acres of marginal land in softwood timber production; such land (including timber) may not have any lien against such land other than a lien for ST loans to secure such reamortized FP loans or portion of such loans.

(3) Have properly maintained chattel and real estate security and properly accounted for the sale of security, including crops, and livestock production.

(4) Be an FmHA FP loan borrower who owns 50 acres or more of marginal land which SCS determines to be suitable for softwood timber.

(5) Have sufficient training or farming experience to assure reasonable prospects of success in the proposed operation.

(6) Have one or more distressed FmHA FP loans as defined by this subpart.

(7) Not have a total indebtedness of ST loan(s) that will exceed $1,000 per acre for the marginal land at closing. Example: If 50 acres of marginal land is put in softwood timber production, the total ST loan indebtedness may not exceed $50,000 at closing.

(8) Be able to obtain sufficient money through FmHA or other sources including existing cost-sharing programs for forestry purposes for the planting, care and harvesting of the softwood timber trees.

(d) *Reamortization requirements.* (1) A Timber Management Plan must be developed with the assistance of the Federal Forest Service (FS), State Forest Service or such other State or Federal agencies or qualified private forestry service outlining the necessary site preparation, planting practices, environmental protection practices, tree varieties, the harvesting projection, the planned use of the timber, etc.

(2) The following requirements must also be met:

(i) If the borrower is otherwise eligible, the County Supervisor must determine that a feasible farm plan, as defined by Subpart B of Part 1924 of this chapter, with a positive cash flow projection on the present farm operation is not possible without using the provisions of this section. The County Supervisor must calculate the borrower's cash flow projection, using the maximum terms for the rescheduling, reamortization and deferral authorities set out in this subpart. If a positive cash flow projection can be achieved by using any of these authorities, the borrower's account will be rescheduled, reamortized or deferred, as applicable.

Limited Resource rates must be considered, if the borrower is eligible, in determining whether a positive cash flow can be achieved. The County Supervisor must document the steps taken to develop these cash flow projections and must place this documentation in the borrower's case file. If a positive cash flow projection is shown, the borrower is not eligible for a reamortization of a distressed loan(s) as set out in this section. The borrower will be given an opportunity to appeal the denial, as provided in Subpart B of Part 1900 of this chapter.

(ii) If a positive cash flow projection is not possible by using the options listed in paragraph (d)(2)(i) of this section, the County Supervisor will determine if a positive cash flow projection is possible by deferring and reamortizing a portion of one or more distressed FP loans as ST loans. The ST loan is limited to the loan amount (rounded up to the nearest $1,000) sufficient to generate a positive cash flow. However, the amount of the loan cannot exceed the amount per acre specified in paragraph (c)(7) of this section. The borrower, with assistance from the County Supervisor, must be able to develop a feasible farm plan for the first full crop year of the deferral in accordance with the requirements of Subpart B of Part 1924 of this chapter.

(iii) When a loan is reamortized the accrued interest will be capitalized. Payment may be deferred for up to 45 years or until the timber crop produces revenue, whichever comes first, except as required in paragraph (j)(2) of this section. If income is available, payments will be required as determined in paragraph (d)(2)(iv) of this section. Repayment of such a reamortized loan shall be made not later than 46 years after the date of the reamortization, unless the borrower qualifies for a further reamortization as authorized in paragraph (k)(8) of this section.

(iv) If assistance is granted, an annual plan will be developed each year to determine if there is any balance available to pay interest and/or principal on ST loans before the deferral period ends. If a balance is available, the borrower will sign Form FmHA 440–9, "Supplementary Payment Agreement," for payments on the ST loans.

(v) Applicable requirements of Subpart G of Part 1940 of this chapter must be met.

(3) If a borrower has requested an ST loan that has a portion of the debt set-aside under this subpart, the set-aside will be cancelled at the time the reamortization is granted. The borrower may retain the set-aside on other loans. A borrower who requests a reamortization of a distressed set-aside loan must agree in writing to the cancellation of the set-aside. The written agreement must be placed in the borrower's case file.

(4) If the total amount of the distressed FP loan(s) exceeds $1,000 per acre of the marginal land designated for softwood timber production, the FP loan must be split. The split portion of the loan may not exceed $1,000 per acre for the marginal land. A new mortgage will be required to secure this portion of the loan unless the State supplement provides otherwise. The mortgage must provide the FmHA has a security interest in the timber. The remaining balance of such a split loan will be secured by the remaining portion of the farm and such other security previously held as security prior to the split. Separate promissory notes will be executed for each portion of the split loan. The remaining portion of the note will be rescheduled, deferred, or reamortized, as applicable, in accordance with this subpart. The ST loan will be deferred and reamortized in accordance with this section. The ST loan(s) will be secured by the marginal land including timber.

(5) The County Supervisor will release all other liens securing FmHA loans including NP loans on such marginal land when the ST loan is closed. Only ST loans will be secured by such marginal land including timber. Releases will be processed in accordance with Subpart A of Part 1965 of this chapter. Such releases are authorized by this paragraph. If other lenders have liens on this marginal land, the lenders must release their liens before or simultaneously with FmHA's release of its liens. No additional liens can be placed on the marginal land and timber after the closing of a ST loan.

(e) *Interest rates for ST loans.* See Exhibit B of FmHA Instruction 440.1 for the applicable interest rate. (Available in any FmHA office.) However, the interest rate will be the lower of (1) the rate of interest on the original loan which has been deferred and reamortized as the ST loan or (2) the Exhibit B rate.

(f) *Special requirements*—(1) *Size of the timber tract.* The minimum parcels of marginal land selected as a tract for softwood timber production must be contiguous parcels of land containing at least 50 acres. Small scattered parcels will be excluded.

(2) *Farm or residence situated in different counties.* If a farm is situated in more than one State, county, or parish, the loan will be processed and serviced in the State, county, or parish in which the borrower's residence on the farm is located. However, if the residence is not situated on the farm, the loan will be serviced by the county office serving the county in which the farm or a major portion of the farm is located unless otherwise approved by the State Director.

(3) *Graduation of ST borrowers.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from a cooperative or private credit source at reasonable rates and terms, the borrower will, upon request, apply for and accept such financing.

(g) *Planning.* A farm plan will be completed as provided in Subpart B of Part 1924 of this chapter. The State Director will supplement this subpart with a State supplement to guide the County Supervisor regarding the sources available to obtain a Timber Management Plan. The required Timber Management Plan developed with the assistance of the FS, State Forest Service or such other State or Federal agencies or qualified private forestry service should provide management recommendations to assist the borrower in establishing, managing and harvesting softwood timber. Borrowers are responsible for implementing the Timber Management Plan.

(h) *Distressed reamortized loan approval or disapproval.* County Supervisors are authorized to approve or disapprove the reamortization of distressed FmHA loans as described in this section. No more than 50,000 acres can be placed in the program. Acres for the program will be allocated to borrowers on a first-come, first-served basis. "Administrative Notices" containing reporting requirements will be issued to field offices so that the National Office can keep a tally of the acres for the program. County Supervisors will obtain a verification from the State Director that the acres can be allocated to the program prior to approval of the reamortization of the distressed FP loan(s). Normally, the verification of allocated acres will be obtained when the loan docket is complete and ready for approval. Loans for the program will not be approved until a confirmation is received for the allocation of acres for the loan(s). When a reamortization is approved, the County Supervisor will notify the borrower by letter of the approval of the ST loan(s). The Finance Office will be notified by the County Supervisor by completing Forms FmHA 1965–22 and 1965–23 for entry into the field office terminal system.

(i) *Reamortizing disapproval.* When a reamortization is disapproved, the County Supervisor will notify the

borrower in writing of the action taken and the reasons for the action, and include any suggestions that could result in favorable action when appropriate. The borrower will be given written notice of the opportunity to appeal as provided in Subpart B of Part 1900 of this chapter.

(j) *Processing of ST loans.* (1) If the reclassified ST loan is approved, all other FmHA loans must be current on or before the date the reclassified ST notes are signed except for vouchered recoverable cost items that cannot be rescheduled or reamortized. All other delinquent loans including NP loans will be rescheduled, reamortized, consolidated, deferred or paid current as applicable to bring the account current.

(2) ST loans on the dwelling. If the only liens on the borrower's dwelling are the reclassified ST loans, the borrower must make payments on the loans(s) at least equal to the market value rent for the dwelling as determined by the County Supervisor or for the minimum equally amortized installment for the term of the loan whichever is less. Such payments cannot be deferred and will be shown in the promissory note as a regular installment for the reclassified ST loan.

(3) Form FmHA 1940–18, "Promissory Note for ST loans," will be used for ST loans. Form 1940–17, "Promissory Note," will be used for any remaining portion of a split distressed loan. The forms will be completed, signed and distributed as provided in the FMI.

(4) New mortgages must be filed unless otherwise provided in the State supplement. If a new mortgage or separate security agreement is taken, the new mortgage and/or security agreement should be filed and perfected as provided in the State supplement. In many cases a survey of the land securing the ST loan will be required.

(5) The borrower will obtain any required releases from other lienholders and the County Supervisor will release any other FmHA liens in accordance with paragraph (d)(5) of this section.

(k) *Servicing.* ST loans will be serviced in accordance with Subpart A of Part 1965 of this chapter with the following exceptions:

(1) ST loans will not be subordinated for any purpose.

(2) Security for ST loans will not be leased except for the softwood timber production authorized by the ST loan.

(3) Land designated for softwood timber production cannot be used for grazing or the production of other agricultural commodities, as defined in § 12.2(a)(1) of Subpart A of Part 12 of this title and which is in Attachment 1 of Exhibit M of Subpart G of Part 1940 of this chapter during the life of the loan.

(4) ST loans will only be transferred as NP loans in accordance with Subpart A of Part 1965 of this chapter except in the case of a deceased borrower. Deceased borrower cases involving transfers will be handled in accordance with Subpart A of Part 1962 of this chapter.

(5) Land designated for softwood timber production under this subpart must remain in the production of softwood timber for the life of the loan. If the trees die or are destroyed or the production of timber ceases, as recognized by acceptable timber management practices, and the borrower is unable to develop feasible plans for the reestablishing of the timber production, the account will be liquidated in accordance with the productions of Subpart A of Part 1965 of this chapter. Borrowers must receive Forms FmHA 1924–14, FmHA 1924–25 and FmHA 1924–26, and *any appeal must be concluded before any adverse action can be taken.*

(6) The Timber Management Plan will be updated and revised, as appropriate, every five years or more often if necessary.

(7) Harvesting softwood timber for Christmas trees is prohibited.

(8) A ST loan will only be further reamortized if the timber is not harvested in the year planned for when the initial promissory note was signed and the borrower is unable to pay the note as agreed. Interest will be capitalized at the time of the reamortization. The total term of the reamortized notes will not exceed 50 years from the date of the intital note. The total years of deferred payments will not exceed 45 years, including the payments deferred in the initial note. The note should be scheduled for payment when the timber is expected to be harvested or when income will be available to pay on the note, whichever comes first. However, partial payments must be scheduled for those years that exceed the deferral period.

(l) *Exception authority.* The Administrator, in individual cases, make an exception to any requirement or provision of this section which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the application of the requirement would adversely affect the Government's interest. The Administrator will excerise this authority upon request of the State Director and on recommendation of the Assitant Administrator, Farmer Programs, or upon request inititated by that Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect on the Government's interest, propose alternate couses of action and show how the adverse effect will be eliminated or minimized if the exception is granted.

(m) *State supplements.* State supplements will be issued immediately and updated as necessary to implement this section.

26. Section 1951.50 is added to read as follows:

§ 1951.50 OMB control number.

The collection of information requirements in Subpart A of Part 1951 have been approved by the Office of Management and Budget and assigned OMB control number 0575–0075.

Subpart F—Analyzing Credit Needs and Graduation of Borrowers

27. Section 1951.252 is amended by revising paragraph (a) to read as follows:

§ 1951.252 Definitions.

(a) *Farmer program loans* means Farm Ownership (FO), Operating (OL), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO), Special Livestock (SL), Softwood Timber (ST) loans, and/or Rural Housing loans for farm service buildings (RHF).

* * * * *

28. Section 1951.261 is amended by revising paragraph (b)(1)(i)(A) to read as follows:

§ 1951.261 Graduation of FmHA borrowers to other sources of credit.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(A) The list will contain borrowers who have been indebted for at least 3 years for Emergency (EM) and Economic Emergency (EE) loans; 4 years for Operating Loans (OL); 6 years for Farm Ownership (FO), Soil and Water (SW), Softwood Timber (ST), and Rural Housing (RH) loans.

* * * * *

Subpart L—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Farmer Programs

29. Section 1951.551 is revised to read as follows:

§ 1951.551 Purpose.

This subpart prescribes the policies and procedures for servicing insured Operating (OL), Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Special Livestock (SL), Softwood Timber (ST), Economic Opportunity (EO) loans, and Rural Housing loans for farm service buildings (RHF) (referred to as farmer program (FP) loans), when it is determined that the borrower was not eligible for all or part of the financial assistance received in the form of a loan or subsidy granted. It does not apply to guaranteed loans.

PART 1955—PROPERTY MANAGEMENT

30. The authority citation for Part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

31. Section 1955.3 is amended by revising paragraph (d) to read as follows:

§ 1955.3 Definitions.

* * * * *

(d) *Loans to individuals.* Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Special Livestock (SL), Economic Opportunity (EO), Operating (OL), Emergency (EM), Economic Emergency (EE), Softwood Timber (ST), and Rural Housing loans for farm service buildings (RHF), whether to individuals or entities, referred to in this subpart as Farmer Programs (FP) loans; and Land Conservation and Development (LCD); and Single-Family Housing (SFH), including both Section 502 and 504 loans.

* * * * *

Subpart B—Management of Property

32. Section 1955.53 is amended by revising paragraphs (e) and (g) to read as follows:

§ 1955.53 Definition.

* * * * *

(e) *Farmer Program loans.* This includes Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Economic Opportunity (EO), Operating (OL), Emergency (EM), Economic Emergency (EE), Special Livestock (SL), Softwood Timber (ST) loans, and Rural Housing loans for farm service buildings (RHF).

* * * * *

(g) *Loans to individuals.* Farmer Program, as defined in paragraph (e) of this section, whether to individuals or entities; Land Conservation and Development (LCD); and Single-Family Housing (SFH), including both sections 502 and 504 loans.

* * * * *

Subpart C—Disposal of Inventory Property

33. Section 1955.105 is amended by revising paragraph (a) to read as follows:

§ 1955.105 Real Property affected (CONACT).

(a) *Loan types.* Sections 1955.106–1955.109 of this subpart prescribe procedures for the sale of inventory real property which secured any of the following type of loans (referred to as CONACT property in this subpart): Farmer Ownership (FO); Recreation (RL); Soil and Water (SW); Operating (OL); Emergency (EM); Economic Opportunity (EO); Economic Emergency (EE); Softwood Timber (ST); CF; WWD; RC&D; WS; Association Recreation; EOC; Rural Renewal; Water Facility; B&I; Irrigation and Drainage; Shift-in-land Use (Grazing Association); and loans to Indian Tribes and Tribal Corporations. Before property can be sold, § 1955.73 of Subpart B of this part concerning dwelling retention must be followed, if applicable.

PART 1956—DEBT SETTLEMENT

34. The authority citation for Part 1956 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Debt Settlement—Farmer Programs and Single Family Housing

35. Section 1956.54 is amended by revising paragraph (f) to read as follows:

§ 1956.54 Definitions.

* * * * *

(f) *Farmer program loans.* Farm Ownership (FO), Operating (OL), Soil and Water (SW), Economic Emergency (EE), Emergency (EM), Recreation (RL), Special Livestock (SL), Softwood Timer (ST) loans, and/or Rural Housing Loans for farm services buildings (RHF).

* * * * *

PART 1965—REAL PROPERTY

36. The authority citation for Part 1965 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

37. Section 1965.7 is amended by revising paragraph (d) to read as follows:

§ 1965.7 Definitions.

* * * * *

(d) *Farmer Program loan* includes only Farm Ownership (FO), Operating (OL), Soil and Water (SW), Economic Emergency (EE), Emergency (EM), Recreation (RL), Economic Opportunity (EO), Softwood Timber (ST) and Special Livestock (SL) loans, and/or Rural Housing Loans for farm service buildings (RHF).

* * * * *

38. Section 1965.12 is amended by revising the introductory text to read as follows:

§ 1965.12 Subordination of FmHA mortgage to permit refinancing, extension, increase in amount of existing prior lien, to permit a new prior lien, or to permit reamortization.

See § 1965.34(e) of this subpart for requirements concerning subordinations of non-program (NP) loans. In accordance with the Food Security Act of 1985 (Public Law 99–198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to the issuance of the subordination in any crop year, the individual or entity shall be ineligible for a subordination for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants for subordinations will attest on Form FmHA 465–1, "Application for Partial Release, Subordination, or Consent," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for subordination for this reason is not appealable. Softwood timber (ST) loans will not be subordinated.

* * * * *

39. Section 1965.13 is amended by revising the introductory text to read as follows:

§ 1965.13 Consent by partial release or otherwise to sale, exchange or other disposition of a portion of or interest in security, except leases.

If an NP loan is involved, see § 1965.34 of this subpart or see § 1951.46(d)(5) of Subpart A of Part 1951 of this chapter when a combination of NP, ST and other FP loans are involved. If an FP loan is being deferred and reamortized as an ST loan, partial releases are authorized as provided in § 1951.46(d)(5) of Subpart A of Part 1951 of this chapter. However, there is no authority for FmHA employees to consent to partial release or sale, exchange or other disposition of a portion of the security for an existing ST loan.

* * * * *

40. Section 1965.31 is amended by adding introductory text to read as follows:

§ 1965.31 Taking liens on real estate as additional security in servicing FmHA loans.

Additional liens will not be taken for other loans on marginal land used for the production of softwood timber if the land is presently securing an ST loan.

* * * * *

Dated: June 16, 1987.

La Verne Ausman,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 87-15850 Filed 7-10-87; 8:45 am]

BILLING CODE 3410-07-M

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7 CFR Part 1924

Provisions for Planning and Performing Construction and Other Development; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: When this regulation was published as a final rule in the Federal Register (52 FR 7998) on March 13, 1987, changes resulting from one of the comments received during the comment period were inadvertently omitted. This action is necessary for FmHA to now make those changes. The intended effect of this action is to correct the omission.

EFFECTIVE DATE: August 12, 1987.

FOR FURTHER INFORMATION CONTACT: Karen L. King, Loan Specialist, Multiple Family Housing Processing Division, Farmers Home Administration, Room 5337, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250, Telephone (202) 382-1620.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291 and has been classified as "nonmajor." This action will result in an annual effect on the economy of less than $100 million and will neither result in a major increase in cost or prices, nor adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. There is no impact on proposed budget levels, and funding allocations will not be affected because of this action.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that it does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

The FmHA programs which are listed in the Catalog of Federal Domestic Assistance under numbers 10.405—Farm Labor Housing Loans and Grants; 10.415—Rural Rental Housing Loans are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983).

Discussion of Comments

A proposed rule was published in the Federal Register (51 FR 9014) on March 17, 1986, and invited comments for 60 days ending May 16, 1986. Changes to the regulation resulting from comments from one commenter were inadvertently omitted when preparing the regulation for final rule which was published in the Federal Register (52 FR 7998) on March 13, 1987. Therefore, we are addressing those comments at this time.

The commenter suggested that modifications be made to FmHA regulation to more accurately reflect auditing standards issued by the American Institute of Certified Public Accountants. Auditors are required by their Code of Professional Ethics to issue reports in accordance with the reporting language contained in generally accepted auditing standards and may not use other suggested formats if those formats conflict with authoritative auditing literature. The specific comments dealt with FmHA: Requiring an unqualified opinion; requiring an audit of all records; requiring the auditor to state that the costs are necessary and reasonable, and; showing a sample auditor's report. The Agency has considered the comments and revised the rule to include the suggestions.

List of Subjects in 7 CFR Part 1924

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for Part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Planning and Performing Construction and Other Development

2. Section 1924.13 is amended by removing paragraph (e)(1)(v)(C), redesignating paragraph (e)(1)(v)(D) as (e)(1)(v)(C), removing paragraph (e)(2)(viii)(B), redesignating paragraph (e)(2)(viii)(C) as (e)(2)(viii)(B) and by revising paragraphs (e)(1)(ii)(F), (e)(1)(v) introductory text, (e)(1)(v)(B), (e)(2)(viii) introductory text, and (e)(2)(viii)(A) to read as follows:

§ 1924.13 Supplemental requirements for more complex construction.

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(F) All contracts will contain a certification by the applicant indicating that there is not now nor will there be an identity of interest between the applicant and any of the following: Contractor, architect, engineer, attorney, subcontractors, material suppliers, equipment lessors, or any of their members, directors, officers, stockholders, partners, or beneficiaries unless specifically identified to FmHA in writing prior to the award of the contract. All contracts must also indicate that when any identity of interest exists or comes into being, the contractor agrees to have construction costs as reported to FmHA on Form 1924-13, "Estimate and Certificate of Actual Cost," audited by a Certified Public Accountant (CPA) or Licensed Public Accountant (LPA) licensed prior to December 31, 1970, who will provide an opinion as to whether the Form

FmHA 1924–13 presents fairly the costs of construction in conformity with eligible construction costs as prescribed in FmHA regulations.

* * * * *

(v) *Cost certification.* Whenever the State Director determines it appropriate, and in all situations where there is an identity of interest as defined in § 1924.2 (i) of this subpart, the borrower, contractor and any subcontractor, material supplier or equipment lessor having an identity of interest must each provide certification using Form FmHA 1924–13 as to the actual cost of the work performed in connection with the construction contract. The construction costs as reported on Form FmHA 1924–13 must also be audited by a CPA or an LPA licensed on or before December 31, 1970, except for owner-builders not required to provide cost certification who must follow the instructions provided in § 1924.13 (e)(2)(viii) of this subpart.

* * * * *

(B) The CPA or LPA's audit will include such tests of the accounting records and such other auditing procedures of the borrower and the contractor (and any subcontractor, material supplier or equipment lessor sharing an identity of interest) concerning the work performed, services rendered, and materials supplied in accordance with the construction contract he/she considers necessary to express an opinion on the construction costs as reported on Form FmHA 1924–13. Upon completion of construction and prior to final payment, the CPA or LPA will provide an opinion concerning whether the construction costs as reported on Form FmHA 1924–13 presents fairly the cost of construction in conformity with eligible construction costs as prescribed in FmHA regulations. FmHA reserves the right to determine, upon receipt of the certified Form FmHA 1924–13 and the auditor's report, whether they are satisfactory to FmHA.

* * * * *

(2) * * *

(viii) The applicant/owner-builder and any subcontractor, material supplier or equipment lessor sharing an identity of interest as defined in § 1924.4(i) of this subpart must each provide certification as to the actual cost of work performed in connection with the construction of the project on Form FmHA 1924–13 prior to final payment. For all such projects involving a total development cost of more than $350,000 and any other project where the State Director determines it appropriate, the applicant/owner-builder must provide for an audit of the construction costs as reported on Form FmHA 1924–13 by a CPA or an LPA licensed on or before December 31, 1970.

(A) The CPA or LPA's audit will include such tests of the accounting records and such other auditing procedures of the applicant/owner-builder (and any subcontractor, material supplier or equipment lessor sharing an identity of interest) concerning the work performed, services rendered, and materials supplied in connection with construction of the project he/she considers necessary to express an opinion on the construction costs as reported on Form FmHA 1924–13. Upon completion of construction and prior to final payment, the CPA or LPA will provide an opinion concerning whether the construction costs as reported on Form FmHA 1924–13 presents fairly the costs of construction in conformity with eligible construction costs as prescribed in FmHA regulations. FmHA reserves the right to determine, upon receipt of the certified Form FmHA 1924–13 and the auditor's report, whether they are satisfactory to FmHA.

* * * * *

Dated: June 5, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–15830 Filed 7–10–87; 8:45 am]

BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

9 CFR Part 114

[Docket No. 87–027]

Unlicensed Products Prepared Solely for Intrastate Distribution or Exportation; Claim for Exemption

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The interim rule, which was effective October 22, 1986, and which amended the regulations to simplify procedures manufacturers of unlicensed biological products must follow in order to claim the exemption provided in the Food Security Act of 1985 for products prepared solely for intrastate commerce or exportation is issued as a final rule without change. The Act provides an exemption for the continued preparation of biological products by unlicensed manufacturers during a 4-year phase-in period, provided that the exemption is claimed by January 1, 1987.

EFFECTIVE DATE: July 13, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, Telephone: 301–436–6332.

SUPPLEMENTARY INFORMATION:

Background

The interim rule providing simplified procedures for claiming the statutory exemption for the continued preparation of biologics in unlicensed establishments which was published October 22, 1986 at 51 FR 37383–37384 was effective on the date of publication in the Federal Register. Comments were solicited for 30 days ending November 21, 1986. One comment was received from a veterinary biologics manufacturer expressing concern that § 114.2(d)(3), which allows for a 12-month extension of the period of exemption beyond the 4-year period, would create an unfair competitive advantage for some manufacturers in the market place. The interim final rule provided that the exemption may be extended in an individual case on a showing by a person, firm, or corporation of good cause and a good faith effort to comply with the amended Act with due diligence. This provision is based on the statute and mirrors the statutory language providing that the Secretary may on a proper showing grant such an extension. It is the Agency's view that this provision should be given effect in the regulations.

Therefore, having given full consideration to the comment, the Agency has determined that the interim rule should remain unchanged.

Executive Order 12291 and Regulatory Flexibility Act

This interim rule has been issued in conformance with Executive Order 12291 and Department Regulation 1512–1, and has been classified as a "Non-major Rule."

The action would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The Department estimates that affected facilities taken as a group will devote approximately 250 hours in order to comply with this rule. This brief total expenditure of time should not have a significant effect on the economy or on

the affected facilities. It would also not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic markets.

The Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities. Only about 50 facilities are directly affected by this rule. This does not constitute a "significant number" of small entities. In addition, the entire annual reporting burden for all affected facilities is estimated to be approximately 250 hours. This should not cause a significant economic impact on the affected entities.

List of Subjects in 9 CFR Part 114

Animal biologics.

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

Accordingly, the interim rule amending 9 CFR Part 114 which was published at 51 FR 37383–37384 on October 22, 1986, is adopted as a final rule without change.

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 7th day of July, 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 87–15772 Filed 7–10–87; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87–AWP–18]

Revocation of Lovelock, NV; Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Lovelock, Nevada, transition area. The Lovelock, Nevada, VORTAC was recently relocated and instrument approach procedures utilizing the old VORTAC were canceled. There are no plans to develop new instrument approach procedures.

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297–1648.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes the description of the Lovelock, Nevada, transition area. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor amendment in which the public would not be particularly interested. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71), is amended as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Lovelock, NV [Removed]

Issued in Los Angeles, California, on July 2, 1987.

James A. Holweger,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 87–15762 Filed 7–10–87; 8:45 am]

BILLING CODE 4910–13–M.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 6, 10, 18, 19, 54, 123, 141, 143, 144, and 145

[T.D. 87–75]

Elimination of Various Customs Forms and Certain Information Collection Requirements; Correction

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 87–12255, published as T.D. 87–75 on May 29, 1987 (52 FR 20064), numerous changes were made to sections of the Customs Regulations to eliminate Customs forms that are obsolete and to eliminate information collection requirements that are obsolete or unduly burdensome. One of the forms eliminated, Customs Form 5119–A, Informal Entry, has two versions—a serially numbered and a non-serially numbered. It was intended to eliminate only the non-serially numbered version. However, that qualifying phrase was omitted from the document thereby giving the impression that both versions are being eliminated. This document clarifies that only the non-serially numbered version of Customs Form 5119–A is being eliminated.

EFFECTIVE DATE: June 29, 1987.

FOR FURTHER INFORMATION CONTACT: Charles Bartoldus, Office of Cargo Enforcement and Facilitation (202–566–8151).

SUPPLEMENTARY INFORMATION:

Background

T.D. 87–75, published in the Federal Register on May 29, 1987 (52 FR 20064),

made numerous changes to the Customs Regulations to eliminate Customs forms that are obsolete and to eliminate information collection requirements that are obsolete or unduly burdensome.

Customs Form 5119–A, Informal Entry, is used by importers to enter low value merchandise. There are two versions of Customs Form 5119–A, a serially numbered and a non-serially numbered. As explained in T.D. 87–75, Customs has revised the Customs Form 7501, Entry Summary, so that it can be used for both formal as well as informal entries. Accordingly, Customs Form 7501 can replace Customs Form 5119–A, but only the non-serially numbered version. The serially numbered version of Customs Form 5119–A is still a necessary form used by Customs as an entry document and to collect duty.

Since it was intended to eliminate only the non-serially numbered version of Customs Form 5119–A, but that qualifying phrase was inadvertently omitted, it created the impression that both versions were being eliminated. To correct that impression, the following corrections are made to T.D. 87–75.

Corrections

1. On page 20064, second column, paragraph numbered "1", fourth sentence, "(non-serially numbered)" is inserted immediately after "Customs Form 5119–A".

§ 6.7 [Correctly amended]

2. On page 20066, in the amendments to Part 6, the following is substituted for paragraph number "2":

2. Section 6.7(b)(3)(ii) is amended by inserting "(serially numbered) or Customs Form 7501", immediately after "5119–A".

§ 10.71 [Correctly amended]

3. On page 20066, in the amendments to Part 10, the following is substituted for paragraph number "18":

18. Section 10.71(f) is amended by inserting "(serially numbered) or an entry summary (Customs Form 7501)", immediately after "5119–A".

§ 123.4 [Correctly amended]

4. On page 20068, in the amendments to Part 123, the following is substituted for paragraph number "2":

2. Section 123.4(b) is amended by inserting "(serially numbered) or Customs Form 7501" immediately after "5119–A".

§ 141.68 [Correctly amended]

5. On page 20068, in the amendments to Part 141, the following is substituted for paragraph number "5":

5. Section 141.68(h) is amended in the following manner:

(a) In the first sentence, "or informal entry" is added immediately after "appraisement entry", and "(serially numbered)" is added immediately after "5119–A".

(b) In the second and third sentences, "(serially numbered)" is added immediately after "5119–A".

§ 143.23 [Correctly amended]

6. On page 20068, in the amendments to Part 143, the following are substituted for paragraph numbers 2, 3, and 4:

2. In § 143.23, the introductory text is amended by inserting "(serially numbered) or Customs Form 7501" immediately after "5119–A".

§ 143.24 [Amended]

3. Section 143.24 is amended in the following manner:

(a) In the section heading, "(Serially Numbered)" is added immediately after "5119–A".

(b) In the second sentence of the section, "(serially numbered) or Customs Form 7501" is inserted immediately after "5119–A".

§ 143.25 [Amended]

4. Section 143.25 is amended by inserting "(serially numbered)" immediately after "5119–A".

§ 145.4 [Correctly amended]

7. On page 20068, in the amendments to Part 145, the following are substituted for paragraph numbers 2 and 3:

2. Section 145.4(c) is amended by inserting "(serially numbered) or 7501" immediately after "5119–A".

§ 145.12 [Amended]

3. Section 145.12 is amended in the following manner:

(a) In paragraph (b)(1), "(serially numbered) or an entry summary (Customs Form 7501" is inserted immediately after "5119–A".

(b) In paragraph (c), "(serially numbered) or Customs Form 7501" is inserted immediately after "5119–A".

(c) In paragraph (e)(1), "(serially numbered) or entry summary, Customs Form 7501" is inserted immediately after "5119–A".

Dated: July 1, 1987.

B. James Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 87–15776 Filed 7–10–87; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Reg. No. 4]

Social Security Benefits; Deductions for Work Outside the U.S. and U.S. Residence Requirements for Non-Resident Aliens

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: The Social Security Administration (SSA) is amending two regulations on paying Social Security benefits to persons living or working outside the United States (U.S.). The first amendment requires deductions from the Social Security benefits of the auxiliary beneficiaries entitled or deemed entitled on an old-age beneficiary's earnings record when the old-age beneficiary works in excess of 45 hours in a month outside the U.S. and that work is not covered by Title II of the Social Security Act. The second amendment requires certain aliens who are outside the U.S. for over 6 consecutive months to meet a U.S. residence requirement in order to be paid Social Security auxiliary or survivor benefits.

EFFECTIVE DATE: These regulations are effective July 13, 1987.

FOR FURTHER INFORMATION CONTACT: C. H. Campbell, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 597–3408.

SUPPLEMENTARY INFORMATION:

These two regulatory amendments reflect amendments to the Social Security Act (the Act). The provisions of these regulatory amendments are as follows:

The Foreign Work Test Regulation

We are amending the "foreign work test" described in 20 CFR 404.417(b) to reflect the revision of section 203(d) of the Act by section 2661(g)(1) of Pub. L. 98–369 ("The Deficit Reduction Act of 1984"). "Foreign work test" means the amount of noncovered work that can be done outside the U.S. before we apply deductions to the benefits of a Social Security beneficiary and the auxiliary beneficiaries entitled on his or her earnings record.

The "foreign work test" deductions apply to—

(a) A beneficiary who is entitled to benefits under Title II of the Act and is performing noncovered work outside the U.S. (*Exception:* The deductions do not apply if the beneficiary is age 70 or

older, or is receiving disability insurance benefits, or is receiving child's widow's or widower's benefits based on disability.)

(b) An auxiliary beneficiary who is—

(1) Entitled to wife's, husband's, or child's benefits on the earnings record of an old-age beneficiary who is under age 70 and works in noncovered employment outside the U.S. (*Exception:* The deductions do not apply to wife's or husband's benefits payable beginning January 1985 based on the earnings record of a worker who is eligible for or is receiving old-age benefits when the wife or husband beneficiary has been divorced from the worker for at least 2 years.); or

(2) A beneficiary married to an old-age beneficiary who is under age 70 and engaging in noncovered work outside the U.S., and is thus "deemed" entitled on that worker's earnings record but is actually entitled on someone else's earnings record to mother's or father's benefits or child's benefits based on disability.

Prior to April 20, 1983, subsections (c) and (d) of section 203 of the Act both imposed deductions for any month if a working beneficiary engaged in non-covered remunerative activity outside the U.S. during 7 or more days in that month. Section 309(g) of Pub. L. 98–21 ("The Social Security Amendments of 1983") amended section 203(c) of the Act for months beginning May 1983, to impose deductions if the beneficiary engages in noncovered foreign work "in excess of 45 hours" in any such month. However, that legislation did not similarly amend section 203(d) of the Act (which states the foreign work test for auxiliary beneficiaries when the old-age beneficiary engages in noncovered work outside the U.S.). Congress later amended section 203(d) of the Act by enacting section 2661(g)(1) of Pub. L. 98–369 to adopt the "in excess of 45 hours" test, effective with months beginning with September 1984.

This final rule amends paragraph (b) of § 404.417 of the regulations to provide that, effective for months beginning September 1984, we impose deductions on an auxiliary beneficiary's benefits for a month if the old-age beneficiary, on whose earnings record the auxiliary beneficiary is entitled or deemed entitled, works "in excess of 45 hours" in noncovered employment outside the U.S. during that month. The revised § 404.417(b) also provides that deductions will be imposed on auxiliary benefits for any month prior to September 1984, if such old-age beneficiary engages in noncovered work outside the U.S. during 7 or more days in that month. The amount deducted under either test is the amount of the auxiliary benefit. As amended, 20 CFR 404.417 reflects different effective dates for the application of the "in excess of 45 hours" foreign work test with respect to deductions from the benefits of the working beneficiary and the auxiliary beneficiary of a working old-age beneficiary because of the different effective dates of the amendments to subsections (c) and (d) of section 203 of the Act discussed above.

Regulation Establishing U.S. Residence Requirements for Aliens Outside the U.S.

We are revising § 404.460 by adding a new subsection (d). This change reflects section 340 of Pub. L. 98–21 ("The Social Security Amendments of 1983") which added paragraph (11) to section 202(t) of the Act. This statutory provision provides that certain aliens who are outside the U.S. for over 6 consecutive months must satisfy a U.S. residence requirement in order to be paid auxiliary and survivor benefits.

The Aliens Who Must Meet the U.S. Residence Requirements

Paragraph 202(t)(1) of the Act provides for the withholding of an alien's benefits if he or she is outside the U.S. for more than 6 consecutive months. Benefits resume if the alien returns to the U.S. for one full calendar month. However, other provisions under section 202(t) of the Act permit benefits to continue despite the alien's absence from the U.S. for more than 6 consecutive months. The U.S. residence requirement applies to the alien who would otherwise be paid survivor or auxiliary benefits while outside the U.S. because he or she comes under one of the payment continuance conditions of section 202(t)(2) or (4) of the Act listed below:

(a) The alien is a citizen of a country which has a pension or social insurance system of general application that pays periodic benefits because of old-age, retirement, or death to qualified U.S. citizens even though they are not citizens of and do not reside in such country.

(b) The alien is entitled to benefits on the earnings record of a worker who (1) resided in the U.S. for a period, or periods, of 10 or more years; (2) earned 40 or more quarters of coverage; or (3) worked in employment covered by the Railroad Retirement Act while in the U.S. and the work is treated as employment covered by the Social Security Act.

(c) The alien is outside the U.S. because he or she is in the active military or naval service of the U.S.

The U.S. Residence Requirement Provisions

The U.S. residence requirement applies to the alien outside the U.S. for over 6 consecutive months who would be first eligible for auxiliary or survivor benefits after December 31, 1984. For each benefit category, the residence requirements are as follows:

(a) To be paid a child's benefit—

(1) The alien must either have resided for 5 or more years in the U.S. as the child of the worker on whose earnings record benefit entitlement exists, or the worker on whose earnings record the benefit entitlement exists and the other parent, if any, must each have either resided in the U.S. for 5 or more years or died while residing in the U.S.; and

(2) If the alien is entitled as an adopted child, the alien must meet the above requirement and must have been adopted within the U.S. by the worker on whose earnings record benefit entitlement exists and have lived in the U.S. with and received one-half support for a period of at least 1 year's duration from that worker. That 1-year period must begin prior to the alien's 18th birthday and end immediately preceding the month in which the worker became disabled, became eligible for benefits, or died (whichever occurred first).

Note: We are defining "other parent" in this regulation. That term is part of the statutory language stating that the child's parents (i.e., worker and other parent) must have either resided for 5 years in or died in the U.S. for the child to meet the residence requirement if the child did not reside in the U.S. for 5 years. "Other parent" means the parent of the opposite sex of the worker who is: (1) An adoptive parent by whom the child was adopted before the child attained age 16 and who is or was the spouse of the worker on whose earnings record the child is entitled, (2) the natural mother or father of the child, or (3) the step-parent of the child by marriage to the worker prior to the child's attainment of age 16. If a child has more than one "other parent," the requirement is met if any one of the other parents satisfies the U.S. residence requirement.

(b) To be paid a wife's, husband's, widow's, widower's, divorced wife's, divorced husband's, surviving divorced wife's, surviving divorced husband's, surviving divorced mother's, or surviving divorced father's benefits, the alien must have had a spousal relationship with the worker for 5 or more years while residing in the U.S.

(c) To be paid a parent's benefit, the alien must have resided in the U.S. as the parent of the worker for 5 or more years.

Aliens Exempted From the Residence Requirement

The U.S. residence requirement is inapplicable if the auxiliary or survivor alien beneficiary, who is outside the U.S. for over 6 consecutive months, is—

(a) A citizen or resident of a country with which the U.S. has concluded a Social Security totalization agreement which is in force (see section 233 of the Social Security Act), in which case the totalization agreement provisions govern whether this U.S. residence requirement applies;

(b) A national of a country with which the U.S. had a treaty in effect on August 1, 1956 and the U.S. residence requirement would be contrary to the terms of such treaty; or

(c) Entitled to benefits on the earnings record of a worker who died while in the U.S. Armed Forces or as the result of a service connected disease or injury.

Applicability of the U.S. Residence Requirement

The residence requirement rule is a condition for payment of auxiliary and survivor benefits but not old-age or disability insurance benefits. Paragraph (c) of section 340 of Pub. L. 98–21 (which contains the effective date provision of the statutory amendment) does state that the amendment applies to people who become eligible under sections 202 and 223 of the Act. Read literally, this would include old-age and disability benefits. However, the statutory language of section 202(t)(11) of the Act (added by section 340(a)(2) of Pub. L. 98–21) applies the U.S. residence requirement only to benefits payable under subsections (b), (c), (d), (e), (f), (g), and (h) of section 202 of the Act, which are the sections of the Act establishing the auxiliary and survivor benefit categories. Thus, we believe that Congress did not intend to apply the new U.S. residence requirement to old-age and disability beneficiaries.

Response to Public Comments on the Notice of Proposed Rulemaking (NPRM)

A 60-day comment period was provided by the March 4, 1986 NPRM (51 FR 7452). We received comments from three sources.

Comment: It is unfair that an individual cannot perform unrestricted work prior to age 70 without benefits being withheld. This is especially detrimental if the earnings test applies to foreign work.

Response: These regulations implement statutory requirements which we are legally compelled to apply. The foreign work test defines the limit on the amount of noncovered work a beneficiary can perform while outside the U.S. without losing benefits. Congress intended Social Security benefits to be a partial replacement for earnings lost because of retirement, disability, or death. Consequently, the need for Social Security benefits as replacement income is diminished if a beneficiary continues or resumes work.

Comment: The 45-hour foreign work test is more restrictive with respect to the earnings power of retirees than the 7-day test it replaced.

Response: The 45-day work test gives the retiree greater flexibility in working. For example, a retiree who works 5 hours a day could work for 9 days in a month. Under the 7-day test, a day is used up if the retiree works during any part of that day, even if for less than one hour.

Comment: A fairer test would be to impose deductions only if the person's foreign work averaged more than 45 hours in a month over an extended period. Thus, an individual could work in excess of 45 hours in 1 month and less than 45 hours in the following month and still be paid for both months if the number of hours worked in both months averaged out to less than 45 hours in any one month.

Response: We could not use this approach for two reasons:

(1) It would make the foreign work test almost impossible to administer; and

(2) Even if such an approach were feasible, we believe subsections (c) and (d) of section 203 of the Act could not be interpreted to allow it. Those provisions specifically focus on the number of hours worked during a particular month to determine whether to impose deductions on benefits payable for that particular month.

Comment: Enforcement of the foreign work test by Federal agencies such as the Immigration and Naturalization Service will involve substantial costs.

Response: Enforcement is the responsibility of the Social Security Administration (SSA). While there are administrative costs involved with implementation, they are not expected to be substantial.

Comment: Aliens living across the Mexican/American border who hold a passport or a nonresident alien border crossing card should be exempted from the U.S. residence requirements specified under paragaraph 202(t) (11) of the Act. We would make a presumption that these aliens maintained presence in the U.S. and, consequently, the alien nonpayment provisions of paragraph 202(t) (1) of the Act would never go into effect. Therefore, the issue of meeting the U.S. residence requirement would not arise.

Response: There is no mention under section 202(t) of the Act of this type of exemption to the alien nonpayment provisions. We do not see any basis for establishing a presumption of residence in the U.S. based on mere possession of a passport or border crossing pass.

Comment: Reference is made to aliens, but the NPRM summary does not provide amplification of who this might include.

Response: Aliens are persons who are not U.S. citizens or U.S. nationals. This is explained in 20 CFR 404.460(a).

Comment: Persons excluded from payments because of the new U.S. residence requirement provisions should be excluded from Federal Insurance Contributions Act (FICA) taxes.

Response: These persons are entitled to auxiliary or survivor benefits based on someone else's earnings record. Auxiliary and survivor beneficiaries do not pay FICA taxes on those earnings. Payment of FICA taxes by the auxiliary and survivor beneficiary on his or her *own* earnings is required by statute. The statute does not exclude that person from paying FICA taxes on his or her own earnings (if covered by Social Security) merely because SSA cannot pay auxiliary or survivor benefits when he or she is outside the U.S. for more than 6 consecutive months.

Comment: No reference is made in these regulatory amendments to a hearing when benefits are stopped.

Response: When we decide that we cannot pay benefits due to section 202(t) of the Act, the claimant may have us reconsider that decision. If the claimant is not satisfied with the reconsidered decision, he or she may request a hearing before an administrative law judge. See Subpart J of Part 404 of the regulations which explains the administrative review process.

Regulatory Procedures

Executive Order 12291

Because there are no costs associated with these regulations and savings are less than $100 million per year, the Secretary has determined that this is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations do not impose recordkeeping or reporting requirements on the public.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact

on a substantial number of small entities because they will affect only individuals. Therefore, a regulatory flexibility analysis as described in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Programs: No. 13.803 Social Security Retirement Insurance; No. 13.805 Social Security Survivor's Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Death benefits; Disability benefits; Old-Age, Survivors, and Disability Insurance.

Dated: April 16, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved June 9, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

Part 404 of Chapter III, Title 20 of the Code of Federal Regulations is amended as follows:

PART 404—[AMENDED]

1. The authority citation for Subpart E is revised as set forth below and the authority citations following the sections in Subpart E are removed.

Authority: Secs. 202, 203, 205, 209, 210, 215, 224, 229, 230, 1102, and 1127 of the Social Security Act; 49 Stat. 623, 53 Stat. 1368, as amended, 79 Stat. 379, as amended, 49 Stat. 647, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18; 42 U.S.C. 402, 403, 405, 409, 410, 415, 424, 429, 430, 1302 and 1327.

2. In § 404.417, paragraph (b) is revised to read as follows:

§ 404.417 Deductions because of noncovered remunerative activity outside the United States; 45-hour and 7-day work test.

* * * * *

(b) *Deductions from benefits because of the earnings or work of an insured individual*—(1) *Prior to September 1984.* Where the insured individual entitled to old-age benefits works on 7 or more days in a month prior to September 1984 while under age 72 (age 70 after December 1982), a deduction is made for that month from any:

(i) Wife's, husband's, or child's insurance benefit payable on the insured individual's earnings record; and

(ii) Mother's, father's, or child's insurance benefit based on child's disability, which under § 404.420 is deemed payable on the insured individual's earnings record because of the beneficiary's marriage to the insured individual.

(2) *From September 1984 on.* Effective September 1984, a benefit deduction is made for a month from the benefits described in paragraph (b)(1) of this section only if the insured individual, while under age 70, has worked in excess of 45 hours in that month.

(3) *Amount of deduction.* The amount of the deduction required by this paragraph (b) is equal to the wife's, husband's or child's benefit.

(4) *From January 1985 on.* Effective January 1985, no deduction will be made from the benefits payable to a divorced wife or a divorced husband who has been divorced from the insured individual for at least 2 years.

3. In § 404.460, paragraph (d) is added which reads as follows:

§ 404.460 Nonpayment of monthly benefits of aliens outside the United States.

* * * * *

(d) *Nonpayment of monthly benefits to certain aliens entitled to benefits on a worker's earnings record.* An individual who after December 31, 1984 becomes eligible for benefits on the earnings record of a worker for the first time, is an alien, has been outside the United States for more than 6 consecutive months, and is qualified to receive a monthly benefit by reason of the provisions of paragraphs (b)(2), (b)(3), (b)(5), or (b)(7) of this section, must also meet a U.S. residence requirement described in this section to receive benefits:

(1) An alien entitled to benefits as a child of a living or deceased worker—

(i) Must have resided in the U.S. for 5 or more years as the child of the parent on whose earnings record entitlement is based; or

(ii) The parent on whose earnings record the child is entitled and the other parent, if any, must each have either resided in the United States for 5 or more years or died while residing in the U.S.

(2) An alien who meets the requirements for child's benefits based on paragraph (d)(1) of this section above, whose status as a child is based on an adoptive relationship with the living or deceased worker, must also—

(i) Have been adopted within the United States by the worker on whose earnings record the child's entitlement is based; and

(ii) Have lived in the United States with, and received one-half support from, the worker for a period, beginning prior to the child's attainment of age 18, of

(A) At least one year immediately before the month in which the worker became eligible for old-age benefits or disability benefits or died (whichever occurred first), or

(B) If the worker had a period of disability which continued until the worker's entitlement to old-age or disability benefits or death, at least one year immediately before the month in which that period of disability began.

(3) An alien entitled to benefits as a spouse, surviving spouse, divorced spouse, surviving divorced spouse, or surviving divorced mother or father must have resided in the United States for 5 or more years while in a spousal relationship with the person on whose earnings record the entitlement is based. The spousal relationship over the required period can be that of wife, husband, widow, widower, divorced wife, divorced husband, surviving divorced wife, surviving divorced husband, surviving divorced mother, surviving divorced father, or a combination of two or more of these categories.

(4) An alien who is entitled to parent's benefits must have resided in the United States for 5 or more years as a parent of the person on whose earnings record the entitlement is based.

(5) Individuals eligible for benefits before January 1, 1985 (including those eligible for one category of benefits on a particular worker's earnings record after December 31, 1984, but also eligible for a different category of benefits on the same worker's earnings record before January 1, 1985), will not have to meet the residency requirement.

(6) Definitions applicable to paragraph (d) of this section are as follows:

"Eligible for benefits" means that an individual satisfies the criteria described in Subpart D of this part for benefits at a particular time except that the person need not have applied for the benefits at that time.

"Other parent" for purposes of paragraph (d)(1)(ii) of this section means any other living parent who is of the opposite sex of the worker and who is the adoptive parent by whom the child was adopted before the child attained age 16 and who is or was the spouse of the person on whose earnings record the child is entitled; or the natural mother or natural father of the child; or the step-parent of the child by a marriage, contracted before the child attained age 16, to the natural or adopting parent on whose earnings record the child is entitled. (Note: Based on this definition, a child may have more than one living "other parent." However, the child's benefit will be payable for a month if in that month he or she has one "other parent" who had resided in the U.S. for at least 5 years.)

"Resided in the United States" for satisfying the residency requirement

means presence in the United States with the intention of establishing at least a temporary home. A period of residence begins upon arrival in the United States with that intention and continues so long as an attachment to an abode in the United States is maintained, accompanied by actual physical presence in the United States for a significant part of the period, and ending the day of departure from the United States with the intention to reside elsewhere. The period need not have been continuous and the requirement is satisfied if the periods of U.S. residence added together give a total of 5 full years.

(7) The provisions described in paragraph (d) of this section shall not apply if the beneficiary is a citizen or resident of a country with which the United States has a totalization agreement in force, except to the extent provided by that agreement.

[FR Doc. 87-15778 Filed 7-10-87; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 178

[Docket No. 86F-0373]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for an increase in the level of residual hydrogen peroxide permitted on polymeric food-packaging sterilized with hydrogen peroxide. This action responds to a petition filed by Combibloc, Inc.

DATES: Effective July 13, 1987; objections by August 12, 1987.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas C. Brown, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of November 20, 1986 (51 FR 42006), FDA announced that a petition (FAP 6B3962) had been filed by Combibloc, Inc., 4800 Roberts Rd., Columbus, OH 43228, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for an increase in the hydrogen peroxide limitation from the current level of 0.1 part per million to 0.5 part per million when the hydrogen peroxide is used to sterilize polymeric food-contact surfaces.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that § 178.1005(d) should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before August 12, 1987 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 178.1005 by revising paragraph (d) to read as follows:

§ 178.1005 Hydrogen peroxide solution.

* * * * *

(d) *Limitations.* No use of hydrogen peroxide solution in the sterilization of food packaging material shall be considered to be in compliance if more than 0.5 part per million of hydrogen peroxide can be determined in distilled water packaged under production conditions (assay to be performed immediately after packaging).

* * * * *

Dated: June 23, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-15764 Filed 7-10-87; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD14-87-01]

Anchorage Ground; Island of Tinian, Commonwealth of the Northern Mariana Islands

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard has established an explosives anchorage

around naval anchorages "A" and "B" northwest of Tinian Harbor in the Commonwealth of the Northern Mariana Islands. Military Sealift Command ships loaded with explosives use these moorings on a regular basis. The purpose of this regulation is to provide a safe separation between vessels loaded with explosives and other vessels at anchor.

EFFECTIVE DATE: August 12, 1987.

FOR FURTHER INFORMATION CONTACT: LT M.D. West; (808) 541–2315.

SUPPLEMENTARY INFORMATION: On February 3, 1987, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (52 FR 3284). Interested persons were requested to submit comments and one comment was received.

Drafting Information

The drafters of these regulations are LT M.D. West, project officer, Fourteenth Coast Guard District Aids to Navigation Office, and LCDR S.R. Campbell, project attorney, Fourteenth Coast Guard District Legal Office.

Discussion of Comments

One comment was received requesting a public hearing on the subject of potential damage from an explosion in the anchorage. A letter was sent to the commentor on April 14, 1987, clarifying the scope of the proposed regulation. The letter offered to join in discussions with the U.S. Navy or hold a public hearing if appropriate. No reply was received as of June 1, 1987. The concern expressed in this comment addresses matters beyond the intended scope of the regulation. The U.S. Navy has stated that the effective blast radius for the quantity of explosives carried is 4,678 feet, encompassing only water and a small section of uninhabited land. For these reasons, no public hearing was held and no change was made in the final rule. This regulation is issued pursuant to 33 U.S.C. 471 as set out in the authority citation for all of Part 110.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The fleet moorings have been established in an open roadstead off the Island of Tinian. The only regular vessel traffic in the area consists of small vessels transiting the area or involved in fishing. Passage of these vessels (less than 500 gross tons) will be unaffected by the regulation. Ample anchorage area with good holding grounds are located outside the anchorage grounds. The regulation does not restrict access to any fairway or channel, or limit access to any facility or area previously accessible to vessels affected by the regulation.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulations

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.239 is added to read as follows:

§ 110.239 Island of Tinian, CNMI.

(a) The anchorage grounds (based on 1944 Saipan Datum):

(1) *Explosives Anchorage A.* A circular area intersecting the shoreline having a radius of 1,900 yards centered at latitude 14°58′57.0″ N, longitude 145°35′40.8″ E.

(2) *Explosives Anchorage B.* A circular area intersecting the shoreline having a radius of 1,900 yards centered at latitude 14°58′15.9″ N, longitude 145°35′54.8″ E.

(b) The regulations: Explosives Anchorages A and B; with the exception of explosives laden naval vessels at explosives anchorage A and B, no vessel may anchor within these areas without permission of the Captain of the Port. No vessel of more than 500 gross tons displacement may enter these areas except for the purpose of anchoring in accordance with this section.

Dated: June 18, 1987.

P.A. Bunch,

Acting Commander, 14th CG District.

[FR Doc. 87–15805 Filed 7–10–87; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[COTP San Francisco Bay Regulations SF–87–09]

Security Zone Regulations; San Francisco Bay, CA; Correction

AGENCY: U.S. Coast Guard, Department of Transportation (DOT).

ACTION: Emergency rule.

SUMMARY: The U.S. Navy has changed the inport schedule of the USS MISSOURI, the revised arrival date is 2 July 1987. This regulation correction is required to modify the Security Zone accordingly.

EFFECTIVE DATES: This regulation becomes effective on 2 July 1987, at approximately 1:00 P.M., PDT, when the USS MISSOURI moors at Pier 30/32. It is terminated at approximately 8:00 A.M., PDT, 7 July 1987, when the USS MISSOURI departs the pier.

FOR FURTHER INFORMATION CONTACT: LTJG George Cummings, Coast Guard Marine Safety Office San Francisco Bay, CA, 415–437–3073.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are LTJG George Cummings, Project Officer for the Captain of the Port, and LCDR Joseph McFaul, Project Attorney, Eleventh Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart D of Part 165 of Title 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, 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. Section 165.T1165 is revised to read as follows:

§ 165.T1165 Security Zone: San Francisco Bay, CA; Corrected.

(a) *Location.* The following area is a Security Zone: A Security Zone is established extending 100 yards around the USS MISSOURI while moored to Pier 30/32, San Francisco, CA.

(b) *Effective Date.* This regulation becomes effective when the vessel

moors at Pier 30/32, San Francisco, CA at approximately 1:00 P.M., PDT, on 2 July 1987, and remains effective whenever moored at this location. It terminates when the USS MISSOURI departs San Francisco Bay at approximately 8:00 A.M., PDT, 7 July 1987.

(c) *Regulations.* In accordance with the general regulation in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port San Francisco Bay, CA. Section 165.33 also contains other general requirements.

Dated: July 2, 1987.

D.A. MacAdam,

Commander, U.S. Coast Guard, Alternate Captain of the Port, San Francisco Bay.

[FR Doc. 87-15806 Filed 7-10-87; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-3215-5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Todays's notice takes final action to approve revisions to the rules of the Fresno County, Monterey Bay Unified, Sacramento County, San Luis Obispo County, Shasta County and Stanislaus County Air Pollution Control Districts (APCD's) and the Bay Area and South Coast Air Quality Management District (AQMD's). These revisions were submitted by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). These revisions generally are administrative and retain the previous emission control requirements. EPA has reviewed these rules and determined that they are consistent with the requirements of the Clean Air Act and EPA policy.

EFFECTIVE DATE: This action will be effective September 11, 1987 unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: A copy of the revisions is available for public inspection during normal business hours at the EPA Region 9 office and at the following locations.

EPA Library, Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street, SW., Washington, DC 20460

California Air Resources Board, P.O. Box 2815, 1102 "Q" Street, Sacramento, CA 95812

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

Fresno County Air Pollution Control District, 1221 Fulton Street, Fresno, CA 93721

Monterey Bay Unified APCD, 1164 Monroe Street, Suite 10, Salinas, CA 93906

Sacramento County APCD, 9323 Tech Center Drive, Suite 800, Sacramento, CA 95826

San Luis Obispo County APCD, P.O. Box 637, County Airport, Edna Road, San Luis Obispo, CA 93406

Shasta County APCD, 1855 Placer Street, Redding, CA 96001

South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731

Stanislaus County APCD, 1716 Morgan Road, Modesto, CA 95351

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Environmental Protection Specialist, State Implementation Plan Section, A-2-3, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7636 FTS: 454-7636.

SUPPLEMENTARY INFORMATION:

Background

The following rules were submitted by the California Air Resources Board for incorporation into the SIP on the dates indicated.

February 6, 1985.

Fresno County APCD

Rule 409.1 Architectural Coatings
Rule 409.7 Wood Furniture and Cabinet Coatings
Rule 413.1 Steam Drive Well Vents

Monterey Bay Unified APCD

Rule 100 Title
Rule 101 Definitions
Rule 102 Standard Conditions
Rule 103 Effective Date
Rule 104 Arrests and Notices to Appear
Rule 105 Separate Zone
Rule 106 Increments of Progress
Rule 200 Permits Required
Rule 201 Sources Not Requiring Permits
Rule 202 Transfer
Rule 203 Applications
Rule 204 Cancellation of Applications
Rule 205 Sampling and Testing Facilities
Rule 206 Standards for Granting Applications
Rule 208 Standards for Granting Permits to Operate
Rule 209 State Ambient Air Quality Standards
Rule 210 Denial of Applications
Rule 211 Appeals
Rule 212 Public Availability of Emission Data
Rule 213 Continuous Emission Monitoring
Rule 214 Breakdown Conditions
Rule 400 Ringelmann Chart
Rule 401 Wet Plumes
Rule 405 Exceptions
Rule 406 Additional Exceptions
Rule 408 Incinerator Burning
Rule 409 Burning of Agricultural Wastes
Rule 410 Prescribed Burning
Rule 411 Forest Management Burning
Rule 412 Sulfur Content of Fuels
Rule 413 Removal of Sulfur Compounds
Rule 414 Reduction of Animal Matter
Rule 415 Circumvention
Rule 417 Storage of Organic Liquids
Rule 418 Transfer of Gasoline
Rule 419 Organic Liquid Loading
Rule 420 Effluent Oil Water Separators
Rule 421 Violation of Other Statutes
Rule 422 Burning of Wood Wastes
Rule 425 Cutback Asphalt
Rule 426 Architectural Coatings
Rule 427 Steam Drive Wells
Rule 428 Rubber Tire Manufacturing
Rule 500 Definition
Rule 501 Non-Complying Heaters
Rule 502 Approved Orchard Heaters
Rule 503 Condition of Heaters
Rule 504 Classification of Heaters
Rule 505 Prohibition of Sale of Heaters
Rule 506 Burning Rubber and Other Substances
Rule 600 General
Rule 601 Filing Petitions
Rule 602 Contents of Petitions
Rule 603 Petitions for Variances
Rule 604 Appeal from Denial
Rule 605 Failure to Comply With Rules
Rule 606 Answers
Rule 607 Withdrawal of Petition
Rule 608 Place of Hearing
Rule 609 Notice of Hearing
Rule 610 Evidence
Rule 611 Record of Proceedings
Rule 612 Preliminary Matters
Rule 613 Official Notice
Rule 614 Continuances
Rule 615 Decision
Rule 616 Effective Date of Decision
Rule 617 Emergency Variance
Rule 700 General
Rule 701 Sampling Stations
Rule 702 Air Sampling
Rule 703 Reports
Rule 704 Voluntary Cooperation

Rule 705 Plans
Rule 706 Application of Rules
Rule 707 Episode Notification
Rule 708 Episode Criteria
Rule 709 First Stage Episode
Rule 710 Second Stage Episode
Rule 711 Third Stage Episode
Rule 712 Termination of Episodes
Rule 713 Enforcement
Rule 800 General
Rule 801 Order for Abatement
Rule 802 Filing Petitions
Rule 803 Contents of Petitions
Rule 804 Scope of Order
Rule 805 Findings
Rule 806 Pleadings
Rule 807 Evidence
Rule 808 Failure to Comply
Rule 809 Withdrawal of Petition
Rule 810 Place of Hearing
Rule 811 Notice of Hearing
Rule 812 Preliminary Matters
Rule 813 Official Notice
Rule 814 Continuance
Rule 815 Order and Decision
Rule 816 Effective Date of Decision
Rule 900 Inspection of Public Records—Disclosure Policy
Rule 901 Public records—Definitions
Rule 902 Request for Information
Rule 903 Inspection of Public Records—Disclosure Procedure
Rule 904 Trade Secrets

Sacramento County APCD

Rule 201 General Permit Requirements
Rule 404 Particulate Matter
Rule 443 Valves and Flanges at Chemical Plants

South Coast AQMD

Rule 1104 Wood Flat Stock Coating
Rule 1125 Can and Coil Coating
Rule 1141 Resin Manufacturing

Stanislaus County APCD

Rule 202 Exemptions
Rule 411 Gasoline Transfer Phase I
Rule 416.1 Agricultural Burning

April 12, 1985.

Bay Area AQMD

Rule 8–33 Bulk Gasoline Distribution

San Luis Obispo County APCD

Rule 201 Permits
Rule 205 Conditional Approval
Rule 405 NO_2 Emission Standards
Rule 406 CO Emission Standards

Shasta County APCD

Rule 2:1.514 Permit to Operate

April 19, 1984.

Shasta County APCD

Rule 3:4 Industrial Use of Organic Solvents

The above mentioned rules clarify applicability of permit requirements and permit conditions, add exemptions for emergency electrical generating equipment and set emission limits for food processing facilities. Most of the rules are administrative and do not impact current emission control requirements. Other rule revisions are recodification, deletions and clarifications. Except for Shasta County Rule 3:4, *Industrial Use of Organic Solvents,* submitted on April 19, 1984, which changes the emission limit and adds an exemption for fiberglass reinforced plastic manufacturing operations. This change results in an insignificant increase in emissions and will not affect the attainment status for this area.

Evaluation

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove these regulations as SIP revisions. All of the above rules have been evaluated and found to be in accordance with the Clean Air Act, EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the Region 9 office in San Francisco.

EPA Action

This notice approves the rule revisions listed above and incorporates them into the California SIP. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective September 11, 1987.

Regulatory Process

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.) The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 11, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

Dated: June 2, 1987.

Lee M. Thomas,

Administrator.

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart F—California

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.220 paragraph (c) is amended by adding paragraphs (154)(v)(B), (159) (ii) to (vi) and (160) to read as follows:

§ 52.220 Identification of Plan.

* * * * *

(c) * * *

(154) * * *

(v) Shasta County APCD.

(B) Amended rule 3:4, adopted on January 3, 1984.

* * * * *

(159) Revised regulations for the following APCD's were submitted on February 6, 1985, by the Governor's designee.

* * * * *

(ii) Fresno County APCD.

(A) New or amended rules 409.7 and 413.1, adopted on October 2, 1984.

(iii) Monterey Bay Unified APCD.

(A) New or amended rules 100 to 106, 200 to 206, 208 to 214, 400, 401, 405, 406, 408 to 415, 417 to 422, 425 to 428, 500 to 506, 600 to 617, 700 to 713, 800 to 816, and 900 to 904, adopted on December 13, 1984.

(iv) Sacramento County APCD.

(A) New or amended rules 201 (Sections 100–400), 404 (Sections 100–300), and 443 (Sections 100–400), adopted on November 20, 1984.

(v) South Coast AQMD.

(A) New or amended rules 1104 and 1125, adopted on December 7, 1984.

(B) Amended rule 1141, adopted on November 2, 1984.

(vi) Stanislaus County APCD.

(A) New or amended rules 202(O), 411, and 416.1, adopted on September 18, 1984.

(160) Revised regulations for the following APCD's were submitted on April 12, 1985, by the Governor's designee.

(i) Incorporation by Reference.

(A) Bay Area AQMD.

(*1*) Revisions to Regulation 8, Rule 33, adopted on January 9, 1985.

(B) San Luis Obispo County APCD.

(*1*) New or amended rules 201, 205, 405, and 406, adopted on November 13, 1984.

(C) Shasta County APCD.

(*1*) Amended rule 2:1.514, adopted on May 29, 1984.

* * * * *

[FR Doc. 87–13077 Filed 7–10–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 796, 797, and 798

[OPTS–42079A; FRL 3202–1]

Revision of TSCA Test Guidelines; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Correction.

SUMMARY: EPA is correcting the final rule that amended the Toxic Substances Control Act (TSCA) test guidelines to provide more explicit guidance on the necessary minimum elements of each study, which appeared in the **Federal Register** of May 20, 1987 (52 FR 19056).

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, 401 M Street, SW., Washington, DC 20460, (202) 554–1404.

SUPPLEMENTARY INFORMATION: EPA is correcting FR Doc. 87–11124 (OPTS 42079A; FRL 3202–1), which appeared in the **Federal Register** of May 20, 1987 (52 FR 19056), as follows:

§ 796.1550 [Corrected]

1. In the amendment for § 796.1550 on page 19057 under item 3.e., in paragraph (b)(3)(ix), in the next-to-last sentence and in the last sentence, change "[ALPHA]" to the Greek letter alpha.

§ 796.1840 [Corrected]

2. In the amendment for § 796.1840 (b)(1)(vi)(A) on page 19057 under item 4.a.i., in line 6, change "third" to "fourth."

§ 797.1600 [Corrected]

3. In the amendment for § 797.1600 on page 19064 under item 7. in line 2, change "toxicitv" to toxicity."

§ 797.1800 [Corrected]

4. In the amendment for § 797.1800 on page 19066:

a. Under item 8.a.v. in paragraph (c)(4)(v) in line 2, change "distubuted" to "distributed."

b. Under item 8.b.viii. in paragraph (d)(1)(iii)(D) in line 13, change "(*Poly dora sp.*)" to "(*Polydora sp.*)."

§ 797.1930 [Corrected]

5. In the amendment for § 797.1930 on page 19069:

a. Under item 10.a.iv. paragraph (c)(6)(i) in line 10, change "Any" to "An."

b. Under item 10.a.vii. paragraph (c)(6)(ii) in line 3, change "Appropriated" to "Appropriate."

§ 798.2450 [Corrected]

6. In the amendment for § 798.2450 on page 19074 under item 3.a.x. in paragraph (d)(11)(i)(A), in line 6, change "Just" to "just."

§ 798.4350 [Corrected]

7. In the amendment for § 798.4350 on page 19076 under item 6.a.iii. in paragraph (e)(6)(i)(A), in line 3, change "substain" to "sustain."

§ 798.5395 [Corrected]

8. In the amendment for § 798.5395 on page 19081 under item 16.b.ii. in paragraph (e)(1)(i) line 5, delete "149."

Dated: June 26, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87–15672 Filed 7–10–87; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–5

[FPMR Temp. Reg. A–29 Supp. 1]

Physical Fitness Facilities

AGENCY: Public Buildings Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to FPMR Temporary Regulation A–29 outlines the Standard level of alterations provided by GSA under Rent. A–29 established GSA policy on physical fitness facilities and provided guidelines regarding their establishment and installation.

DATES: *Effective Date:* July 13, 1987. *Expiration Date:* September 30, 1988.

FOR FURTHER INFORMATION CONTACT: John H. Quigley, Director, Assignment and Utilization Policy Division (202–566–0059).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purpose of E.O. 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh potential costs; has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 101 this temporary regulation is listed in the appendix at the end of Subchapter A.

Federal Property Management Regulations, Temporary Regulation A–29, Supplement 1

June 4, 1987.

To: Heads of Federal agencies

Subject: Physical fitness facilities

1. *Purpose.* This regulation supplements FPMR Temporary Regulation A–29 by outlining the standard levels of alterations provided by GSA under Rent.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires September 30, 1988.

4. *Background.* On April 24, 1986, the Office of Personnel Management revised the language in the Personnel Manual to include physical fitness facilities within the scope of Occupational Health Programs. Further, action by the Office of Management and Budget rescinding Circular A–72, assisted in authorizing Federal agencies to include physical fitness as part of a comprehensive occupational health program. Temporary Regulation A–29, published January 23, 1987, established GSA policy on physical fitness facilities and provided guidelines regarding their establishment and installation.

5. *Comments.* Comments concerning the effect or impact of this regulation may be submitted to the General Services Administration (GSA), Office of Real Property Development (PQ), Washington, DC 20405. Comments should be submitted within 60 days of publication of this regulation.

6. *Scope.* This supplement applies to all executive agencies and outlines standard levels of alteration services GSA will provide under the Rent system when providing fitness facilities.

7. *Physical fitness space.* Exercise equipment, lockers, and special interior finishes (purchase and installation) are the responsibility of the tenant-agencies.

a. *Exercise rooms*—Exercise rooms will be treated the same as conventional office space and provided building standard features as follows:

(1) Composition floor covering such as vinyl asbestos tile or equivalent or acceptable grades of commercial carpet.

(2) Ceilings structurally sound and finished.

(3) Ceiling-high interior partitions.

(4) Heating, ventilation, and air-conditioning (HVAC) capable of maintaining an acceptable operating environment.

(5) One duplex electrical outlet to a maximum of one to each 100 square feet of occupiable space.

b. *Locker rooms*—Locker rooms will be provided the following:

(1) Ceilings that are structurally sound and finished.

(2) Floors that are concrete.

(3) Heating, ventilation, and air-conditioning (HVAC) capable of maintaining an acceptable operating environment.

(4) Adequate lighting to maintain acceptable levels of illumination.

(5) Standard electrical connections will be provided consistent with architectural, mechanical and structural limitation.

(6) Walls that are plaster and painted.

c. *Shower rooms*—Shower rooms will be provided the following:

(1) Ceilings that are plaster finished.

(2) Walls and floors that are prepared for installation of non-slip finishes.

(3) Rough-in plumbing as required including water and waste system. Number of fixtures and the normal hookups are the responsibility of the tenants.

(4) Adequate lighting to maintain acceptable levels of illumination.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87-15825 Filed 7-10-87; 8:45 am]

BILLING CODE 6820-23-M

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41 CFR Part 101-40

[FPMR Temp. Reg. G-49]

Transportation and Traffic Management

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation increases the liability of carriers transporting Government employees' household goods under Government bills of lading pursuant to Subpart 101-40.2 of the Code of Federal Regulations (CFR). The carriers' liability is increased to $1.25 per pound times the actual weight (in pounds) of the shipment to coincide with the tender of service (TOS) agreement between General Services Administration (GSA) and the household goods carriers' industry effective June 16, 1987.

DATES: *Effective Date:* June 16, 1987. *Expiration Date:* June 15, 1988, unless sooner revised or canceled.

FOR FURTHER INFORMATION CONTACT: Joseph M. Napoli, Regulations and Policy Division (FFY), Washington, DC; telephone FTS 557-1256 or commercial 703-557-1256.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-40

Freight, Government property management, Moving of household goods, Office relocation, Transportation.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of the Subchapter G to read as follows:

Federal Property Management Regulations

June 23, 1987.

To: Heads of Federal agencies

Subject: Household goods carriers' liability

1. *Purpose.* This directive revises FPMR 101-40.206 by increasing the liability of carriers transporting Government employees' household goods under Government bills of lading (GBLs) pursuant to subpart 101-40.2 of the Code of Federal Regulations (CFR). This revision coincides with the General Services Administration (GSA) tender of service (TOS) agreement effective June 16, 1987.

2. *Effective date.* June 16, 1987.

3. *Expiration date.* June 15, 1988, unless sooner revised or superseded.

4. *Applicability.* This regulation is mandatory on all executive agencies subject to the authority of the Administrator of General Services pursuant to the Federal Property and Administrative Services Act of 1949, as amended, to the extent provided in 41 CFR Subpart 101-40.2.

5. *Background.* a. On behalf of executive agencies, GSA and carriers participating in the GSA Centralized Household Goods Traffic Management Progam have entered into a new TOS agreement establishing the carriers' minimum liability for loss of or damage to used household goods transported under GBLs at $1.25 per pound times the actual total weight (in pounds) of the shipment. To compensate the carriers for the increased liability, the Government will be assessed a "shipment charge" based on the total weight of each shipment. Used household goods transported under Government bills of lading issued on or after June 16, 1987, will be deemed to be released at this level of liability in the absence of a higher declared value.

b. In contrast, when the commuted rate system has been authorized, the carriers' liability under a commercial bill of lading (CBL) is set at $1.25 per pound times the actual total weight (in pounds) of the shipment, a level of liability for which the carriers charge an excess valuation fee. To avoid having to pay the excess valuation fee, employees must release their shipments at a value of not exceeding 60 cents per pound per article. (See § 101-40.206 (b).) This policy is being reevaluated and may be changed at a later date.

6. *Revised policy.* Section 101-40.206 is revised to read as follows:

§ 101-40.206 Household goods carriers' liability.

The TOS agreement and the carriers' applicable tariffs establish the minimum liability of carriers responsible for the loss of or damage to Government employees' household goods transported in conjunction with this subpart. Carriers may be held liable for declared values exceeding the TOS or tariff minimums, but shippers will be charged a valuation fee for each $100, or fraction thereof, of a higher valuation declared on the bill of lading. Employees should be fully informed about how the amount of their reimbursement will be determined, the differences in standard liability under Government and commercial bills of lading, the steps necessary to increase or decrease the carriers' liability, and the relative merits of paying out-of-pocket for carrier liability coverage as opposed to filing a claim against the Government pursuant to the Military Personnel and Civilian Employees' Claims Act of 1964. (See § 101-40.207(a).)

(a) When a Government employee's household goods are shipped under a GBL, the TOS sets the carrier's liability at a value equal to $1.25 per pound times the actual total weight (in pounds) of the shipment, and prescribes the additional charges due the carrier for assuming this level of liability. GBLs prepared and issued on and after June 16, 1987, should be annotated: "Shipment deemed released to a value equal to $1.25 per pound times the actual total weight (in pounds) of the shipment." If the employee requests the agency to declare a lump sum value that exceeds the TOS minimum of $1.25 per pound or wants full value protection, the request must be in writing. The agency will enter the declaration on the GBL, pay the carrier the excess valuation fee, and collect the fee from the employee. Should the employee's request for increased liability be made after the GBL has been tendered to the carrier but before the shipment has been picked up, the employee should not make a separate arrangement with the carrier for increased liability, but rather should notify the GBL issuing officer of the higher valuation desired and request that the original GBL be

amended on Standard Form 1200, Government Bill of Lading Correction Notice. (See § 101–41.4901–1200).

(b) When a Government employee's household goods are shipped under the commuted rate system, the employee makes all arrangements for moving his/her household goods, and is reimbursed to the extent provided in the commuted rate schedule. If the employee chooses to have his/her household goods transported by a commercial carrier, the shipment will move on a commercial bill of lading. In this case, the carrier's tariff sets the carrier's liability for loss and/or damage at $1.25 per pound times the actual total weight (in pounds) of the shipment, and requires the payment of an excess valuation fee unless the shipper (employee) limits the carrier's liability to a value not exceeding 60 cents per pound per article.

7. *Comments.* Comments or recommendations concerning this regulation and its provisions may be submitted to General Services Administration, Travel and Transportation Management Division (FBT), Washington, DC 20406.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87–15826 Filed 7–10–87; 8:45 am]

BILLING CODE 6820–24–M

41 CFR Part 101–43

[FPMR Temp. Reg. H–25]

Revision of Excess Personal Property Reporting Requirements

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation increases the minimum dollar criteria for excess personal property which is reportable to GSA for disposal. This revision of the formal reporting and screening criteria is necessary to keep pace with inflation and is expected to accelerate the removal of property through transfers, donations, and sales.

DATES: *Effective Date:* July 13, 1987. *Expiration Date:* June 30, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Duda, Director, Property Management Division, (703) 557–1240.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–43

Government property management, Reporting requirements, Surplus Government property.

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter H to read as follows:

Federal Property Management Regulations, Temporary Regulation H–25

June 17, 1987.

To: Heads of Federal agencies

Subject: Revision of excess personal property reporting requirements.

1. *Purpose.* This regulation increases the minimum dollar reporting criteria from $500 to $1,000 for excess personal property which is reportable to GSA for disposal, except for FSC group 71 (furniture) for which the criteria will remain $500 per line item.

2. *Effective date.* This regulation is effective upon publication in the Federal Register.

3. *Expiration date.* This regulation expires June 20, 1988, unless sooner superseded or incorporated into the permanent regulations of GSA.

4. *Applicability.* This regulation applies to all executive agencies.

5. *Background.* Section 101–43.4801 contains a table of excess personal property groups and classes reportable to GSA for disposition. This regulation increases the minimum dollar amount for reporting that property. This revision of the formal reporting and screening criteria is necessary to keep pace with inflation and is expected to accelerate the removal of property through transfers, donations, and sales.

6. *Explanation of changes.* Section 101–43–4801 is amended by revising paragraph (a) to read as follows:

§ 101–43.4801 Excess personal property reporting requirements.

(a) The table shown in paragraph (d) of this section shows the excess personal property groups and classes reportable to the General Services Administration. Property which meets the following criteria is to be reported:

(1) The condition code as defined in paragraph (e) of this section, is the same as or better than the minimum reportable disposal condition code shown in the last column. For example, code 9 indicates that property in this group or class coded 1 through 9 is reportable.

(2) The acquisition cost (or standard price) of the item is $1,000 or more, except that a line item in FSC group 71 will be reported to GSA if it has an acquistion cost (or standard price) of $500 or more.

* * * * *

7. *Effect on other directives.* This regulation supersedes the provisions of § 101–43.4801(a).

T.C. Golden,

Administrator of General Services.

[FR Doc. 87–15788 Filed 7–10–87; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[BERC–325–CN]

Medicare Program; Changes to the Return on Equity Capital Provisions and the Exception to Cost Limits for Newly-Established Home Health Agencies

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule with comment period.

SUMMARY: This document corrects technical errors that appeared in the final rule with comment period published in the **Federal Register** on June 4, 1987 (52 FR 21216) on changes to the return on equity capital provisions and the exception to cost limits for newly established home health agencies.

FOR FURTHER INFORMATION CONTACT: Steve Kirsh, (301) 594–5403.

SUPPLEMENTARY INFORMATION: In Federal Register document 87–12602, beginning on page 21216, in the issue of June 4, 1987, make the following corrections:

1. On page 21216, in the first column, the fourth line from the top of the page is corrected to read "42 CFR Part 413".

2. Also on page 21216, in the first column, the eighth line from the top of the page is corrected to read "and the Exception To Cost Limits".

(Secs. 1102, 1122, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act, as amended (42 U.S.C. 1302, 1320a–1, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, and 1395ww) and 42 CFR Part 413).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: July 8, 1987.

James V. Oberthaler,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 87–15831 Filed 7–10–87; 8:45 am]

BILLING CODE 4120–01–M

Proposed Rules

Federal Register
Vol. 52, No. 133
Monday, July 13, 1987

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.

FEDERAL RESERVE SYSTEM

12 CFR Parts 211, 225 and 262

[Docket No. R-0584]

Assessment of Fees for Supervision of Edge Corporations and Bank Holding Companies and for Processing Applications

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Extension of time to comment on proposed rulemaking.

SUMMARY: On November 12, 1986, the Board of Governors of the Federal Reserve System sought public comment on a proposal to assess fees for certain of its supervisory activities. 51 FR 41801 (November 19, 1986). The Board advanced the proposal as a possible cost recovery measure to supplement prior Board actions to streamline operations and eliminate unnecessary functions. This proposal was designed to recover the total of identifiable costs incurred by the Federal Reserve in supervising Edge Act corporations and in processing applications submitted by banks, bank holding companies and others. After reviewing the comments submitted in response to its original proposal, the Board sought public comment on a revised proposal that would levy charges for the supervision of bank holding companies (in particular the parent holding company and its nondepository subsidiaries) as well as for the supervision of Edge Act corporations and for processing applications. 52 FR 21564 (June 8, 1987). Under this proposal fees and assessments would be set to recover about half of the costs incurred by the Federal Reserve in conducting these activities. The Board has also requested comments on whether, if the Board does decide to charge for certain supervisory activities, this revised proposal to charge lower fees but to include bank holding company supervision is preferable to its original proposal.

Since the publication of this revised proposal the Board has received a number of requests for additional time to comment, requests which stress the imposition of fees as a major change in Board policy that is of special significance for bank holding companies and Edge Act corporations. The Board had provided a 30 day period, ending July 6, 1987, to comment on the specific issues presented by the revised proposal. In order to permit all interested parties to tile detailed, substantive comments, the Board is extending the comment period for the revised fee proposal (Docket 0584) until August 7, 1987.

DATE: Comments must be received by August 7, 1987.

ADDRESS: All comments, which should refer to Docket No. R-0584, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551, or should be delivered to the Office of the Secretary, Room 2223, Eccles Building, 20th Street and Constitution Avenue NW., between the hours of 9:00 a.m. and 5:00 p.m. weekdays. Comments may be inspected in Room 1122, Eccles Building between 9:00 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Frederick M. Struble, Associate Director, (202) 452–3794, Don E. Kline, Associate Director, (202) 452–3421, Kevin M. Raymond, Supervisory Financial Analyst, (202) 452–2573, or James V. Houpt, Supervisory Financial Analyst (202) 452–3358, Division of Banking Supervision and Regulation; or James E. Scott, Senior Counsel, (202) 452–3513, Legal Division, or for users of Telecommunications Devices for the Deaf, Earnestine Hill or Dorothea Thompson, (202) 452–3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Board of Governors of the Federal Reserve System, July 7, 1987.

William W. Wiles,
Secretary of the Board.

[FR Doc. 87–15753 Filed 7–10–87; 8:45 am]
BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87–AWP–11]

Proposed Revision to the Sacramento Metropolitan Airport, California, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Sacramento Metropolitan Airport, California, control zone. Construction of a new runway parallel to the existing runway will be completed shortly. The airport reference point (ARP) will change and controlled airspace will be required for instrument landing system (ILS) and non-directional radio beacon (NDB) instrument approaches to the new runway.

DATES: Comments must be received on or before August 31, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, AWP–530, Docket No. 87–AWP–11, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace and Procedures Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260, telephone (213) 297–1648.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–AWP–11." The poscard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace and Procedures Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90260, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Sacramento Metropolitan Airport, California, control zone. This revision will include a new ARP and establish additional control airspace for instrument approaches to a new parallel runway. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zone.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Sacramento Metropolitan Airport, CA [Revised]

Within a 5-mile radius of the Sacramento Metropolitan Airport (lat. 38°41'44" N., long. 121°35'23"W.), within 2.5 miles each side of the Runway 16R/34L localizer N and S courses, extending from the 5-mile radius zone to 6 miles north and south of the airport, within 2.5 miles each side of the Runway 16L/34R localizer N and S courses, extending from the 5-mile radius zone to 6 miles north and south of the airport, and including that airspace adjoining the Sacramento McClellan AFB, California, and the Sacramento Municipal Airport, California, control zones between lat. 38°41'43"N., and the Sacramento VORTAC 351 radial.

Issued in Los Angeles, California, on July 2, 1987.

James A. Holweger,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 87–15761 Filed 7–10–87; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 7

Proposed Interpretive Rule Relating To Determining Duty-Free Status for Products Imported From U.S. Insular Possessions

AGENCY: U.S. Customs Service, Treasury.

ACTION: Proposed interpretive rule; solicitation of comments.

SUMMARY: General Headnote 3(a), Tariff Schedules of the U.S. (TSUS), provides for the free entry into the U.S. of products of its insular possessions which do not contain foreign materials to the value of more than 70 percent of their total value or more than 50 percent of their total value if the articles are ineligible for duty-free entry under the Caribbean Basin Initiative (CBI). The CBI and the Generalized System of Preferences (GSP) provide generally for free entry into the U.S. of eligible articles from beneficiary or beneficiary developing countries (BDC's) respectively, if, among other requirements, the articles are products of the beneficiary country or BDC and the sum of the cost or value of the materials produced in the beneficiary country or BDC plus the direct costs of processing operations performed in the beneficiary country or BDC are not less than 35 percent of the appraised value of the articles at the time of their entry into the U.S. For both CBI and GSP, Customs has permitted double substantial transformation; that is, the value of foreign material (generally, material that originates in a non-beneficiary country or non-BDC) may be considered as the cost of material produced in the beneficiary country or BDC for the purpose of the 35 percent value determination if the foreign material is transformed in the beneficiary country or BDC through a substantial processing operation into a new and different product with a different name, use or character, and the new and different product is then transformed into yet another new and different product which is exported to the U.S.

This document requests comments regarding Customs proposal to apply the double substantial transformation concept to products of insular possessions for the purpose of determining whether the products meet the value requirement entitling them to free entry under General Headnote 3(a).

DATE: Comments must be received on or before August 12, 1987.

ADDRESS: Comments (preferably in triplicate) may be addressed to, and inspected at, the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Daniel Gluck, Classification and Value Division (202–566–2938).

SUPPLEMENTARY INFORMATION:

Background

CBI and GSP

The Caribbean Basin Initiative (CBI) is an economic recovery program for nations of the Caribbean and Central America created by the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 *et seq.*) Under the program, most products imported from Caribbean and Central American countries designated as beneficiary countries may be entered into the U.S. free of duty. Certain products such as textile and apparel articles subject to textile agreements and petroleum are not eligible under CBI for duty-free treatment. To implement the duty-free aspects of the CBI, by T.D. 84–237, published in the **Federal Register** on December 7, 1984 (49 FR 47986), the Customs Regulations were amended by adding new §§ 10.191 through 10.198 (19 CFR 10.191 through 10.198).

Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*) authorized the President to establish a Generalized System of Preferences (GSP) which permits the duty-free entry of eligible merchandise arriving from designated beneficiary developing countries (BDC's). Most of the products which would not be eligible for duty-free treatment under CBI also would not be eligible for duty-free treatment under GSP. To implement the provisions of GSP, by T.D. 76–2, published in the **Federal Register** on December 31, 1975 (40 FR 60047), the Customs Regulations were amended by adding new §§ 10.171 through 10.178 (19 CFR 10.171 through 10.178).

The statutory language enacting GSP provides generally, in 19 U.S.C. 2463, that a GSP-eligible product may be entitled to duty-free treatment if the sum of the costs or value of the materials produced in a BDC, plus the direct costs of processing operations performed in such country, is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the U.S. The statutory language enacting CBI provides generally, in 19 U.S.C. 2703, that a CBI-eligible product may be entitled to duty-free treatment if the sum of the cost or value of the materials produced in a beneficiary country plus the direct costs of processing operations performed in a beneficiary country is not less than 35 percent of the appraised value of such article at the time it is entered.

Customs has interpreted these provisions in GSP and CBI to allow the value of foreign materials (generally, materials originating in a non-beneficiary country or non-BDC) imported into a beneficiary country or BDC to be counted in determining the cost or value of the materials produced in the beneficiary country or BDC if the foreign materials are transformed there into a new and different article of commerce with a different name, character, or use, and that new article is transformed into another new and different product which is exported to the U.S. This processing of foreign material into materials which costs may be included in determining the 35 percent value requirement established for GSP and CBI is popularly known as a "double substantial transformation."

Insular Possessions

General Headnote 3(a), Tariff Schedules of the U.S. (19 U.S.C. 1202), permits products of the insular possessions of the U.S. to be imported into the U.S. free of duty if certain qualifications are met. The insular possessions include the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, Midway Islands, Wake Island, Johnston Island, and Kingman Reef. The purpose of General Headnote 3(a) is to promote the economic development of the insular possessions. Regulations concerning the insular possessions are set forth in Part 7, Customs Regulations (19 CFR Part 7).

Duty-free entry is provided for products of the insular possessions if the products do not contain foreign materials to the value of more than 70 percent of their total value or more than 50 percent of their total value if the articles are ineligible for duty-free entry under the CBI. Al products of the insular possessions are eligible for duty-free treatment under General Headnote 3(a).

Application of Double Substantial Transformation to Insular Possessions

Customs is now proposing to apply the double substantial transformation concept to products of insular possessions for the purpose of determining whether products meet the value requirement entitling them to free entry under General Headnote 3(a). It appears that no substantive difference was intended between the foreign material value limitation of General Headnote 3(a) and the eligible country material/direct costs of processing requirement found in the CBI or GSP (except for the intentionally more favorable 30 percent local content requirement that results under General Headnote 3(a)).

Double substantial transformation has not been applied to General Headnote 3(a) situations to date, principally because the question had not been presented. While many articles imported duty-free from insular possessions have been comprised entirely of foreign materials, the processing costs and other value added in the possession has increased the appraised value to the point where the value of the foreign material fell within the 70 or 50 percent value limitation.

Customs is now faced with the issue because particular cases have been presented in which the cost of the foreign material imported into the insular possession for further porcessing is so high that the costs of the substantial processing that occurs in the insular possession will not, because of the highly competitive market in the products involved, result in an appraised value sufficiently high to allow the foreign material value limiation to be met. The particular products involved are ones that would not be eligible for duty-free treatment under the CBI. Accordingly, for these products to be entitled to duty-free entry under General Headnote 3(a), the value of foreign materials in them cannot be more than 50 percent of their total value. If the double substantial transformation concept is applied to these products, foreign materials (materials not originating in an insular possession) that are transformed into new and different products in an insular possession and then transformed again in that insular possession to yet another new and different product which is imported into the U.S., would not be considered foreign materials for the purpose of the 50 percent value determination. The cost or value of the foreign materials would be considered as part of the value of materials produced in an insular possession.

Comments

Before making a determination on this matter, Customs will consider any written comments timely submitted. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11, Customs Regulations (19 CFR 103.11(b)), between 9:00 a.m. and 4:30 p.m. on normal business days, at the Regulations Control Branch, Room 2426, U.S. Customs Service Headquarters.

1301 Constitution Avenue, NW., Washington, DC 20229. Because the proposed action by Customs is consistent with past administrative practice regarding CBI and GSP, the period of time for public comment is set at 30 days. However, this time will be extended for good cause shown.

Authority

This notice is published in accordance with § 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

Drafting Information

The principal author of this document was Harold M. Singer, Regulations Control Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

Michael H. Lane,
Acting Commissioner of Customs.
Approved June 22, 1987.

John P. Simpson,
Acting Assistant Secretary of Treasury.

[FR Doc. 87-15775 Filed 7-10-87; 8:45 am]
BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 502

[Rulemaking No. 4—Propaganda as Educational and Cultural Material]

World-Wide Free Flow (Export-Import) of Audio-Visual Materials; Propaganda; Republication

[Editorial Note: The following document was originally published at page 25384 in the issue of Tuesday, July 7, 1987. The document is being republished in its entirety because of typesetting errors.]

AGENCY: United States Information Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In accordance with an order of the United States District Court of the Central District of California the United States Information Agency (USIA) seeks comments as to whether it should initiate a rulemaking to modify regulations found at 22 CFR Part 502 which implement the international *Agreement for facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character* (Beirut Agreement of 1948). The USIA also seeks comments as to how the present regulations can be modified if amendment of the regulations is determined to be necessary or appropriate.

DATES: Comments on this notice will be accepted until September 8, 1987.

ADDRESS: Interested persons should submit relevant views or arguments to Merry Lymn, Attorney Advisor, Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547, (202) 485-7976. Communications should refer to docket number and title. A copy of each communication will be available for public inspection by advance appointment during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Attorney Advisor, Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547, (202) 485-7976.

SUPPLEMENTARY INFORMATION: In accordance with an order of the United States District Court of the Central District of California the United States Information Agency (USIA) seeks comments as to whether it should initiate a rulemaking to modify regulations found at 22 CFR Part 502 which implement the international *Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character* (Beirut Agreement of 1948) 17 U.S.T. 1579, T.I.A.S. No. 6116, 197 U.N.T.S. 3. The USIA also seeks comments as to how the present regulations can be modified if amendment of the regulations is determined to be necessary or appropriate.

The Beirut Agreement was adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1948 after several years of negotiations. It entered into force on August 12, 1954. While the United States was one of the chief initiators of the treaty and signed the treaty on September 13, 1949, it did not ratify the Agreement until May 26, 1960. The United States formally implemented the Beirut Agreement by statute (Pub. L. 89-634, 80 Stat. 879) on October 8, 1966.

The goal of the Beirut Agreement, as stated in its Preamble, is to promote "the free flow of ideas by word and image" to encourage "the mutual understanding of peoples * * *." To this end, the treaty provides a mechanism for exempting qualifying audio-visual materials from import duties and licensing requirements, whereby the country of production affirms that a material comes within the treaty's terms, and the importing country then determines for itself whether a duty exemption is appropriate.

The Agreement (Art. I) defines audio-visual materials as "educational, scientific and cultural" for purposes of favorable import treatment

(a) When their primary purpose or effect is to instruct or inform through the development of a subject or aspect of a subject, or when their content is such as to maintain, increase or diffuse knowledge, and augment international understanding and goodwill; and

(b) When the materials are representative, authentic, and accurate; and

(c) When the technical quality is such that it does not interfere with the use made of the material.

An owner of the basic rights of the material seeking exemption from the otherwise required duties must apply for a certificate from the appropriate government agency in the country of production, which attests that in the agency's view the material is of an educational, scientific or cultural character within the meaning of Article I" (Art. IV, ¶¶1-2). The certificate is then submitted to the importing country, which makes its own independent determination as to whether the material should be subject to duty (¶4). The decision of the importing country "shall be final," although it will "give due consideration" to the exporting country's views (¶6).

The United States is one of 29 signatories to the Beirut Agreement; an additional 28 nations participate informally; and the United States recognizes the certificates of 15 more.

Pub. L. No. 89-634, broadly delegates to the USIA, as implementing Agency, the duty "to take appropriate measures for the carrying out of the provisions of the Agreement including the issuance of regulations." In turn, the USIA has issued implementing regulations (22 CFR Part 502), including several "substantive criteria" to determine whether a given film is "educational, scientific and cultural" as those terms are internationally understood. These substantive criteria are found at 22 CFR 502.6.

Prior to formal implementation, the State Department, and then the USIA, administered the treaty informally, by issuing certificates within the internationally understood definition of educational. This required that interpretive criteria be applied. The State Department adopted a *Code of Policies* in 1953. These policies were published in the **Federal Register** December 24, 1953 by the USIA. Upon formal implementation of the treaty in 1967, the policies were published as regulations. The interpretive criteria, in accordance with the international understanding of the definition of educational, excludes audio-visual

materials the primary purpose or effect of which is to amuse or entertain, to present news coverage, to advertise, or to persuade to a point of view (propagandize). Congress was aware of this interpretation. The *Congressional Record* of May 4, 1967 states (H 5097):

> USIA has, in fact, been certifying American goods for export to Beirut Agreement countries for some years. They have refused to approve materials whose primary purpose is merely to amuse or entertain; when the intent of the material is to stimulate the use of a patented process or product, advertise a particular organization or individual, or economic or political propaganda; when it lends itself to misinterpretation or misrepresentation of the U.S. or other countries, their people or institutions; and where the material has not already been produced at the time of application.
>
> Presumably, USIA will rule against the importation of foreign materials which fall into these categories.

The application of the Agreement was reviewed internationally in 1967 at the Meeting of Government Experts to Review the Application of the Agreements on the Importation of Educational, Scientific and Cultural Materials. At this meeting the general interpretation of the Agreement embodied in the U.S. regulations was accepted. UNESCO adopted the U.S.-Canada interpretation of the Agreement in its "Guide to the Operation of the Agreement for facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character."

The official Report of the Meeting stated:

> Several speakers commented on their experience in interpreting this Article which defines the standards for determining the eligibility of visual and auditory materials for certification and recognition (authentication of certification) under the terms of the Agreement. None reported any significant difficulty with either function. It was generally agreed that in order to qualify for certification, such material must be primarily instructional or informational in character, and, if it interpreted life in a country, it should do so in such a way as to contribute to international understanding and goodwill. It was also pointed out that the operative words of the article are "instruct", "inform" and "diffuse knowledge". (Meeting of Governmental Experts to Review the Application of the Agreement on the Importation of Educational, Scientific and Cultural Materials (Palais des Nations, Geneva, 20–29 November 1967) COM/C's/184/10 Paris, 24 May 1968, page 30.)

The practice, as described by Canada and the United States, was accepted and incorporated into guidelines for states wishing to become party to the Agreement.

Accordingly, at 22 CFR 502.6(a)(3), the Agency incorporated verbatim the treaty's definition of "educational, scientific, and cultural." 22 CFR 502.6(b)(3) provides that

> The Agency does not certify or authenticate materials which by special pleading attempt generally to influence opinion, conviction or policy (religious, economic, or political propaganda), to espouse a cause, or conversely, when they seem to attack a particular persuasion. Visual and auditory materials intended for use only in denominational programs or other restricted organizational use in moral or religious education and which otherwise meet the criteria set forth under paragraph (a) of this section and paragraph (b)(5) of this section, may be determined eligible for certification in the judgment of the Agency.

And, 22 CFR 502.6(b)(5) provides that

> The Agency does not regard as augmenting international understanding or good will and cannot certify or authenticate any material which may lead itself to misinterpretation, or misrepresentation of the United States or other countries, their peoples or institutions, or which appear to have as their purpose or effect to attack or discredit economic, religious, or political views or practices.

Sections (b)(3) and (b)(5) embody the international standards recognized by UNESCO and participating nations for implementing the Beirut Agreement. Taken together with (a)(3) (which is verbatim treaty language) the regulations reflect the international understanding that propaganda is not included within the definition of "educational, scientific or cultural" materials covered by the treaty.

As a result of litigation commenced in December 1985, the United States District Court for the Central District of California declared that 22 CFR 502.6(a), 502.6(b) (3) and (5) are facially inconsistent with the First and Fifth Amendments to the United States Constitution, in that, in the courts' view the regulations are insufficiently precise and impermissably allow the USIA to consider the specific contents of the materials in order to determine whether they constitute propoganda. *Bullfrog Films Inc.* v. *Wick*, 646 F. Supp. 492 (C.D. Cal. 1986), *appeal pending*, No. 86–6630 (Ninth Circuit). The District Court "permanently enjoin[ed] defendants from enforcing said regulations and denying 'educational' certificates to any film under the Beirut Agreement, based on said regulations . . .," and ordered USIA to reconsider the eligibility of six films at issue in the litigation for certification under the Beirut Agreement under standards consistent with the First and Fifth Amendments. 646 F. Supp. at 510–11. On December 3, 1986, the District Court clarified its Order, stating that the agency may choose to await the promulgation of new regulations before making certification decisions on audio-visual materials. The court did not comment on the other interpretive regulations which require denial of certificates to materials the primary purpose of which is to present news coverage, entertain or advertise, (also constitutionally protected speech) as they were not in issue.

In accordance with the District Court's Orders, USIA requests public comments on whether 22 CFR 502.6(a), 502.6(b) (3) and (5) can be rewritten and, if so, in what manner to make the regulations consistent with the terms and requirements of both the United States Constitution and the Beirut Agreement. As noted above, USIA has appealed the District Court's Orders to the United States Court of Appeals for the Ninth Circuit. In the event the Agency is successful on that or any subsequent appellate review as to the constitutionality of the challenged regulations, it is not the Agency's intention to modify the existing regulations. However, during the pendency of the appeal, the Agency will consider all written comments in deciding whether and, if determined appropriate, how to redraft the challenged regulations in accordance with the District Court's Orders. Any new regulations must implement the terms and requirements of the Beirut Agreement.

Therefore, the Agency specifically requests comments on whether and how the challenged regulations can be redrafted in a way which would both satisfy the District Court's ruling and comply with the terms and requirements of the Beirut Agreement, as interpreted by the United States, UNESCO and the international community.

List of Subjects in 22 CFR Part 502

Education, Imports, Trade agreements.

This document is issued pursuant to the authority of 5 U.S.C. 301, 19 U.S.C. 2051, 2052, 22 U.S.C. 1431 *et seq.*, E.O. 11311, 31 FR 13413, 3 CFR 1966–1970 Comp. page 593.

Dated: June 26, 1987.

Marvin L. Stone,

Acting Director, United States Information Agency.

[FR Doc. 87–15358 Filed 7–6–87; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Public Comment Period and Opportunity for Public Hearing on Proposed Amendment to the Kentucky Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSMRE has received a proposed amendment and is announcing procedures for public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by the Commonwealth of Kentucky as modification to the Kentucky permanent program [hereinafter referred to as the Kentucky program] under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment submitted consists of a resubmittal of House Bill 869 and further justification of the Natural Resources and Environmental Protection Cabinet's (NREPC) ability to have adequate resources to handle the number of appeals. The amendment pertains to making orders of the Secretary of the NREPC appealable to Circuit Courts in the county where the violation occurred rather than Franklin County.

This notice sets forth the times and location that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comment relating to Kentucky's proposed modification of its program not received on or before 4:00 p.m. on August 12, 1987 will not necessarily be considered in the decision process. A public hearing on the adequacy of the amendment will be held upon request at 10:00 a.m. on August 7, 1987 at the location shown below under **"ADDRESSES"**. Any person interested in making an oral or written presentation at the public hearing should contact Mr. W. Hord Tipton at the Lexington Field Office by the close of business on or before July 28, 1987. If no one has contacted Mr. Tipton to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has contacted Mr. Tipton, a public meeting may be held in place of the hearing. If possible, a notice of the meeting will be posted in advance at the locations listed under **ADDRESSES"**.

ADDRESSES: Written comments and requests for a hearing should be mailed or hand-delivered to: W. Hord Tipton, director, Lexington field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Copies of the proposed amendment, the Kentucky program, the Administrative Record on the Kentucky program and a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSMRE Lexington Field Office and the Washington, DC office listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSMRE Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233–7327

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5131, 1100 "L" Street NW., Washington, DC 20240, Telephone: (202) 343–5492

Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940

If a public hearing is held, its location will be: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: Mr.W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone: (606) 233–7327.

SUPPLEMENTARY INFORMATION:

I. Background

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSMRE. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982, **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions approval of the Kentucky program can be found in the May 18, 1982, **Federal Register** notice. Subsequent action concerning the conditions of approval and program amendments are identified in 30 CFR 917.11, 917.15, 917.16 and 917.17.

II. Submission of Amendment

By a letter dated May 28, 1987, (Administrative Record No. KY–738), Kentucky resubmitted to OSMRE pursuant to 30 CFR 732.17, House Bill 869 with further justification of workload to revise the Kentucky regulatory program.

Kentucky originally submitted to OSMRE House Bill 869, in a letter dated April 29, 1986, (Administrative Record No. KY–703). House Bill 869 amends KRS 350.032 to provide that final orders of the Secretary of the NREPC would be appealable to Circuit Courts of the county where the violation occurred rather than Franklin County.

On June 9, 1986, the OSMRE notified the NREPC that prior to approval of House Bill 869 as an amendment the NREPC must submit an effective plan as to how the program will be implemented (Administrative Record No. KY–709). The NREPC responded to the letter with a statement of anticipated costs, organizational considerations, programmatic considerations, and resource descriptions (Administrative Record No. KY–710). On July 18, 1986, OSMRE published in the **Federal Register** the disapproval of the amendment to KRS 350.032 based upon the fact that House Bill 869 did not provide for additional funding and/or staffing for the extra workload that would likely result from its passage (Administrative Record No. KY–718).

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comment on whether the amendment proposed by Kentucky satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time

indicated under **"DATES"** or at locations other than the Lexington Field Office, Lexington, Kentucky, will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business on July 28, 1987. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. A summary of the meeting will be included in the Administrative Record.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the OSMRE, Lexington Field Office listed under **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 1, 1987.

Albert E. Whitehouse,

Acting Assistant Director, Eastern Field Operations.

[FR Doc. 15769 Filed 7-10-87; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 917

Public Comment Period and Opportunity for Public Hearing on Proposed Amendment to the Kentucky Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSMRE has received a proposed amendment and is announcing procedures for public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by the Commonwealth of Kentucky as modification to the Kentucky permanent program [hereinafter referred to as the Kentucky program] under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment submitted consists of modifications to the program for certification of persons responsible for blasting operations incident to coal exploration and surface coal mining.

This notice sets forth the times and location that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments relating to Kentucky's proposed modification of its program not received on or before 4:00 p.m. on August 12, 1987 will not necessarily be considered in the decision process. A public hearing on the adequacy of the amendment will be held upon request at 10:00 a.m. on August 7, 1987, at the location shown below under "ADDRESSES". Any person interested in making an oral or written presentation at the public hearing should contact Mr. W. Hord Tipton at the Lexington Field Office by the close of business on or before July 28, 1987. If no one has contacted Mr. Tipton to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has contacted Mr. Tipton, a public meeting may be held in place of the hearing. If possible, a notice of the meeting will be posted in advance at the locations listed under "ADDRESSES".

ADDRESSES: Written comments and requests for a hearing should be mailed or hand-delivered to: W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Copies of the proposed amendment, the Kentucky program, the Administrative Record on the Kentucky program and a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSMRE Lexington Field Office and the Washington, DC office listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSMRE Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233-7327

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5131, 1100 "L" Street, NW., Washington, DC 20240, Telephone: (202) 343-5492

Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940

If a public hearing is held, its location will be: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Director, Lexington

Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone: (606) 233–7327.

SUPPLEMENTARY INFORMATION:

I. Background

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSMRE. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982, **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions approval of the Kentucky program can be found in the May 18, 1982, **Federal Register** notice. Subsequent action concerning the conditions of approval and program amendments are identified in 30 CFR 917.11, 917.15, 917.16 and 917.17.

II. Submission of Amendment

On December 10, 1985, OSMRE published in the **Federal Register** (50 FR 50293) the approval of the Kentucky Administrative Regulations (KAR) at 405 KAR 7:070 concerning the blaster certification program.

By a letter dated June 17, 1987, (Administrative Record KY–739), Kentucky submitted to OSMRE pursuant to 30 CFR 732.17, an amendment to the Kentucky regulatory program. The amendment modifies the program procedures for certification of persons responsible for blasting operations incident to coal exploration and surface coal mining.

Therefore, the Director is seeking public comment on the adequacy of the proposed program amendment. Comments should specificially address the issues of whether the proposed amendment is in accordance with SMCRA and no less effective than its implementing regulations.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comment on whether the amendment proposed by Kentucky satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Lexington Field Office, Lexington, Kentucky, will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by the close of business on July 28, 1987. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate response and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. A summary of the meeting will be included in the Administrative Record.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the OSMRE, Lexington Field Office listed under "ADDRESSES" by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need by prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 29, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt form preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 1, 1987.

Albert E. Whitehouse,

Acting Assistant Director, Eastern Field Operations.

[FR Doc. 87–15770 Filed 7–10–87; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 305 and 306

[FRL–3230–2]

Withdrawal of Arbitration Procedures and Natural Resource Claims Procedures for the Hazardous Substance Superfund

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; Withdrawal of regulations; Request for comments.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is requesting comments on its proposal to withdraw two procedural rules promulgated pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). The

rules concern: (1) The submission and evaluation of natural resource claims against the Hazardous Substance Superfund (Superfund) (40 CFR Part 306), and (2) the arbitration of both natural resource and response claims (40 CFR Part 305). EPA proposes to withdraw these two regulations because they have been superseded by provisions of the Superfund Amendments and Reauthorization Act of 1986. (SARA).

DATES: Comments concerning this request for comments must be submitted on or before August 12, 1987.

ADDRESSES: Comments may be submitted in triplicate to Henry L. Longest, II, Director, Office of Emergency and Remedial Response (WH-548), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Docket: The public docket for the NCP revisions and the claims procedures is available for public inspection at the U.S. Environmental Protection Agency, Waterside Mall, Lower Garage, 401 M Street, SW., Washington, DC 20460. The docket is available for viewing by appointment only, (202) 382-3046, from 9:00 a.m. to 4:30 p.m. Monday through Friday, excluding holidays. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: William O. Ross, Office of Emergency and Remedial Response (WH-548), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202) 382-4645, or the RCRA/CERCLA Hotline, (800) 424-9346 (or 382-3000 in the Washington, DC metropolitan area).

SUPPLEMENTARY INFORMATION:

I. Natural Resource Claims Procedures Rule

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, Pub. L. 96-510, authorized the assertion of two types of claims against the Superfund: Response claims authorized by section 111(a)(2) of CERCLA and natural resource claims authorized by section 111(a)(3) of CERCLA. Response claims are to reimburse private parties for at least part of their costs in responding to a release, or threat of a release, of a hazardous substance, pollutant or contaminant. Natural resource claims are submitted by Federal, State, or Indian tribe trustees for reimbursement of the costs of assessing damage to a natural resource, or for the restoration, rehabilitation, replacement or acquiring the equivalent of a natural resource that has been injured, destroyed or lost. The submission and evaluation of natural resource claims was the subject of a rule promulgated by EPA on December 13, 1985, 50 FR 51196 *et seq.*, 40 CFR Part 306. The Agency today announces its intention to withdraw this rule because CERCLA, as amended by SARA, does not authorize the appropriation of funds for the payment of natural resource claims.

SARA treats natural resource claims in different ways. Section 111(c)(l) of SARA amends section 111(b) of CERCLA to prohibit payment from the Superfund of a natural resource claim unless the President determines that the claimant has exhausted all administrative and judicial remedies for recovering such claims from parties liable under section 107 of CERCLA. This restriction applies only to claims for restoration, rehabilitation, replacement or acquiring the equivalent of an injured natural resource—not to claims for damage assessments. Another provision, section 111(e) of SARA, amends section 111(e)(2) of CERCLA to prohibit payment from the Superfund in any fiscal year where the President determines that such funds are needed for response to threats to public health.

However, the above provisions are mooted by section 517(a) of SARA, which amends the Internal Revenue Code as follows:

Amounts in the Superfund shall be available, as provided in the appropriation Acts, only for purposes of making expenditures—

(A) To carry out the purposes of—

(i) Paragraphs (1), (2), (5), and (6) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986,

(ii) Section 111(c) of CERCLA (as so in effect), other than paragraphs (1) and (2) thereof * * *

It can be seen that section 517(a) of SARA prohibits Superfund expenditures to carry out the purposes of section 111(a)(3), (b), (c)(1), (c)(2) of CERCLA: The authorizing provisions for natural resource claims. Therefore, even though the programmatic sections regarding natural resource claims still exist, the authority to spend money for those claims has been specifically revoked.

The legislative history is clear that Congress intended that natural resource claims not be paid. The conference report to SARA holds that: "[t]he conference agreement follows the House bill in deleting natural resource damage and assessment claims as a Superfund expenditure purpose." H.R. Rep. No. 962, 99th Cong. 2d Sess. 321 (Oct 3, 1986); *see* H.R. Rep. No. 253, 99th Cong. 2d Sess., pt. 2, at 54 (1985) House Report.

Because of section 517(a) of SARA, EPA is today proposing to withdraw the regulatory procedures for natural resource claims. The Agency requests comment, however, on the advisability of suspending the regulations. One rationale for suspending the natural resource rule would be to have the program in place in the event that Congress restores funding. Despite that possibility, EPA is inclined to withdraw, rather than suspend the natural resource rule. This is because, until Congress acts otherwise, there is no statutory basis for a natural resource claims program. Suspension on the basis of what Congress may do in the future would be unduly confusing, and could give rise to the unwarranted conclusion that the Superfund will award natural resource claims in the future.

II. Arbitration Rule

Section 112 of CERCLA outlines procedures for asserting either a response or a natural resource claim against the Superfund. Prior to the enactment of SARA, section 112(b)(4) of CERCLA required the creation of a Board of Arbitrators to review contested claim determinations by EPA. Implementing this statutory mandate, the Agency promulgated a rule that formally established an arbitration board and set forth procedures for the consideration of contested claims, 50 FR 51196 *et seq.* (December 13, 1985), 40 CFR Part 305.

Section 112(b) of SARA revokes the statutory authorization for an arbitration board. In its place, the amended section 112(b)(2) of CERCLA allows a claimant to request an administrative hearing if all or part of his claim is denied. Paragraphs (3) through (5) of the revised subsection 112(b) outline the general parameters of the administrative hearing. EPA intends to replace the arbitration procedures currently contained in Part 305 with procedures for conducting such an administrative hearing.

EPA proposes to withdraw the CERCLA arbitration rule. There appears to be little basis for a suspension action since: (1) All authority for arbitration was specifically revoked, and (2) the arbitration procedures were replaced by an alternative administrative procedure. However, the Agency requests comments from those who believe that suspension of the rule would be more appropriate.

Authority: 42 U.S.C. 9601 *et seq.* and Executive Order 12580 sections 4 and 9.

Dated: July 5, 1987.

Lee M. Thomas,

Administrator.

List of Subjects

40 CFR Part 305

Administrative practice and procedure, Air pollution control, Chemicals, Claims, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Superfund, Water pollution control, Water supply.

40 CFR Part 306

Air pollution control, Chemicals, Claims, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

PARTS 305 AND 306—[REMOVED AND RESERVED]

Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended by removing and reserving Parts 305 and 306.

[FR Doc. 87–15673 Filed 7–10–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[Gen. Docket Nos. 87–24 and 87–25]

Program Exclusivity in the Cable and Broadcast Industries

AGENCY: Federal Communications Commission.

ACTION: Order Granting Motions for Extension of Time in Gen. Docket 87–24 and Gen. Docket 87–25.

SUMMARY: On June 15, 1987 (released June 16, 1987), in response to four requests for extension of time and for good cause shown, the Chief of the Office of Plans and Policy granted extension of time for Comments and Reply Comments in Gen. Docket 87–24 (Amendment of Parts 73 and 76 of the Commission's Rules relating to program exclusivity in the cable and broadcast industries) and Gen. Docket 87–25 (Compulsory Copywright License for Cable Retransmission).

ADDRESS: Federal Communications Commission, Washington, DC 20554.

EFFECTIVE DATES: Comments and Reply Comments in Gen. Docket 87–24 are extended to July 22, 1987 and September 8, 1987, respectively, and in Gen. Docket 87–25 to August 6, 1987 and September 21, 1987 respectively.

FOR FURTHER INFORMATION CONTACT: James A. Hudgens, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION: The Notice of Inquiry and Notice of Proposed Rule Making in Gen. Docket 87–24 was published in the **Federal Register** on April 30, 1987 (52 FR 15738) and the Notice of Inquiry in Gen. Docket 87–25 was published in the **Federal Register** on April 30, 1987 (52 FR 15765), with Comments in both proceedings originally due June 22, 1987 and Reply Comments due August 6, 1987.

Order Granting Motions for Extension of Time in Gen. Docket 87–24 and Gen. Docket 87–25

Adopted: June 15, 1987.

Released: June 16, 1987.

By the Chief, Office of Plans and Policy.

1. On February 12, 1987, the Commission adopted a *Notice of Inquiry and Notice of Proposed Rule Making in Gen. Docket 87–24* (released May 23, 1987, FCC Record 87–65), referred to as the "syndicated exclusivity" proceeding, and a *Notice of Inquiry in Gen. Docket 87–25* (released May 23, 1987, FCC Record 87–66), referred to as the "compulsory license" proceeding. Due dates for Comments and Reply Comments in both proceedings were set for June 22, 1987 and August 6, 1987, respectively. The Commission has received four requests for extensions of time in connection with the above-entitled proceedings, three supporting statements, and three oppositions.

2. On May 27, 1987, the Community Antenna Television Association, Inc. ("MCAT"), submitted a "Motion for Withdrawal and Redesignation of Notice and Extension of Time To Allow Adequate Comment" directed to Gen. Docket 87–24. CATA requests that the Commission "withdraw and redesignate" the proceeding "as solely a Notice of Inquiry." In addition and in the alternative, it seeks a substantial extension of time until all parties who are likely to be "adversely affected" by the potential adoption of new rules may be adequately notified. CATA states that the subject Notice "poses over 40 highly complex and interrelated questions, yet it proposes no specific rules upon which commenting parties can base their judgments and conclusions." CATA argues that commenting parties are being asked to discuss very complex economic theories within a very short time frame. In support, CATA cites the "adequate notice" requirements of the Administrative Procedure Act (5 U.S.C. 553(b)) and the requirements of notice and potential effects of a new rule on small business entities under the Regulatory Flexibility Act (5 U.S.C. 603). With respect to compliance with the Regulatory Flexibility Act, it alleges that the Notice does not, as required, contain a description and estimate of the number of small entities to which the proposed rule will apply as well as the expected impact of that rule on those entities (5 U.S.C. 603 (b) and (c)). Instead, it continues, the Notice determined (Par. 75) that although the proposal would "* * * have no known significant deleterious effect on small entities," the proposal could have such an effect upon thousands of rural cable companies which would lose "independent national or regional microwave or satellite delivered television programming."

3. On June 2, 1987, the Tribune Broadcasting Company ("Tribune") submitted its Motion urging that both proceedings are complex and require a complete and thorough record. Although it has diligently begun to gather extensive ratings and other information for its submission, the breadth and complexities of the issues involved have rendered it impossible for Tribune to complete the necessary data collection and analysis by the prescribed comment date of June 22, 1987. Grant of a 45-day extension of time in both proceedings, Tribune states, will enable it and other interested parties to complete their gathering and analysis of data and to refine their positions on the difficult legal and policy issues raised in the proceedings. Further, Tribune adds, the National Association of Broadcasters, the Association of Independent Television Stations, and the National Cable Television Association have authorized Tribune to state that "they will interpose no objection to the grant of the instant request."

4. On June 4, 1987, United Video, Inc. ("United") requested a 90-day extension for filing comments in both proceedings and further requested that Gen. Docket 87–24 be designated solely as a Notice of Inquiry. United States that it is a common carrier which distributes "superstations" (principally WGN–TV) to cable television systems throughout the country and needs more time to ascertain whether syndicated exclusivity rules would render cable systems carriage of superstations "technically and economically infeasible", adding that "[s]uch a result would moot the compulsory license *inquiry* and terminate the basis for

United Video's communications distribution business." United supports and adopts the arguments of both Tribune and CATA regarding the need for additional time to develop data, adding that it needs 90 days for the "completion of research both as to the current functioning of the video marketplace and as to the future impact of the Commission's syndicated exclusivity theory upon video consumers." United also urges that a separate Notice of Inquiry is necessary "before imposing the burden of proof upon either industry", urging that the procedures followed in the 1980 repeal of the syndicated rules be looked to for guidance, and citing the *Malrite* case [1] (which affirmed such action) for its argument that a separate Notice of Inquiry be conducted in order to establish the burden of proof in this proceeding.

5. Subsequent to the Tribune filing, a statement in support of Tribune's motion was submitted by the National Association of Broadcasters ("NAB"). NAB explains that its Board of Directors will meet June 23–26, 1987 to discuss the issue of program exclusivity, compulsory copyright license, network non-duplication, and territorial exclusivity, that the outcome of that meeting will provide NAB staff with guidance to present the broadcast industry's views to the Commission, and that the requested extension of time thus will be beneficial. Southern Broadcast Corporation of Sarasota also supports the Tribune motion, stating that it needs additional time because it is awaiting release of Commission documents pursuant to a Freedom of Information request. The Tribune motion also is supported by the National Rural Telecommunications Cooperative so that a more comprehensive record may be developed on the issue of program availability to home dish owners. The Tribune motion is opposed by Oklahoma City Broadcasting Company, which states that all interested parties have had ample time, and that, at most, only an additional 30 days should be provided for comments and reply comments.

6. MPAA opposes the CATA submission as "baseless and dilatory", asserting that CATA filed for purposes of delay. MPAA challenges CATA's argument that the Notice lacks sufficient specificity, asserting that the public has been given "a specific frame of reference for comment and a clear notion of the nature of the provisions under consideration by the Commission." The Commission, MPAA continues, has appropriately joined together in a single proceeding an "Inquiry" into changes in the marketplace since repeal of the syndicated exclusivity provisions, and a "rule making" to fashion new provisions to meet the circumstances of the new marketplace. MPAA also challenges CATA's arguments with respect to the Regulatory Flexibility Act urging that the Commission's analysis proceeds from a good faith review of the likely impact of the proposal upon small businesses, that the Commission is now accepting comments on its analysis, and that if a final rule is adopted and, if warranted, it can amend the accompanying analysis, based on public comment on the record. Moreover, MPAA continues, substantial "public notice" of this proceeding has been given to potentially affected groups, including small businesses, through extensive trade association, trade press, and television and cable coverage. MPAA believes the Notice's time limits to be sufficient and requests that the CATA Motion be denied in all respects.

7. The CATA Motion also is opposed by The Association of Independent Television Stations, Inc. (INTV), which charges that CATA has delayed some three and one-half months after the Commission's adoption of its Notice before requesting "a substantial delay." INTV challenges CATA's request for bifurcation, noting that other Commission proceedings have been conducted in this manner, and that the Commission has wide discretion. INTV also challenges CATA's Regulatory Flexibility Act arguments, noting that the Commission's original analysis was broad in scope. The Association further notes that the Regulatory Flexibility Act does not create a notice requirement as a prerequisite for valid rulemaking but rather puts the agency to the task of preparing an analysis which must be considered in the agency's overall decision on the merits. Lastly, it adds that the record keeping and compliance requirements of a syndicated exclusivity rule would impose little additional burden upon small cable systems, which already perform similar tasks.

8. On June 5, 1987, the Satellite Broadcasting and Communications Association ("SBCA") requested a 30-day extension in Gen. Docket 87–24 for both Comments and Reply Comments. SBCA states that it represents "all segments of the home satellite dish industry," that its members are concerned about the ramifications of the possible reimposition of syndicated exclusivity rules, and that the Association seeks to conduct "a full review and analysis of the technical and economic implications of such rules on the TVRO industry," and needs more time to complete such an evaluation. SBCA particularly is seeking information from its member General Instrument Corporation regarding the technical feasibility of imposing programming blackouts in the TVRO market. SBCA further urges that the Commission withdraw the present combined Notice of Inquiry and Notice of Proposed Rule Making and issue a Notice of Inquiry only, stating that it is concerned about the Notice's lack of consideration of the impact of syndicated exclusivity on the home satellite dish industry and urges that the Commission issue a Notice of Inquiry which addresses such consideration.

9. Having reviewed the foregoing pleadings, it is concluded that a 30 day extension of time for both Comments and Reply Comments is appropriate in the "syndicated exclusivity" proceeding (Gen. Docket No. 87–24), and, because the issues to be addressed in the "compulsory license" proceeding (Gen. Docket No. 87–25) are separate and distinct and raise a wider range of questions concerning intellectual property rights, a 45-day extension of time for both Comments and Reply Comments is appropriate in that proceeding.[2]

10. Good cause for an extension of time having been shown, it is ordered that the deadline for Comments and Reply Comments in Gen. Docket No. 87–24 is extended to July 22, 1987 and September 8, 1987, respectively, and the deadline for Comments and Reply Comments in Gen. Docket No. 87–25 is extended to August 6, 1987 and September 21, 1987, respectively. Action is taken pursuant to section 4(i) of the Communications Act of 1934, as amended, under authority delegated to the Chief, Office of Plans and Policy by § 0.271 of the Commission's Rules 47 CFR 0.271.

[1] *Malrite T.V. of N.Y. v. FCC*, 652 F 2d 1140, 1152 (2nd Cir. 1981, *cert. denied*, 454 U.S. 1143 (1982).

[2] The scope of this order is limited to the issue of extensions of time. We note, however, that several of the parties have raised other issues which go well beyond this central issue and which would be more appropriately raised later in these proceedings. For example, with respect to the arguments of "adequate notice" under the Administrative Procedure Act, it is not known until a final action is taken whether sufficient notice thereof was originally given. The Regulatory Flexibility Act arguments likewise appear premature—such analysis can be corrected in a final action (5 U.S.C. 604(a)(2)) and, in any event, such an analysis is not subject to judicial review (5 U.S.C. 611(a)).

Federal Communications Commission.

Peter K. Pitsch,

Chief, Office of Plans and Policy.

[FR Doc. 87-15532 Filed 7-10-87; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Argemone pleiacantha ssp. pinnatisecta (Sacramento prickly poppy) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to determine *Argemone pleiacantha* ssp. *pinnatisecta* (Sacramento prickly poppy) to be an endangered species, under the authority contained in the Endangered Species Act of 1973, as amended. The Sacramento prickly poppy is endemic to several canyons in the Sacramento Mountains, Otero County, New Mexico. Known populations consist of fewer than 200 plants, which occur on National Forest, New Mexico State Park, New Mexico and Otero County Highway rights-of-way, and private lands. This species is threatened by livestock grazing, pipeline construction, flooding, and road construction and maintenance. A final determination that *Argemone pleiacantha* ssp. *pinnatisecta* is endangered will implement the protection provided by the Act. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by September 11, 1987. Public hearing requests must be received by August 27, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service's Regional Office of Endangered Species, 500 Gold Avenue, SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Sue Rutman, Endangered Species Botanist, Albuquerque, New Mexico (see **ADDRESSES** above) (505/766-3972 or FTS 474-3972).

SUPPLEMENTARY INFORMATION:

Background

Argemone pleiacantha ssp. *pinnatisecta* (Sacramento prickly poppy) is a robust perennial known only from several canyons in the Sacramento Mountains of Otero County, south-central New Mexico. The Sacramento prickly poppy was first collected in 1953 by Mr. G.B. Ownbey and Mr. Findley on the western slopes of the Sacramento Mountains. Mr. Ownbey described the taxon in a monograph of the genus *Argemone* for North America and the West Indies (Ownbey 1958).

This member of the Poppy family (Papaveraceae) has 3-12 prickly stems branching from the base, and commonly grows to a height of 5-15 decimeters (20-60 inches) (Soreng 1982). The pale lemon to nearly white milky sap steadily distinguishes this subspecies from the typical subspecies, which has yellow-orange sap. The attractive flowers have numerous yellow stamens and six white petals that are 3-4 centimeters (1.2-1.6 inches) long and as wide. Leaves are long, relatively narrow, and have box-shaped sinuses between spine-tipped lobes.

The Sacramento prickly poppy occurs at 1400-2100 meters (4,800-6,800 feet) elevation. At lower elevations, the surrounding vegetation is Semi-Desert Grassland; at the upper elevations the vegetation is Great Basin Conifer Woodland (Brown 1980). The Sacramento prickly poppy occurs in open, disturbed, or relatively undisturbed areas within these plant communities. The species grows in limestone canyons, or roadsides, fields, grassy flats, steep slopes, and floodplain and channel deposits. Populations are usually found where there is enhanced, but not wet, soil moisture conditions. These conditions are met on north-facing slopes, in canyon bottoms, along roadsides, and near leaks in pipelines.

About half of the plants are located on New Mexico State and Otero County highway rights-of-way. The rest of the plants occur on private, State Park, and Lincoln National Forest lands.

Soreng (1982) estimated that three populations of *Argemone pleiacantha* ssp. *pinnatisecta* contained fewer than 170 plants in 1982, and suggested that these populations were declining. Flash floods are one of the reasons for this decline: one population decreased from 100 plants to six after a flash flood scoured the canyon in 1978 (Soreng 1982). The probability of such flooding has been increased by overgrazing from livestock, which disturbs topsoil and reduces plant cover. Soreng suggested that regeneration was insufficient to maintain population numbers.

Section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) directed the Secretary of the Smithsonian Institution to prepare a report of those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4 of the Act and of its intention to review the status of the plant taxa names within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species pursuant to section 4 of the Act.

This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975, **Federal Register** publication. *Argemone pleiacantha* ssp. *pinnatisecta* was included in the July 1, 1975, notice of review and in the June 16, 1976, proposal.

The Endangered Species Act Amendments of 1978 required that all proposals over two years old be withdrawn. A one-year grace period was given to those proposals already more than 2 years old. Subsequently, on December 10, 1979 (44 FR 70796), the Service published a notice of a withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with other proposals that had expired; this notice of withdrawal included *Argemone pleiacantha* ssp. *pinnatisecta*.

On December 15, 1980 (45 FR 82485), and September 27, 1985, (50 FR 39526), the Service published updated notices reviewing the native plants being considered for classification as threatened or endangered. *Argemone pleiacantha* ssp. *pinnatisecta* was included in these notices as a catetory 1 species. Category 1 is comprised of taxa for which the Service has sufficient biological data to support proposing them as endangered and threatened.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within one year of their receipt. Section 2(b)(1) of the Act's Amendments of 1982 further requires that all petitions pending on October 12, 1982, be treated as having

been newly submitted on that date. Because *Argemone pleiacantha* ssp. *pinnatisecta* was included in the 1980 notice, the petition to list this species was treated as being newly submitted on October 12, 1982. On October 13, 1983; October 12, 1984; October 11, 1985; and October 10, 1986, the Service made the required one-year findings that listing of *Argemone pleiacantha* ssp. *pinnatisecta* was warranted, but precluded by other listing actions of higher priority. Biological data, supplied by Soreng (1982), fully support the listing of *Argemone pleiacantha* ssp. *pinnatisecta*. The present proposal is based primarily on Soreng's biological data, and constitutes the next one-year finding required by of section 4(b)(3)(B) of the Act for this species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species of the Federal Lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Argemone pleiacantha* ssp. *pinnatisecta* G.B. Ownbey (Sacramento prickly poppy) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Sacramento prickly poppy habitat has been and continues to be destroyed or modified by livestock grazing, pipeline construction, flooding, and road construction and maintenance. Cattle grazing has both direct and indirect effects on the Sacramento prickly poppy. When cattle stocking rates are high, plants of this species are trampled and others are eaten (Soreng 1982). While trampling or grazing may not kill mature plants with an established tap root, these actions may kill seedlings and affect the reproduction of mature plants. Overgrazing has cuased disturbance of topsoil and a reduction in plant cover throughout the range of the Sacramento prickly poppy (Soreng 1982). The poor condition of the watershed could increase the probability of flash floods. The Sacramento prickly poppy is particularly vulnerable to flooding because many plants occur in drainages. Fletcher noted that one population was nearly eliminated during a flash flood in 1978 (Soreng 1982).

The diversion of permanent spring water from drainages in the Scramento Mountains to pipelines for human and livestock uses has created artificially dry conditions in the areas where the Sacramento prickly poppies occur. Fletcher (U.S. Forest Service, Region 6, pers. comm., 1986) believes the installation of a pipeline in one canyon and subsequent drying was the cause of the greatest reduction in the numbers of Sacramento prickly poppy.

Road construction, widening, and maintenance pose a threat to the Sacramento prickly poppy because a number of plants occur along roadsides. These plants are subject to destruction by mechanical disturbance, herbicide application, and soil and gravel dumping.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Alkaloids present in the seed and juices of other species of *Argemone* have been used in the past as purgatives and as treatments for a wide variety of ailments, including opthalmia. However, no medicinal use of the Sacramento prickly poppy is known.

C. *Disease or predation.* Although Soreng (1982) noted that the stems of some plants had been chewed by insects and Fletcher (1978) reported insect larvae boring into the stems, such damage to Sacramento prickly poppy plants appears to be insignificant. As indicated above, grazing by cattle may be causing reduction in recruitment rates.

D. *The inadequacy of existing regulatory mechanisms.* Presently, there is no Federal law protecting *Argemone pleiacantha* ssp. *pinnatisecta*. However, the taxon is protected by the New Mexico Native Plant Law. This law prohibits the collection of this species unless a permit is granted by the New Mexico Department of Natural Resources. The Forest Service has included *Argemone pleiacantha* ssp. *pinnatisecta* on its Sensitive Plant Species List. As a matter of policy, the Forest Service considers Federal candidate species in its environmental assessments and planning. The Endangered Species Act would provide additional protection for this species through section 7 (interagency cooperation) requirements and through section 9, which prohibits removal and reduction to possession of plants occurring on Federal lands.

E. *Other natural or manmade factors affecting its continued existence.* Scarcity and limited distribution make this species vulnerable to both natural and man-caused threats. Any further reduction in plant numbers could reduce the reproductive capabilities and genetic potential of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Argemone pleiacantha* ssp. *pinnatisecta* as endangered without critical habitat. This status seems appropriate because the habitat of the few remaining populations is threatened by overgrazing, pipeline construction, flooding, and road construction and maintenance. The reasons for not designating critical habitat are discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the Sacramento prickly poppy at this time. Plants are vulnerable to taking or vandalism because of their immobility and accessibility. Any reduction in the small number of plants would be significant. Publication of critical habitat descriptions and maps would be detrimental, highlighting the easy accessibility of the plants. No benefit can be identified that would outweigh the threats of vandalism or taking that might result from such a publication. The Forest Service is aware of the locations of the Sacramento prickly poppy, has acknowledged the threats to these populations, and is considering the species during planning. All other involved parties and landowners will be notified of the location of populations and importance of protecting this species and its habitat. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not be prudent to determine critical habitat for *Argemone pleiacantha* ssp. *pinnatisecta* at this time. No net benefit would accrue from designating critical habitat for the conservation of this species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State,

and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal Agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, it any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 (see revision at 51 FR 19926; June 3, 1986). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Some populations of the Sacramento prickly poppy occur on U.S. Forest Service lands. Forest Service actions such as trail and road construction and maintenance, and designation of water rights and grazing allotments may impact known populations and potential habitat. If this species is listed, section 7(a) of the Act would require the Forest Service to consult with the U.S. Fish and Wildlife Service prior to the initiation of planned activities that may affect this plant. Road construction or maintenance that is done by the State or County with Federal funds and that may affect Sacramento prickly poppy would also require that Federal Highways Administration to consult with the Service.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangerd plant, transport it in interstate or foreign commerce in the course of a commercial activity; sell or offer it for sale in interstate or foreign commerce; or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. With regard to the subject of this proposal, it is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions regarding any aspect of this proposal are hereby solicited from the public, other concerned governmental agencies, the scientific community, industry, or other interested parties. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Argemone pleiacantha* ssp. *pinnatisecta;*

(2) The location of any additional populations and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of *Argemone pleiacantha* ssp. *pinnatisecta;* and

(4) Current or planned activities in the subject area and their possible impacts on *Argemone pleiacantha* ssp. *pinnatisecta.*

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Brown, D.E. 1980. Great Basin Conifer Woodland and Semidesert Grassland. *In* Brown, D.E. (ed.). Biotic Communities of the American Southwest—United States and Mexico. Desert Plants 4:52–57, 123–131.

Fletcher, R. 1978. Forest Service status report for *Argemonee pleiacantha* ssp. *pinnatisecta.* U.S. Forest Service, Region 3, Albuquerque.

Ownbey, G.B. 1958. Monograph of the *Argemone* for North America and the West Indies. Memoirs of Torrey Botanical Club 21:1–159.

Soreng, R.J. 1982. Status report on *Argemone pleiacantha* ssp. *pinnatisecta.* U.S. Fish and Wildlife Service, Albuquerque. 24 pp.

Author

The primary author of this proposed rule is Sue Rutman, Endangered Species Botanist, U.S. Fish and Wildlife Service, P.O. Box 1306 Albuquerque, New Mexico 87110 (505/766–3972 or FTS 474–3972). Status information was provided by Dr. Robert Soreng, New Mexico State University, Las Cruces, New Mexico.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Papaveraceae, to the list of Endangered and Threatened plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Papaveraceae—Poppy family:						
Argemone pleiacantha ssp. pinnatisecta.	Sacramento prickly poppy	U.S.A. (NM)	E		NA	NA

Dated: June 18, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-15795 Filed 7-10-87; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 52, No. 133
Monday, July 13, 1987

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

Soil Conservation Service

Soil, Water and Related Resources

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: The Soil and Water Resources Conservation Act of 1977 (RCA), Pub. L. 95–192, 16 U.S.C. 2001 et seq., as amended by the Food Security Act of 1985, Pub. L. 99–198, requires the Secretary of Agriculture to conduct a continuing appraisal of soil, water, and related resources to provide a basis for resource conservation policy and programs. The review draft of the "Second RCA Appraisal: Soil, Water and Related Resources on Nonfederal Land in the United States, Analysis of Condition and Trends" has been completed and is available for public review and comment.

DATES: The RCA public review period begins July 13, 1987 and will extend for 60 days. Comments should be submitted by September 14, 1987.

ADDRESS: Written comments should be addressed to the appropriate State Conservationist, Soil Conservation Service, as set forth in the supplementary information.

FOR FURTHER INFORMATION CONTACT: The appropriate State Conservationist shown below or Peter M. Tidd, Director, Appraisal and Program Development Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013, telephone: (202) 447–8388.

SUPPLEMENTARY INFORMATION: Section 5 of the Soil and Water Resources Conservation Act of 1977 (RCA), 16 U.S.C. 2004, authorizes and directs the Secretary of Agriculture to conduct a continuing appraisal of the soil, water and related resources of the Nation. The appraisal includes data on the quantity and quality of soil, water and related resources, including fish and wildlife habitat; changes in the status and condition of those resources that have occurred as a result of past uses, including the effect of farming technologies, techniques and practices; current Federal and State laws, policies, programs, rights, regulations, ownerships, and their trends and other considerations relating to the use, development and conservation of those resources; the costs and benefits of alternative soil and water conservation practices; alternative irrigation techniques and their costs, benefits, and effect on soil and water conservation, crop production, and environmental factors; and other related information.

The Second RCA Appraisal analyzes the current status of soil, water and related resources; the long-term soil and water resource conditions for various food and fiber demands, as projected to the year 2030; and addresses emerging concerns and problems related to those resources.

Each State Conservationist of the Soil Conservation Service, in coordination with the local Food and Agricultural Council, is conducting the public review of the Second RCA Appraisal in each state. Copies of the appraisal and further information can be obtained by contacting the appropriate State Conservationist at the following locations:

Ernest V. Todd, 665 Opelika Road, P.O. Box 311, Auburn, Alabama 36830
Burton L. Clifford, 201 East 9th Avenue, Suite 300, Anchorage, Alaska 99501–3687
Verne M. Bathurst, Suite 200, 201 East Indianola Avenue, Phoenix, Arizona 85012
Albert E. Sullivan, Room 5423, Federal Office Building, 700 West Capitol Avenue, Little Rock, Arkansas 72201
Eugene E. Andreuccetti, 2121–C Second Street, Suite 102, Davis, California 95616
Richard N. Duncan, 300 Ala Moana Boulevard, Room 4316, Honolulu, Hawaii 96850
Stanley N. Hobson, 304 North 8th Street, Room 345, Boise, Idaho 83702
Sheldon G. Boone, Diamond Hill, Building A, 3rd Floor, 2490 West 26th Avenue, Denver, Colorado 80211
Philip H. Christensen, 16 Professional Park Road, Storrs, Connecticut 06268–1299
Douglas E. Hawkins, Treadway Towers, Suite 207, 9 East Loockerman Street, Dover, Delaware 19901–7377
James W. Mitchell, Federal Building, Room 248, 401 S.E. 1st Avenue, Gainesville, Florida 32601
B. Clayton Graham, Federal Building, Box 13, 355 East Hancock Avenue, Athens, Georgia 30601
Homer R. Hilner, Room 101, 1405 South Harrison Road, East Lansing, Michigan 48823–5202
Gary R. Nordstrom, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101
John J. Eckes, Springer Federal Building, 301 North Randolph Street, Champaign, Illinois 61820
Robert L. Eddleman, Corporate Square-West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Indiana 46224
J. Michael Nethery, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309
James N. Habiger, 760 South Broadway, Salina, Kansas 67401
Randal W. Giessler, 333 Waller Avenue, Room 305, Lexington, Kentucky 40504
Horace J. Austin, 3737 Government Street, Alexandria, Louisiana 71302
Charles Whitmore, USDA Building, University of Maine, Orono, Maine 04473
Pearlie S. Reed, Harwick Building, Room 522, 4321 Hartwick Road, College Park, Maryland 20740
Rex O. Tracy, 451 West Street, Amherst, Massachusetts 01002
Bobbye Jack Jones, Federal Office Building, Room 535, 310 New Bern Avenue, Raleigh, North Carolina 27601
Louise P. Heard, Federal Building, Suite 1321, 100 West Capitol Street, Jackson, Mississippi 39269
Paul F. Larson, 555 Vandiver Drive, Columbia, Missouri 65202
Glen Loomis, Federal Building, Room 443, 10 East Babcock Street, Bozeman, Montana 59715
Ronald E. Hendricks, Federal Building, 100 Centennial Mall North, Lincoln, Nebraska 68508–3866
Charles R. Adams, 1201 Terminal Way, Room 219, Reno, Nevada 89502
David L. Mussulman, Federal Building, Durham, New Hampshire 03824
Joseph C. Branco, 1370 Hamilton Street, Somerset, New Jersey 08873
Ray T. Margo, 517 Gold Avenue, S.W., Room 3301, Albuquerque, New Mexico 87102–3157

Paul A. Tood, James Hanley Federal Building, Room 771, 100 South Clinton Street, Syracuse, New York 13260
Jerry S. Lee, 675 Estes Kefauver, FB-USCH, 801 Broadway, Nashville, Tennessee 37203
August J. Dornbursch, Jr., Federal Building, Rosser Avenue & Third Street, P.O. Box 1458, Bismarck, North Dakota 58502-1458
Harry W. Oneth, 200 North High Street, Room 522, Columbus, Ohio 43215
Roland Willis, USDA Agricultural Office Bldg., Stillwater, Oklahoma 74074
Jack P. Kanalz, Federal Building, Room 1640, 1220 S.W. Third Avenue, Portland, Oregon 97204
James H. Olson, 228 Walnut Street, Federal Square Station, Room 820, Harrisburg, PA 17108-0985
Jeffrey Vonk, USDA-SCS, GPO Box 4868, San Juan, Puerto Rico 00936
Robert J. Klumpe, 46 Quaker Lane, West Warwick, RI 02893
Billy R. Abercrombie, 1835 Assembly Street, Room 950, Strom Thurmond Federal Bldg., Columbia, South Carolina 29201
C. Budd Fountain, Federal Building, 200 4th Street, S.W., Huron, South Dakota 57350-2475
Coy A. Garrett, W.R. Poage Federal Building, 101 S. Main Street, Temple, Texas 76501-7682
Francis T. Holt, P.O. Box 11350, Salt Lake City, Utah 84147-0350
John C. Titchner, 69 Union Street, Winooski, Vermont 95404
George S. Norris, Federal Building, Room 9201, 400 North 8th Street, Richmond, Virginia 23240
Lynn A. Brown, West 920 Riverside Avenue, Room 360, Spokane, Washington 99201-1080
Rollin N. Shank, 75 High Street, Room 301, Morgantown, West Virginia 26505
Cliffton A. Maguire, 4601 Hammersley Road, Madison, Wisconsin 53711
Frank S. Dickson, Jr., Federal Office Building, 100 East "B" Street, Room 3124, Casper, Wyoming 82601

Wilson Scaling,

Chief.

[FR Doc. 87-15773 Filed 7-10-87; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

A meeting of the Electronic Instrumentation Technical Advisory Committee will be held August 4 and 5, 1987, Herbert C. Hoover Building, 14th & Constitution Avenue NW., Washington, DC. The August 4 meeting will convene in Room B-841 at 9:30 a.m. On August 5 the meeting will continue to its conclusion in Room 6802, Herbert C. Hoover Building.

The Committee advises the Office of Technology and Policy Analysis with repect to technical questions which affect the level of export controls applicable to electronics and related equipment and technology.

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Continuation of discussion concerning the export controls on ECCN 1529A (Electronic Test Equipment).
4. Comments are invited on the following entries on the Commodity Control List (CCL):

CCL 1522A—Lasers and Laser Systems
CCL 1531A—Frequency Synthesizers
CCL 1541A—Cathode Ray Tubes
CCL 1568A—Electromechanical Equipment
CCL 1572A—Recording and Reproducting Equipment.

Comments should consider the need for revision (strengthening, relaxation or decontrol) of the current regulations based on technological trends, foreign availability and national security. The Committee is also interested in proposals for revision to the People's Republic of China guidelines and G-COM regulations relating to these CCL numbers.

Executive Session

5. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program 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 and can be directed to: Technical Support Staff, Office of Technology & Policy Analysis, Room 4073, 14th Street & Constitution Avenue NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce. Telephone: 202-377-4217. For further information or copies of the minutes contact Betty A. Ferrell, 202/377-2583.

Dated: July 7, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 87-15834 Filed 7-10-87; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket 19-86]

Foreign-Trade Zone 29; Louisville, KY; Application for Subzone at Toyota Auto Plant in Scott County, KY; Public Hearing

Notice is hereby given that a public hearing will be held by the Committee of Alternates of the Foreign-Trade Zones (FTZ) Board regarding the application submitted to the Board by the Louisville and Jefferson County Riverport Authority requesting special-purpose subzone status for the automobile manufacturing plant of Toyota Motor Manufacturing, U.S.A. Inc., in Scott County, Kentucky (Doc. 19-86, 51 FR 21946, 6/17/86).

The purpose of the hearing is to obtain further information from interested persons regarding the economic impact of the proposal. The information will be made available to the examiners committee in its investigation, and will be considered by the Committee of Alternates in its review of the case.

The hearing will be held at 10:00 a.m. on August 12, 1987, in Room 4832 at the U.S. Department of Commerce, 14th and Pennsylvania Ave., NW., Washington, DC 20230.

Interested persons are invited to make oral presentations. Persons wishing to testify must notify the Board's Executive Secretary at the address below by July 30, 1987. Each person who has so notified the Board will be allowed to make a 30-minute presentation and 10-minute rebuttal remarks, subject to change by the hearing chairman based upon the number of persons testifying.

Factual information and written statements relevant to the issues raised at this hearing may be submitted for the record following the hearing, but no later than August 28, 1987.

For further information contact the FTZ Board's Executive Secretary at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Rm. 1529, 14th and Pennsylvania Ave., NW., Washington, DC 20230.

Dated: July 7, 1987.

Paul Freedenberg,

Assistant Secretary for Trade Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 87-15951 Filed 7-10-87; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Japan

July 8, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 14, 1987. For further information contact Ross Arnold, International Trade Specialist (202) 377-4212. For information the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the import restraint limits for cotton, wool and man-made fiber textile products in Categories 300-320, 360-369, 400-429, 464-469, 600pt., 603-605, 610-627 and 665-670, as a group (Group II), and individual Categories 314/320pt., 337, 442, 444 and 611, produced or manufactured in Japan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Background

A CITA directive dated February 27, 1987 (52 FR 6058) announced that the Governments of the United States and Japan had reached agreement on a new bilateral agreement concerning cotton, wool and man-made fiber textile products, produced or manufactured in Japan and exported to the United States during the period January 1, 1986 through December 31, 1989.

A further directive dated April 10, 1987 (52 FR 12229) established import restraint limits for certain cotton, wool and man-made fiber textile products, including limits for Group II Non-Apparel Categories 300-320, 360-369, 400-429, 464-469, 600pt., 603-605, 610-627 and 665-670, as a group. This group refers to the "Non-Apparel Group" designated in the bilateral agreement of February 6, 1987. The directive of April 10, 1987 also established, among other things, individual limits for Categories 314/320pt., 337, 442, 444 and 611, produced or manufactured in Japan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. The 1987 base limits for Categories 314/320pt., 337, 442, 444 and 611 were reduced to account for 1986 overshipments entered through December 31, 1986.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 6, 1987, between the Governments of the United States and Japan, and at the request of the Government of Japan, the 1986 limits for Group II, and Categories 314/320pt., 337, 442, 444 and 611 are being adjusted, variously, by application of swing and carryforward. These adjustments will decrease the amount of 1986 overshipments in these categories.

In an exchange of letters dated June 10, 1987, the Governments of the United States and Japan reached a comprehensive agreement on 1986 overshipment/transshipment charges for Category 611, including built-in reductions of 8,906,487 square yards equivalent to the limits established for the 1986-1989 period for Category 611 and Group II (Non-Apparel).

The 1987 limit for Category 611 has been reduced 374,421 square yards equivalent for carryforward used and 1.3 million square yards equivalent has been charged to it according to this settlement. The overshipment charges to 1988 and 1989 will be 3.0 msye, and 3.5 msye, respectively. Overshipments received after March 31, 1987 will be charged to the 1988 limit.

Imports of category 612-L amounting to 25,341,895 square yards, entered into the United States as exports of Japan will not be counted in 1986 exports for purposes of calculating overshipments to Category 612-L nor to the non-apparel group limit (Group II).

The remaining 1986 Group II overshipments imported through March 1987, after the application of swing to the 1986 limit, and excluding the aforementioned quantities for categories 611 and 612-L, totals 17,876,146 square yards, which is deducted from the 1987 limit for Group II in the letter that follows.

In the directive of April 10, 1987, the 1987 limit for category 314/320pt. was reduced by 2,824,959 square yards for 1986 overshipments entered through December. After the application of swing and carryforward to the 1986 limit, the amount of overshipments entered through March 1987 is reduced to 2,471,638 square yards. The 1987 base limit is being reduced by that quantity, and by another 503,606 square yards for carryforward used in the letter that follows.

The exercise of swing against the 1986 limits and the correction of a Census data error in Category 444 have eliminated the overshipments entered through March 1987, and charged to the 1987 limits in the directive of April 10, 1987 for Categories 337, 442 and 444.

Further adjustments for 1986 overshipmetns will be made as additional data become available.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 20768) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 8, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of April 10, 1987, concerning imports into the

United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Japan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on July 14, 1987, the directive of April 10, 1987 is hereby amended to include adjusted limits for cotton, wool and man-made fiber textile products in the following categories under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 6, 1987:[1]

Category group II	Adjusted 12-mo limit [1]
300-320, 360-369, 400-429, 464-469, 600pt.[2], 603-605, 610-627 and 665-670, as a group.	481,123,984 sq yds equivalent.
314/320pt.[3]	22,960,446 sq yds.
337	88,425 doz.
442	19,755 doz.
444	17,690 doz.
611	16,408,321 sq yds.

[1] These limits have not been adjusted to account for any imports exported after December 31, 1986.

[2] In Category 600, only TSUSA number 310.5015.

[3] Category 314 and, in Category 320, poplin and broadcloth in TSUS items 320._____ through 331._____, with statistical suffixes 21, 22, 24, 26, 72, 74 and 76.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-15835 Filed 7-10-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Armor Anti-Armor Competition; Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Armor Anti-Armor Competition will meet in closed session on August 12, August 17, August 24, and September 17, 1987 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will reconvene to evaluate the current state of the armor anti-armor competition.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 US.C. 552b(c) (1) (1982), and that accordingly these meetings will be closed to the public.

Linda Lawson,

OSD Federal Register Liaison Officer, Department of Defense.

July 8, 1987.

[FR Doc. 87-15844 Filed 7-10-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Follow on Forces Attack (FOFA); Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Follow on Forces Attack (FOFA) will meet in closed session on September 3, 1987 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will continue to review, in detail, classified material associated with conventional military capabilities in NATO to include special targeting requirements.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly this meeting will be closed to the public.

Linda Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 8, 1987.

[FR Doc. 87-15845 Filed 7-10-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Service Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 31 July 1987.

Time of Meeting: 0830-1700 hours.

Place: Riverside Research Institute, New York, New York.

Agenda: A Subpanel of the Army Science Board Ad Hoc Subgroup for Ballistic Missile Defense Follow-On will meet to draft a report of the study regarding transfer of USASDC technology to the Army. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87-15760 Filed 7-10-87; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. G-2895-001, et al.]

Natural Gas; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]; ARCO Oil and Gas Co., Division of Atlantic Richfield Co., et al.

July 7, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 22,

[1] The provisions of the agreement provide, in part, that (1) group limits, sublimits and specific limits may be increased by designated percentages for swing, carryover and carryforward; however, carryover shall not be available in the specific arrangement period in which the limit is established; (2) exports in excess of annual limits shall be charged to the limits for the subsequent year; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the bilateral agreement.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). 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 in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

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

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and Location	Price per Mcf	Pressure base
G-2895-001, D, June 8, 1987	ARCO Oil and Gas Company, Division of Atlantic Richfield Company P.O. Box 2819, Dallas, Texas 75221.	Natural Gas Pipeline Company of America, Charles Lips Field, Roberts County, Texas.	(1)	
G-13220-000, D, June 11, 1987	do	David Wilson Lease, Lips Field, Roberts County, Texas.	(1)	
G-4537-000, D, June 8, 1987	do	El Paso Natural Gas Company, Various Fields, Lea County, New Mexico.	(1)	
G-11551-002, D, June 8, 1987	do	Emma Field, Andrews County, Texas	(1)	
G-13263-000, D, June 11, 1987	do	Crosby-Devonian Field, Lea County, New Mexico	(1)	
CI64-438-000, D, June 15, 1987	do	Rojo Caballos Field, Pecos County, Texas	(1)	
CI68-080-000, D, June 8, 1987	do	Piceance Creek Field, Rio Blanco County, Colorado	(1)	
CI77-772-003, D, June 8, 1987	do	Block 11 & 12 Field, Andrews County, Texas	(1)	
G-17836-001, D, June 9, 1987	do	Northern Natural Gas Company, Division of Enron Corp., Hansford Field, Hutchinson County, Oklahoma.	(1)	
CI68-1240-001, D, June 8, 1987	do	N. E. Oates Field, Pecos County, Texas	(1)	
CI70-207-000, D, June 8, 1987	do	Kirk Estate, Hutchinson County, Texas	(1)	
CI71-864-000, D, June 8, 1987	do	N. E. Oates Field, Pecos County, Texas	(1)	
CI77-480-001, D, June 15, 1987	do	Carie Killebrew Field, Roberts County, Texas	(1)	
CI87-692-000, (G-8493), B, June 8, 1987.	do	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Annie Turner et al. Unit; Cecil Noble Field, Colorado County, Texas.	(2)	
CI62-1251-009, D, June 15, 1987	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Arkla Energy Resources, a division of Arkla, Inc., Kinta Field, Haskell County, Oklahoma.	(3)	
CI66-470-011, D, June 15, 1987	do	Arkoma Field, Pittsburg County, Oklahoma	(3)	
CI66-1328-001, D, June 10, 1987	do	Panhandle Eastern Pipeline Company, Tangier Field, Roger Mills County, Oklahoma.	(4)	
CI67-153-001, D, June 10, 1987	do	Tangier & Gage Fields, Ellis County, Oklahoma	(4)	
CI69-174-000, D, June 10, 1987	do	Tangier Field, Woodward County, Oklahoma	(4)	
CI87-696-000, A, June 9, 1987	The Louisiana Land and Exploration Company, P.O. Box 60350, New Orleans, La. 70160.	Transcontinental Gas Pipe Line Corp., Fresh Water Bayou Field, Vermilion Parish, Louisiana.	(5)	
CI87-697-000, A, June 9, 1987	do	East White Larke Field, Vermilion Parish, Louisiana	(5)	
CI87-698-000, A, June 9, 1987	do	Blocks 66 and 76, South Marsh Island Area, Offshore Louisiana.	(6)	
CI61-1162-002, E, June 8, 1987	Fina Oil and Chemical Company, P.O. Box 2159, Dallas, Texas 75221.	Blocks 4, 5, & 16, Vermilion Area, State of Louisiana.	(7)	
CI68-1397-000, E, June 8, 1987	do	do	(7)	
CI64-670-001, D, June 15, 1987	Marathon Oil Company, P.O. Box 3128, Houston, Texas 77253.	Arkla Energy Resources, a division of Arkla, Inc., West Wilburton Field, Pittsburg & Latimer Counties, Oklahoma.	(8)	
CI72-521-000, D, June 15, 1987	do	Arkoma Area, Pittsburg & Latimer Counties, Oklahoma.	(8)	
G-4579-042, D, June 15, 1987	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	El Paso Natural Gas Company; SE/4 SE/4, W/2 SE/4, NE/4 SE/4 and NE/4 of Survey 18, Block GG, GC&SF RR Company Survey, Crockett County, Texas.	(9)	
CI87-693-000 (G-10611), B, June 8, 1987.	Cities Service Oil and Gas Corp	Northern Natural Gas Company, Division of Enron Corp., Sections 2, 3, and 4, Blk. 1, Cherokee Iron Furnace Co. Survey and N/2 Sec. 7, Blk. 2, SA&MG RR Survey, Hansford County, Texas.	(10)	
CI87-707-000 (CI78-1000), B, June 15, 1987.	do	ANR Pieline Company, SW/4 Sec. 1-15N-18W, Custer County, Oklahoma.	(11)	
CI87-685-000, F, June 8, 1987	CNG Producing Company (Succ. in Interest to Helmerich and Payne, Inc.), Canal Place One—Suite 3100 New Orleans, La. 70130-9990.	El Paso Natural Gas Company, Toro Field, Reeves County, Texas.	(12)	
CI87-686-000, F, June 8, 1987	do	do	(12)	
CI87-687-000, B, June 1, 1987	J. Cleo Thompson and James Cleo Thompson, Jr., 4500 RepublicBank Tower, Dallas, Texas 75201.	El Paso Natural Gas Company, Ozona Field, Crockett County, Texas.	(13)	
CI87-688-000, B, June 1, 1987	do	do	(13)	
CI87-694-000 (CI68-1375), B, June 8, 1987.	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Phillips 66 Natural Gas Company, Burnett Lease and Burnett B Lease, Section 114, Blk 5, I&GN Survey, Carson County, Texas.	(14)	
CI87-709-000 (CI78-460), B, June 15, 1987.	do	Southern Natural Gas Company, State Lease Well No. 45, Plaquemines Parish, Louisiana.	(15)	
G-6169-000, D, June 15, 1987	Mobil Exploration And Producing North America Inc., Nine Greenway Plaza—Suite 2700, Houston, Texas 77046-0957.	United Gas Pipe Line Company, Baxterville Field, LaMar and Marion Counties, Mississippi.	(16)	
CI87-708-000 (CI65-663), B, June 15, 1987.	Sohio Petroleum Company, P.O. Box 4587, Houston, Texas 77210.	Phillips 66 Natural Gas Company, West Panhandle Field, Hutchinson & Moore Counties, Texas.	(17)	
CI87-704-000 (G-8285), B, June 15, 1987.	J.M. Huber Corporation, 2000 West Loop South, Houston, Texas 77027.	Diamond Shamrock Refining and Marketing Company, Hutchinson and Moore Counties, Texas.	(18)	
CI87-701-000, F, June 11, 1987	Phillips Petroleum Company (Succ. in Interest to Tenneco oil Company), 990-G Plaza Office Bldg., Bartlesville, Okla. 74004.	Colorado Interstate Gas Company, Mocane-Laverne Field, Beaver County, Oklahoma.	(19)	
CI87-699-000 (CI65-263), B, June 9, 1987.	Unicon Producing Company, P.O. Box 2120, Houston, Texas 77252.	Northern Natural Gas Company, Division of Enron Corp., Camrick Field, Beaver County, Oklahoma.	(20)	
CI87-691-000 (CI73-182), B, June 8, 1987.	Champlin Petroleum Company, 1400 Smith Street—Suite 1500, Houston, Texas 77002.	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., North Rincon Field, Starr County, Texas.	(21)	
			(22)	

Docket No. and date filed	Applicant	Purchaser and Location	Price per Mcf	Pressure base
CI87-689-000, B, June 4, 1987	Lone Wolf Producing Company, P.O. Drawer 11150, Midland, Texas 79702.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company and Northern Natural Gas Company, Division of Enron Corp., S/2 Section 74, Block H, GH & SA Ry. Co. Survey, Schleicher County, Texas.	[23]	
CI77-400-004, D, June 8, 1987	Texaco Inc., P.O. Box 52332, Houston, Texas 77052.	United Gas Pipe Line Company and Southern Natural Gas Company, Eugene Island Blocks 26, 27 and 47, Offshore Louisiana.	[24]	
CI87-712-000 (G-15002), B, June 19, 1987.	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Calif. 94120-7309.	Williams Natural Gas Company, Medicine Lodge Field, Barber County, Kansas.	[25]	
CI65-1169-000, D, June 19, 1987	do	Panhandle Eastern Pipe Line Company, Einsel Field, Kiowa County, Kansas.	[25]	
CI76-296-003, D, June 19, 1987	do	KN Energy Inc., Zook West Field, Pawnee County, Kansas.	[25]	
CI79-111-001, D, June 19, 1987	do	Zenith Natural Gas, Medicine Lodge Field, Barber County, Kansas.	[25]	
G-10148-000, D, June 19, 1987	do	Williams Natural Gas Company, Rhodes North Field, Barber County, Kansas.	[25]	
CI79-167-001, D, June 19, 1987	do	Panhandle Eastern Pipe Line Company, Hardy Field, Kiowa County Kansas.	[25]	
CI87-721-000, F, June 24, 1987	Union Exploration Partners, Ltd., (Succ. in Interest to Phillips Petroleum Company & Kerr-McGee Corporation), P.O. Box 7600, Los Angeles, Calif. 90051.	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Rollover Field, Block 39 Vermilion Area, Offshore Louisiana.	[27]	
CI87-716-000, B, June 18, 1987	TXO Production Corporation, First City Center, 1700 Pacific Avenue, Dallas, Texas 75201.	Williams Natural Gas Company, Kelly No. 1 well Sec. 20, 17N, 25W, Roger Mills County, Oklahoma.	[28]	
G-4881-001, D, June 16, 1987	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., San Salvador and Mercedes Fields, Hidalgo County, Texas.	[29]	
CI87-718-000 (CI85-281), B, June 22, 1987.	do	Natural Gas Pipeline Company of America, West Cameron Block 81 Field, Offshore Louisiana.	[30]	
CI63-708-002, D, June 23, 1987	Farmland Industries, Inc., P.O. Box 3683, Tulsa, Okla. 74101.	Northern Natural Gas Company, Division of Enron Corp., South half of Section 24, Block TT, T.C.R.R. Survey, Schleicher County, Texas.	[31]	
CI68-880-001, D, June 22, 1987	Texaco Producing Inc., P.O. Box 52332, Houston, Texas 77052.	Natural Gas Pipeline Company of America, Wolfe Area, Loving and Winkler Counties, Texas.	[32]	
G-6636-000, F, June 23, 1987	Union Texas Petroleum Corporation, P.O. Box 2120, Houston, Texas 77252-2120.	El Paso Natural Gas Company, Certain acreage in Lea County, New Mexico.	[33]	
CI87-717-000 (CI60-738), B, June 22, 1987.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Panhandle Easter Pipe Line Company, N.E. Field *et al.*, Major County, *et al.*, Oklahoma.	[25]	
CI72-595-001, D, June 18, 1987	Phillips 66 Natural Gas Company, 990-G Plaza Office Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Company, Seminole San Andres Unit, Gaines, County Texas.	[34]	
G-2605-002, D, June 18, 1987	do	do	[35]	
CI87-720-000 (CI77-562), B, June 19, 1987.	Mobil Producing Texas & new Mexico Inc., Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Corral Draw Field, Eddy County, New Mexico	[37]	
CI87-678-000, B, June 5, 1987	Robert B. Lambert and Lexey C. Lambert, 100 N. Stone, Ste. 1002, Tucson, Arizona 85701-1517.	ANR Pipeline Company, Essie Hensley Unit, Quinlan Northwest Field, Woodward County, and Laverne Field, Harper County, Oklahoma, Northern Natural Gas Company, Division of Enron Corp., Mocane-Laverne Gas Area, Ellis and Beaver Counties, Oklahoma.	[38]	
G-4946-001, D, June 22, 1987	Sun Exploration & Production Co	United Gas Pipeline Company, Tulsita-Wilcox Field, Goliad County, Texas.	[39]	
CI69-341-001, D, June 22, 1987	Cities Service Oil and Gas Corp	Panhandle Eastern Pipe Line Company, SE/4 SW/4 Sec. 11-15N-18W, Custer County, Oklahoma.	[40]	
CI87-525-000, B, April 20, 1987	Bruce L. Shannon, P.O. Box 6026, Liberal, Kansas 67901.	Northern Natural Gas Company, Division of Enron Corp. Hugoton Field, Kearney County, Kansas.	[41]	
CI87-580-000, B, May 11, 1987	J. Cleo Thompson and James Cleo Thompson, Jr	El Paso Natural Gas Company, Parker "A" No. 1 Well, Parker-Harrell Field, Section 77, Blk. GH GC&SF RR. Co. Survey, Crockett County, Texas.	[42]	

[1] Effective 1-1-87, ARCO assigned its interest in certain acreage to Hondo Oil and Gas Company.
[2] ARCO no longer holds an interest in the acreage covered by the contract. The Unit was plugged in 1969 and all leases surrendered in 1973. Contract was cancelled 10-1-85.
[3] Sun assigned its interest in Property No. 815823, George Carman -A- to Kaiser-Francis Oil Company.
[4] Sun assigned its interest in Property No. 633520, Morehart Unit 1-6 to Maynard Oil Company.
[5] Applicant is filing under Gas Purchase Contract dated 5-16-78, as ratified by LL&E on 7-26-79.
[6] Applicant is filing under Gas Purchase Contract dated 10-3-67, amended by Amendment dated 11-18-86.
[7] Effective 10-1-86, TXP Operating Company, transferred, assigned and conveyed to Fina all of TXPO's right, title and interest in the oil and gas leasehold and leasehold acreage.
[8] Marathon assigned certain acreage By Assignment executed October 10, 1986, effective July 1, 1986, to Donald C. Slawson.
[9] By Assignment of Oil and Gas Lease(s) and Bill of Sale executed 11-14-86, effective 10-1-86, Cities assigned its interest in the Owens "C" lease and sold Well #C-2 located thereon to Fina Oil and Chemical Company.
[10] By Assignment of Oil and Gas Lease and Bill of Sale executed 4-28-87, effective 4-1-87, Cities assigned its interest in and sold the Frazier #1-4 and #1-3 wells and the Vernon "A" #1 Unit Well located on said leases to Hutton/Indian Wells 1984 Energy Income Fund, Ltd.
[11] By Assignment of Oil and Gas Lease(s) and Bill of Sale executed 5-14-87, effective 4-1-87, Cities assigned its interest in the Arnold #1 lease and well located thereon to Ward Petroleum Corporation.
[12] By Assignment effective 8-1-86, Helmerich and Payne, Inc. assigned certain acreage to CNG Producing Company.
[13] Current contract price exceed market clearing level and results in reduced takes. Applicant desires to market all available production to the spot market.
[14] Not used.
[15] Leases have been assigned to Mobile Communications Associates by Assignment effective June 26, 1984.
[16] State Lease 2000, Well No. 45 is no longer capable of producing in paying quantities, therefore the lease has been cancelled.
[17] By Assignment and Bill of Sale of Property effective 11-1-86 MEPNA, assigned to Bean Energy, Inc. all of its right, title and interest in and to that certain nonproductive acreage in Lamar and Marion Counties, Mississippi.
[18] Pursuant to § 154.91(e) of the Commission's regulations Applicant's rate schedule and certificate are no longer needed because the subject gas which was previously sold under a fixed-price contract will now be sold under a percentage type amendment.
[19] Purchaser no longer wants to purchase gas and has released it.
[20] Effective 12-1-86, Tenneco Oil Company assigned to Phillips Petroleum Company, a portion of its interest in the Mocane-Laverne Field, Beaver County, Oklahoma.
[21] The producing acreage was conveyed to Vernon E. Faulconer, Inc. on 7-1-86. Unicon Producing Company no longer has an interest in the acreage.
[22] Champlin Petroleum Company has assigned all rights, title and interest in the dedicated acreage to Agco Petroleum Company.
[23] Lone Wolf's Contract with ARCO has expired under its own terms and notification of Contract termination has been given to ARCO by Lone Wolf. ARCO's residue purchaser has indicated in past correspondence that its market demand is deteriorating as a result of its high cost of gas. Curtailment of production is threatened, and will make operations of the well uneconomical for ARCO as well as Lone Wolf causing severe economic hardship on Lone Wolf. Lone Wolf has secured a market which is ready, willing and able to take gas from this well, thus preventing the possibility of premature abandonment of this well and loss of remaining reserves
[24] Due to an oversupply of available gas, Southern Natural Gas Company agreed to release, from the 8-25-76 contract, gas production from the North Half and North Half of the South Half of Eugene Island Block 26 which was authorized in Docket No. CI77-400-003. United Gas Pipe Line Company, the other purchaser under the 8-25-76 contract, has also agreed to release gas production from the North Half and the North Half of the South Half of Eugene Island Block 26.
[25] By Assignment, effective March 1, 1987, Chevron assigned certain acreage to Herman L. Loeb.

[26] Not used.
[27] By Assignment executed 2-23-87, Phillips Petroleum Company and Kerr-McGee Corporation assigned to UXP all of the right, title and interest in Tract 2248, South One-Half of Block 39 (OCS-G-0341), Vermilion Area, Offshore Louisiana.
[28] Well depleted.
[29] Assignment effective 10-30-86 and 11-7-86, ARCO assigned its interest in certain acreage to TXO Production Corp. and AGCO Petroleum Company.
[30] West Cameron Block 81, Federal Lease OCS-G-3256 expired 2-21-86.
[31] The base term of McCabe's Contract with Farmland has expired and been cancelled by McCabe due to the fact that the gas well is rapidly approaching its economic limits.
[32] By assignment effective 11-27-84, Texaco Production Inc. assigned to Tribal Drilling Company certain acreage.
[33] Effective 12-1-86, Sun Exploration and Production Company assigned certain acreage to Union Texas Petroleum Corp.
[34] Not used.
[35] Assignment of dedicated acreage to Unit Corporation, Prentice, Napier & Green, Samson Resources Company, Star Production, Inc., and Vita Oil Company, 12-15-86, to be effective 12-1-86.
[36] On May 18, 1987, Phillips filed in Docket Nos. CI72-595-000 and G-2605-001 to abandon Phillips' sales to El Paso of residue gas attributable to gas purchased from the Seminole San Andres Unit. By its subject applications, Phillips is amending its May 18 applications to include a request on behalf of the unit owners and Amerada Hess, operator, to abandon their sales of gas to Phillips from the Seminole San Andres Unit made under percentage-of-proceeds contracts. Phillips states that disposition of the gas after abandonment approval is not known to Phillips. Upon execution of a termination agreement the contract between producer-suppliers and Phillips shall have terminated effective January 1, 1987.
[37] By Assignment dated 1-30-87, effective 2-1-87, MPTM assigned to M. Brad Bennett, Inc., all of its right, title and interest in USA Lease No. NM-14778, including Sec. 22-T25S-R29E, NMPM, Eddy County, New Mexico.
[38] ANR and Northern have excess gas attributable to the wells and are agreeable to the abandonment. Applicants will seek alternative markets.
[39] By Assignment executed April 27, 1987, effective February 1, 1987, Sun assigned its interest in Property No. 641730 to Chilton Energy.
[40] By Assignment executed May 14, 1987, effective April 1, 1987, Cities assigned its interest in the Edgar "A" Lease, limited to above the Hunton formation, to Ward Petroleum Corporation.
[41] Applicant requests a three-year limited-term abandonment, with pregranted abandonment for sales under Applicant's small producer certificate. The gas is NGPA Section 108 gas and dedicated under a December 31, 1953, contract. Deliverability is 50 Mcf/day. Applicant plans to sell in the spot market.
[42] The application was noticed on June 4, 1987 (52 FR 21986). However, the notice did not include Applicant's additional request received June 25, 1987, to grant Applicant a pregranted abandonment for a period of three years.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 87-15822 Filed 7-10-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA87-2-1-001]

Proposed PGA Rate Adjustment; Alabama-Tennessee Natural Gas Co.

July 7, 1987.

Take notice that on June 30, 1987, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) tendered for filing Substitute Thirteenth Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1. The proposed effective date for the sheet is July 1, 1987. Alabama-Tennessee has filed this sheet to reflect a reduction in rates filed by Tennessee Gas Pipeline Company in accordance with the Commission's order of June 23, 1987.

Alabama-Tennessee states that copies of this filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 14, 1987. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15820 Filed 7-10-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RE80-31-003]

Application for Exemption; Appalachian Power Co.

July 7, 1987.

Take notice that Appalachian Power Company (APC) filed an application on December 4, 1986 for an exemption from certain requirements of part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). APC filed an amendment to the application for exemption on February 17, 1987. Exemption is sought from the requirement to file on or prior to June 30, 1988, and bienially thereafter, information on the costs of providing electric service as specified in Subpart B, C, D, and E of Part 290.

In its application for exemption APC states, in part, that it should not be required to file the specified data for the following reason:

The gathering of the information is not likely to carry out the purposes of section 133 of the Public Utility Regulatory Policies Act.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on:

Mr. Barry L. Thomas, Appalachian Power Company, 40 Franklin Road, SW., Roanoke, Virginia 24022
Mr. Kevin F. Duffy, American Electric Power Service Corporation, 1 Riverside Plaza, Columbia, Ohio 43215

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15821 Filed 7-10-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP86-137-006]

Proposed Changes in FERC Gas Tariff; Florida Gas Transmission.

July 7, 1987.

Take notice that on July 1, 1987 Florida Gas Transmission Company (FGT) tendered for filing the following tariff sheets to its FERC Gas Tariff.

18th Revised Sheet No. 8 of First Revised Volume No. 1
41st Revised Sheet No. 128 of Original Volume No. 2

Reason for Filing

The above referenced tariff sheets are being filed in accordance with Article VII of the Stipulation and Agreement in Docket No. RP86-137-000 approved by the Federal Energy Regulatory Commission (FERC) on January 29, 1987. Article VII stipulated that FGT would file revised base tariff rates to be effective upon the in-service date of the facilities requested in Docket No. CP74-192-009. The revised tariff sheets reflect a reduction in the base tariff rates of 2.50 cents per MMBtu for service under Rate Schedule G, Rate Schedule I and Rate Schedule T-3 pursuant to the

Stipulation and Agreement in Docket No. RP86–137–000.

The proposed effective date is July 1, 1987.

Copies of this filing were served on all of FGT's jurisdictional customers and the 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, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before July 14, 1987. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–15814 Filed 7–10–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA87–2–14–000]

Proposed Change in FERC Gas Tariff; Lawrenceburg Gas Transmission Corp.

July 7, 1987.

Take notice that on July 2, 1987, Lawrenceburg Gas Transmission Corporation ("Lawrenceburg") tendered for filing two (2) revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on July 1, 1987, proposed to become effective August 1, 1987, and identified as follows:

Forty-second Revised Sheet No. 4

Sixteenth Revised Sheet No. 4–B

Lawrenceburg states that copies of its revised tariff sheets were filed under its Purchased Gas Adjustment (PGA) Provision in order to track changes in the rates of its pipeline supplier.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers 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, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before July 14, 1987. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–15815 Filed 7–10–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. G–3315–000, et al.]

Change in Name; Maxus Exploration Co.

July 7, 1987.

Take notice that on May 7, 1987, Maxus Exploration Company (Maxus) of LTV Center, Suite 1400, 2001 Ross Avenue, Dallas, Texas 75201–2916, filed a notice of change in name requesting that the Commission take notice of a change in name for certificates of public convenience and necessity and the related rate schedules heretofore issued to Diamond Shamrock Exploration Company or designated in the name Diamond Shamrock Exploration Company, as listed in the attached Exhibit. In addition, Maxus requested that the Commission proceedings in which Diamond Shamrock Exploration Company was heretofore a party-applicant or party-respondent reflect this name change.

Effective April 28, 1987, by Certificate of Amendment of Certificate of Incorporation the name of Diamond Shamrock Exploration Company was changed to Maxus Exploration Company. Maxus states that it will continue all sales of natural gas previously made by Diamond Shamrock Exploration Company and will participate in all proceedings in which Diamond Shamrock Exploration Company was a party.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 21, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). 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 in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

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

Kenneth F. Plumb,

Secretary.

LIST OF CERTIFICATE PROCEEDINGS, RATE SCHEDULES AND COMMISSION PROCEEDINGS TO BE COVERED BY MAXUS EXPLORATION COMPANY

[Docket Nos. G–3315–000, et al., Exhibit]

Docket No.	Diamond Shamrock Exploration Company, Rate Schedule No.	Proposed Maxus Exploration Company, Rate Schedule No.	Purchaser	Location
G–3315–000	1	1	Northern Natural Gas Company, division of Enron Corp	McKee Plant, Moore County, TX.
G–3309–000	2	2	Natural Gas Pipeline Company	McKee Plant, Moore County, TX.
G–10111	3	3	Northern Natural Gas Company, division of Enron Corp	Hansford County, TX.
G–10072	4	4	Natural Gas Pipeline Company	Roberts County, TX.
G–11006	5	5	Natural Gas Pipeline Company	Beaver County, OK.

LIST OF CERTIFICATE PROCEEDINGS, RATE SCHEDULES AND COMMISSION PROCEEDINGS TO BE COVERED BY MAXUS EXPLORATION COMPANY—Continued

[Docket Nos. G-3315-000, et al., Exhibit]

Docket No.	Diamond Shamrock Exploration Company, Rate Schedule No.	Proposed Maxus Exploration Company, Rate Schedule No.	Purchaser	Location
G-12261	6	6	Northern Natural Gas Company, division of Enron Corp	Hansford and Ochiltree Counties, Texas.
G-14878-000	7	7	Northern Natural Gas Company, division of Enron Corp	McKee Plant, Moore County, TX.
G-16148	8	8	Phillips Petroleum Company	Sherman County, TX.
G-18293	9	9	Transcontinental Gas Pipe Line Corporation	Frio County, Texas.
G-19720	10	10	Northern Natural Gas Company, division of Enron Corp	Ochiltree County, TX.
CI60-778	11	11	Panhandle Eastern Pipe Line Company	Meade & Seward Counties, KS.
CI61-975	12	12	Panhandle Eastern Pipe Line Company	Meade & Seward Counties, KS.
G-3308-000	13	13	Panhandle Eastern Pipe Line Company	McKee Plant, Moore County, TX.
CI62-121	14	14	Northern Natural Gas Company, division of Enron Corp	Hansford County, TX.
CI62-367	15	15	Natural Gas Pipeline Company	McKee Plant, Moore County, TX.
CI62-1041	16	16	Natural Gas Pipeline Company	McKee Plant, Moore County, TX.
CI63-429	17	17	Natural Gas Pipeline Company	Beaver County, OK.
CI63-636	18	18	Natural Gas Pipeline Company	Beaver County, OK.
CI63-1202	19	19	Western Gas Interstate Company	McKee Plant, Moore County, TX.
CI64-622	21	20	Northern Natural Gas Company, division of Enron Corp	Beaver County, OK.
CI67-1031	23	21	Northern Natural Gas Company, division of Enron Corp	Hansford County, TX.
CI68-282	24	22	Arkla Energy Resources, a division of Arkla, Inc	Sebastian County, AR.
CI67-282	25	23	Panhandle Eastern Pipe Line Company	Meade County, KS.
CI69-2	28	24	Colorado Interstate Gas Company	Sweetwater County, WY.
CI69-554	29	25	Northern Natural Gas Company, division of Enron Corp	Hansford County, TX.
CI70-637	30	26	Arkla Energy Resources, a division of Arkla, Inc	Garfield County, OK.
G-3313-000	32	27	Northern Natural Gas Company, division of Enron Corp	McKee Plant, Moore County, TX.
G-3307-000	33	28	Northern Natural Gas Company, division of Enron Corp	McKee Plant, Moore County, TX.
CI71-608	34	29	Northern Natural Gas Company, division of Enron Corp	Hemphill County, TX.
CI72-355	36	30	Arkla Energy Resources, a divison of Arkla, Inc	Sebastian County, Ar.
CI72-448	37	31	Arkla Energy Resources, a division of Arkla, Inc	Garfield County, OK.
CI75-734	44	32	Northern Natural Gas Pipeline Company	Jefferson County, TX.
CI76-530	46	33	El Paso Natural Gas Company	Hemphill County, TX.
CI78-21	50	34	Panhandle Eastern Pipe Line Company	Hemphill County, TX.
CI78-102	51	35	El Paso Natural Gas Company	Hemphill County, TX.
CI78-585	53	36	Transcontinental Gas Pipe Line Corporation	St. Landry Parish, LA.
CI78-731	[1] 54	[1]	Transwestern Pipeline Company	Lipscomb County, TX.
CI78-1146	56	37	Williams Natural Gas Company	Sweetwater County, WY.
CI78-1177	57	38	Natural Gas Pipeline Company	McKee Plant, Moore County, TX.
CI79-428	61	39	Texas Gas Transmission Corporation	Lafayette Parish, LA.
CI85-427-000	85	40	Transwestern Pipeline Company	Lipscomb County, TX.
CI85-428-000	86	41	Northern Natural Gas Company, division of Enron Corp	Clark County, KS.

LIST OF CERTIFICATE PROCEEDINGS, RATE SCHEDULES AND COMMISSION PROCEEDINGS TO BE COVERED BY MAXUS EXPLORATION COMPANY—Continued

[Docket Nos. G-3315-000, et al., Exhibit]

Docket No.	Diamond Shamrock Exploration Company, Rate Schedule No.	Proposed Maxus Exploration Company, Rate Schedule No.	Purchaser	Location
CI85-429-000	87	42	Trunkline Gas Company	Vermillion Parish, LA.
CI85-430-000	88	43	ANR Pipeline Company	Woodward County, OK.
CI85-431-000	89	44	ANR Pipeline Company	Ellis County, OK.
CI85-432-000	90	45	Panhandle Eastern Pipe Line Company	Dewey County, OK.
CI85-433-000	91	46	Northern Natural Gas Company, division of Enron Corp	Lipscomb County, TX.
CI85-434-000	92	47	Northern Natural Gas Company, division of Enron Corp	Lipscomb County, TX.
CI86-204-000	93	48	Pacific Gas Transmission Company	Lincoln County, WY.
CI3310-000	94	49	Natural Gas Pipeline Company	McKee Plant, Moore County, TX.
G-4880-000	95	50	Phillips Petroleum Company	Panhandle-Hugoton.
G-3301-000	96	51	Mobil Producing Texas & New Mexico, Inc	McKee Plant, Moore County, TX.
G-3300-000	97	52	Shell Western E&P, Inc./ARCO Oil and Gas Company, Panhandle Eastern Pipe Line Company.	McKee Plant, Moore County, TX.
G-3314-000			Eastern Pipe Line Company	
G-3308-000	98	53	Panhandle Eastern Pipe Line Company	McKee Plant, Moore County, TX.
CI72-293-000	99	54	Northern Natural Gas Company, division of Enron Corp	McKee Plant, Moore County, TX.

[1] Application for Permission and Approval to Abandon Service Filed April 27, 1987 in Docket No. CI87-536-000.

Other Proceedings: Docket Nos. GP80-43 (Phase I), CP85-735, CP85-710, CP86-600, CP86-127-001, CI87-312 RP87-52, RP86-93, RP86-63, RP85-209-005, RP85-206, RP85-194, RP85-178-000 & RP82-10-012, RP85-177, RP84-1-000, TA85-1-29-000, CP85-621-000, *et al.*, CP86-232, *et. al.*, CP86-573, CP86-572, CP86-534, CP86-526, CP86-517, CP86-452, CP86-451, CP86-453, CP86-405, CP86-379, CP86-308, CP86-35, CI86-375, CI86-371, RP86-119 RP86-115, RP86-114, RP86-111, RP86-110, CI86-371-000 *et al.*, CI87-314-000, and RP86-105. Docket No. CI87-240-000 is an Order Approving, Amending, and Extending Limited-Term Abandonments, and Blanket Sales Certificates with Pre-Granted Abandonment issued jointly to Diamond Shamrock Exploration Company and Diamond Shamrock Offshore Partners Limited Partnership. Maxus seeks a change in name under this order only as to Diamond Shamrock Exploration Company.

[FR Doc. 87-15813 Filed 7-10-87; 8:45am]

BILLING CODE 6717-01-M

[Docket No. TA87-3-16-000]

Proposed Tariff Changes; National Fuel Gas Supply

July 7, 1987.

Take notice that on July 1, 1987, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Ninth Revised Sheet No. 4, to be effective August 1, 1987.

National states that the purpose of Ninth Revised Sheet No. 4 is to reflect a net increase of 51.95 cents per Dth. This change consists of an increase in current purchase gas cost of 8.05 cents per Dth, and a decrease in the purchase gas cost surcharge credit adjustment of 43.9 cents per Dth.

National states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the states of New York, Ohio, Pennsylvania, Delaware, and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before July 14, 1987. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15818 Filed 7-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-78-000]

Proposed Changes in FERC Gas Tariff; Penn-York Energy Corp.

July 7, 1987.

Take notice that Penn-York Energy Corporation ("Penn-York"), on June 29, 1987, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1. The proposed changes would increase revenues from storage service by approximately $9,960,000 based on the twelve-month period ended March 31, 1987, as adjusted.

Penn-York states that an increase in rates is necessary to recover cost-of-service increases due to the construction of new facilities, the injection of additional base gas, operation and maintenance expense increases, and an overall rate of return of 13.01%.

Penn-York states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the States of

Connecticut, Delaware, Massachusetts, New Hampshire, New York, Pennsylvania, New Jersey and Rhode Island.

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, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's procedural rules (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before July 14, 1987. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15816 Filed 7-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-3-17-000]

Proposed Changes in FERC Gas Tariff; Texas Eastern Transmission Corp.

July 7, 1987.

Take notice that Texas Eastern Transmission Coporation (Texas Eastern) on July 1, 1987 tendered for filing as a part of its FERC Gas Tariff, the following tariff sheets:

Fourth Revised Volume No. 1

Eighty-fifth Revised Sheet No. 14
Eighty-fifth Revised Sheet No. 14A
Eighty-fifth Revised Sheet No. 14B
Eighty-fifth Revised Sheet No. !4C
Eighty-fifth Revised Sheet No. 14D

Original Volume No. 2

Twenty-sixth Revised Sheet No. 235
Eighteenth Revised Sheet No. 241
Twenty-seventh Revised Sheet No. 322

The above tariff sheets are being issued pursuant to section 23, Purchased Gas Cost Adjustment, and section 27, Electric Power Cost (EPC) Adjustment, contained in the General Terms and Conditions of Texas Eastern's FERC Gas Tariff. These sheets are also being issued pursuant to Article XI, Staten Island LNG Facility, contained in the Stipulation and Agreement in Docket No. RP78-87 approved by Commission order issued April 4, 1980.

The changes proposed in this filing consist of:

(1) A PGA decrease of $.151/dth in the Demand-1 component of Texas Eastern's rates and increases of $.0011/dth in the Demand-2 component and $.1113/dth in the commodity component pursuant to section 23 of Texas Eastern's tariff based upon a small decrease of $.0079/dth in the projected commodify cost of gas purchased from producers and pipeline suppliers and an increase of $.1192/dth in the Surcharge Adjustment utilizing the balance in Account 191 as of April 30, 1987;

(2) Projected Incremental Pricing Surcharges are zero for the period August, 1987 through January, 1988, pursuant to section 23 of Texas Eastern's tariff and the Commission's regulations;

(3) An overall increase in rates for sales and transportation services pursuant to section 27 of Texas Eastern's tariff to reflect the projected annual electric power cost incurred in the operation of transmission compressor stations with electric motor prime movers for the 12 months beginning August 1, 1987 and to reflect the EPC surcharge which is designed to clear the latest balance in the Deferred EPC account as of April 30, 1987; and

(4) A decrease in rates under Rate Schedule SS based upon the decrease in actual costs incurred in operating and maintaining the Staten Island LNG facility for the twelve month period ended February 28, 1987, pursuant to the provisions of Article XI of the RP78-87 Stipulation and Agreement.

Consistent with the Commission's requirements for the treatment of demand charges paid to Canadian suppliers, Texas Eastern has included in this filing demand charges payable to ProGas Limited based upon the methodology specified in Opinions Nos. 256 and 256-A in Natural Gas Pipeline Company's Docket No. TA85-1-26-004 and 005. As a result Texas Eastern's total annual demand payments to ProGas Limited are projected to be $6,525,000.

The Commission's order issued January 31, 1984 in Texas Eastern's Docket No. TA84-1-17-001 required Texas Eastern to eliminate estimated balances for the month of November, 1983 from the Deferred Gas Cost Account Balance (Account 191) for the purpose of the surcharge calculation and further required Texas Eastern to continue this methodology in all future PGA filings. In light of this order and discussions between Texas Eastern and the Commission Staff, Texas Eastern in this instant filing is using the six months ended April 30, 1987 Account 191 balance, exclusive of April, 1987 estimates, for the surcharge calculation.

The proposed effective date of the above tariff sheets is August 1, 1987.

Texas Eastern respectfully requests waiver of any Regulations that the Commission may deem necessary to accept the above tariff sheets to be effective on August 1, 1987.

Copies of the filing were served on Texas Eastern's jurisdictional customers 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, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before July 14, 1987. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15817 Filed 7-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-143-007]

Tariff Filing in Compliance With FERC Order; Texas Gas Transmission Corp.

July 7, 1987.

Take notice that on July 1, 1987, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Original Volume No. 3 of its FERC Gas Tariff.

This filing is pursuant to the Order Denying Waiver, 37 FERC Para. 61,166, issued November 26, 1986. Texas Gas proposes an effective date of July 1, 1987.

Texas Gas respectfully requests a waiver of the requirements of Part 154 of the Commission's regulations under the Natrual Gas Act to the extent necessary to permit all the tariff sheets comprising this Original Volume No. 3 to be accepted for filing and effective on July 1, 1987.

Copies of the letter of transmittal are being served on the customers in this docket. Due to the length and weight of this filing, a copy of the entire filing is not being served with the letter of transmittal. A copy of this filing is available for public inspection in the Owensboro, Kentucky, and Washington, DC offices of Texas Gas.

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, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 2.11 and 2.14 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 14, 1987. Protests will be considered by the Commission in determining the appropriate actions 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15810 Filed 7-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-24-001]

Proposed Changes in F.E.R.C. Gas Tariff; U-T Offshore System

July 7, 1987

Take notice that on June 29, 1987, U-T Offshore System ("U-TOS") tendered for filing, pursuant to section 4 of the Natural Gas Act, Seventh Revised Sheet No. 4 to its FERC Gas Tariff, Orginal Volume No. 1.

Seventh Revised Sheet No. 4 would decrease annual revenues from Jurisdictional transportation services by approximately $243,000. The proposed change in rates is being filed in compliance with Ordering Paragraph (E) of the Commission's order issued December 31, 1986 in Docket No. RP87-24 and is designed to reflect the reduction in the Federal corporate income tax rate to 34% effective July 1, 1987.

U-TOS requests that Seventh Revised Sheet No. 4 be made effective on July 1, 1987, subject to refund in Docket No. RP87-24-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. In accordance with Rule 211 or Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed before July 14, 1987. 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 to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15811 Filed 7-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-52-000]

Tariff Filing; Western Gas Interstate Co.

July 7, 1987.

Take notice that on July, 1987, Western Gas Interstate Company ("Western") submitted for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Eighth Revised Sheet No. 10
Ninth Revised Sheet No. 10
Seventh Revised Sheet No. 11

The proposed effective date for Eighth Revised Sheet No. 10 is May 31, 1987. The proposed effective date for Ninth Revised Sheet No. 10 and Seventh Revised Sheet No. 11 is August 1, 1987.

Western also submitted for filing the following alternate tariff sheets, which it requests be accepted for filing in lieu of Eighth and Ninth Revised Sheet No. 10:

Alternate Eighth Revised Sheet No. 10
Alternate Ninth Revised Sheet No. 10

The proposed effective dates for these tariff sheets are May 31, 1987 and August 1, 1987, respectively.

Western states that the proposed change in its rates is being filed pursuant to its Purchased Gas Adjustment Clause to its FERC Gas Tariff which permits the recovery of changes in its cost of gas and of unrecovered purchased gas costs. Western further states that the proposed changes provide for a decrease in its cost of gas under its Rate Schedule G-N of $.1769 per Mcf.

Western further states that it is filing the primary Sheets No. 10 in compliance with the Commission's Orders of May 27, 1987 (39 FERC Para. 61,217) and June 9, 1987 in Western's section 4 rate case in Docket No. RP87-63. These primary sheets reflect the elimination of a spot market transportation tracking provision under its Rate Schedule G-S approved by the Commission in Western's Docket No. TA86-1-52-000.

According to Western, the alternate Sheets No.10 provide for the same transportation tracking mechanism for spot market gas purchases previously approved by the Commission. Western requests that the alternate sheets be accepted for filing in lieu of Eight and Ninth Revised Sheet No. 10, stating that it is in the best interest of its customers for Western to continue using the tracking mechanism. Western states that, as to its calculation of the cost of gas under Rate Schedule G-S, it is using a weighted average cost method in calculating the cost of spot market gas purchases from El Paso Gas Marketing Company. Western asserts that this method of calculation provides a more accurate reflection of the cost of such gas purchases. Consequently, Western is requesting waiver of its PGA provisions and the Commission's PGA Regulations in order to effect the proposed method of calculating the cost of spot purchases.

Finally, Western states that copies of this filing were served on its customers and interested state regulatory 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, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before July 14, 1987. 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. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15812 Filed 7-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-4-49-002]

Tariff Change; Williston Basin Interstate Pipeline Co.

July 7, 1987

Take notice that on July 1, 1987, Williston Basin Interstate Pipeline Company (williston basin) tendered for filing Substitute Third Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1 and Substitute Sixth Revised Sheet No. 10 and Substitute Seventh Revised No. 11 to its FERC Gas Tariff Original Volume No. 2, proposed to be effective June 1, 1987. These revised tariff sheets with supporting detail are filed pursuant to the Commission's order issued June 1, 1987, with respect to Williston Basin's PGA filing of May 4, 1987, directing discontinuance of proxy prices and inert gas charges.

The revised tariff sheets effect a net rate decrease for Rate Schedules G–1, SGS–1 and I–1 of 16.016 cents per Dkt relative to Williston Basin's PGA filing of May 4, 1987, and a net rate decrease of 3.128 cents per Dkt relative to previously effective rates. Rate Schedule X–1 reflects a rate decrease of 16.016 cents per Dkt relative to the May 4, 1987 filing and a rate decrease of 8.182 cents per Dkt relative to previously effective rates, while Rate Schedule X–5 reflects a rate increase of 4.952 cents per Dkt relative to the May 4, 1987 filing and a rate increase of 23.346 cents per Dkt relative to previously effective rates.

Copies of this compliance filing were served upon Williston Basin's customers and interested state commissions.

Any person desiring to be heard or to protest said tariff application should file a motion to invervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with the Commission's Rules 211 and 214. All such motions or protests should be filed on or before July 14, 1987. 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. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene. Copies of the filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–15819 Filed 7–10–87; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3231–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that EPA has forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The ICRs that follow are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382–2712 (FTS 382–2712) or Jackie Rivers, (202) 382–2740 (FTS 382–2740).

Office of Pesticides and Toxic Substances

Title: Application for New or Amended Pesticide Registration (EPA ICR #0277). (This is a revision of a currently approved collection.)

Abstract: Under section 3 of FIFRA, anyone who wishes to market a pesticide must apply for registration by submitting various forms and data relating to the composition, identity, labeling, safety, and sometimes efficacy of the product. EPA then determines if the pesticide product complies with the requirements of FIFRA and the regulations.

Respondents: Pesticide marketers.

Frequency of Reporting: As necessary to apply for pesticide product registration.

Estimated Annual Burden: 667,960 hours.

* * * * *

Agency PRA Clearance Requests Completed by OMB

EPA ICR #1150, NSPS for Polymer Manufacturing Industry, was approved 6/22/87 (OMB #2060–0145; expires 6/30/90).

The following ICRs have been extended 90 days and all expire on 9/30/87:

—ICR #0002, POTW Pretreatment Program Approval Request (OMB #2040–0009).

—ICR #0003, Pretreatment Fundamentally Different Factors Variance Request (OMB #2040–0017).

—ICR #0005, Industrial Pretreater Slug Load Notification (OMB #2040–0023).

—ICR #0006, Pretreatment Net/Gross Request (OMB #2040–0018).

—ICR #0007, State Pretreatment Program Approval Request (OMB #2040–0019).

—ICR #0146, POTW Pretreatment Compliance Schedule Progress Report (OMB #2040–0013).

—ICR #0147, Industrial User Compliance Schedule Report (OMB #2040–0014).

—ICR #0148, Removal Credit Pretreatment Self-Monitoring Report (OMB #2040–0025).

—ICR #0149, Industrial User Compliance Attainment Report (OMB #2040–0011).

—ICR #0821, Pretreatment Categorical Determination Request (OMB #2040–0015).

* * * * *

Send comments on the above abstract(s) to:

Patricia Minami, PM–223, U.S. Environmental Protection Agency, Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Susan Dudley, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, 726 Jackson Place, NW., Washington, DC 20503

Dated: July 7, 1987.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 87–15790 Filed 7–10–87; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3231–5]

FY 87 Grant Performance Reports; Florida, Kentucky, and North Carolina

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA recently performed midyear evaluations of two state air pollution control agencies, the Kentucky Division for Air Quality and the North Carolina Division of Environmental Management, and of local programs in Florida (Broward County) and North Carolina (Forsyth County). These midyear audits were conducted to assess the agencies' performance under the grants made to them by EPA pursuant to section 105 of the Clean Air Act. The audits were also conducted as part of the National Air Audit System (NAAS) established by EPA in an effort to assure nationwide consistency in the evaluation of state and local air pollution programs. EPA Region IV has prepared reports for both agencies and these NAAS/§ 105 reports are now available for public inspection.

ADDRESS: The reports may be examined at the EPA's Region IV office, 345 Courtland Street, NE, Atlanta, GA 30365, in the Air, Pesticides & Toxics Management Division.

FOR FURTHER INFORMATION CONTACT: Walter Bishop at 404/347–2864 (FTS: 257–2864).

Dated: July 2, 1987.

Lee A. DeHihns, III,

Acting Regional Administrator.

[FR Doc. 87–15789 Filed 7–10–87; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3231–4]

Public Notice Procedures for Alternative Toxicity Requests Under General NPDES Permit GMG280000

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA Regions IV and VI (the Regions) administer National Pollutant Discharge Elimination System General Permit GMG280000 (the Permit) regulating certain discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category to the outer continental shelf (OCS) of the Gulf of Mexico. See 51 FR 24897 (July 9, 1986). To accommodate specific operational needs, the Permit allows affected oil and gas operators to request individual toxicity limitations on the discharge of drilling fluids as alternatives to the limitation it otherwise requires. The Regions are establishing a mailing list of parties interested in obtaining information or submitting comments on those alternative toxicity requests (ATRs).

ADDRESS: For further information or to be placed on the ATR mailing list, contact Ms. Ellen Caldwell, Water Permits Branch (6W–PS), EPA Region VI, Allied Bank Tower, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 655–7190.

SUPPLEMENTARY INFORMATION: The Permit generally prohibits the discharge of drilling fluids with 96 hour LC50 aquatic toxicity values of less than 30,000 parts per mission (ppm) for the suspended particulate phase because most drilling operations may be conducted with less toxic drilling fluids. When the Regions issued the Permit, they recognized that some situations encountered in the field would require the use of water-based drilling fluids more toxic than the specified 30,000 ppm. Accordingly, they established a procedure under which an OCS operator may submit bioassay results on the particular drilling fluid it desires to discharge, information on the specific site at which it desires to discharge that drilling fluid, and information on the need for its use. If the Region processing this alternative toxicity request (ATR) considers the request justified, it issues an alternative toxicity limitation to the operator. This ATR process is intended to assure that OCS operators use the least toxic drilling fluid required for a particular operation. See 51 FR 24897, 24901 (July 9, 1986).

Since issuance of the Permit, the Natural Resources Defense Council and Sierra Club, public interest environmental groups which have followed the ATR process with interest, have objected to the lack of opportunity for public comment on individual ATRs. The Regions agree they should provide such an opportunity during consideration of ATRs and are today establishing a *sui generis* administrative procedure providing a public comment period which will not unreasonably delay consideration of ATRs.

The Regions are now compiling a mailing list of interested parties to whom they will send notices of proposed alternative toxicity limits. At a minimum, the notices will contain the location of the drilling operation (generally identified by lease block), the toxicity limitation proposed, and a brief description of the justification for its proposal. For fourteen days following mailing of that notice, the Region processing the ATR will suspend action to provide opportunity for written comment. At the conclusion of the comment period, the Region will decide whether or not to issue the proposed alternative toxicity limitation to the applicant and send a copy of its final decision to any party commenting on the request or requesting a copy of the specific determination. There will be no further opportunity for internal administrative review of the decision. Parties desiring to be on the ATR mailing list should submit a written request to EPA Region VI at the address provided above.

OCS operators should note that the short comment period the Regions are now providing will add additional time to ATR consideration. Although the Regions hope to process ATRs within 60 days, as envisioned when the Permit was issued, actual processing time will depend on highly variable factors, including the number of ATRs submitted and the nature of comments submitted during their review. To avoid disruptive delays to drilling schedules, the Regions recommend that OCS operators seek ATRs as early as possible in their planning processes and avoid complicating factors, such as overbroad claims of business confidentiality.

Authority: 33 U.S.C. 1251, *et seq.*

Dated: July 6, 1987.

Oscar Ramirez, Jr.,

Acting Director, Water Management Division, EPA Region VI.

Al J. Smith,

Acting Director, Water Management Division, EPA Region IV.

[FR Doc. 87–15791 Filed 7–10–87; 8:45 am]

BILLING CODE 6560–50–M

[FRC–3232–5]

Science Advisory Board, Hazard Ranking System Review Subcommittee; Open Meeting, July 27–28, 1987

Under Pub. L. 92–463, notice is hereby given that the Air Subgroup of the Science Advisory Board's Hazard Ranking System Review Subcommittee will hold a two-day meeting on July 27–28, 1987 at the U.S. Environmental Protection Agency, in the Administrator's Conference Room, Room 1103 of the West Tower. The meeting will begin at 9:00 a.m. on Monday and adjourn no later than 4:00 p.m. on Tuesday.

The purpose of this meeting is to continue deliberations on the air issues presented to the Science Advisory Board as part of its review of the Hazard Ranking System. The second day of the meeting will be a writing session. The air issues to be addressed at this meeting will first be presented to the full Subcommittee at a meeting on July 16–17. They are described in "Air Target Distance for the Hazard Ranking System," July 6, 1987. Copies of this and other documents provided to the full HRS Subcommittee are available in the Superfund Docket. The Superfund Docket is located at EPA Headquarters, Waterside Mall Sub-basement, 401 M Street, SW., Washington, DC 20460. The Docket is open by appointment only from 9:00 a.m. to 4:00 p.m. Monday through Friday excluding holidays. To obtain copies of the Air Target Distance document or to make an appointment, contact Tina Maragousis at 202/382–3046. Further technical information on the air issues of the HRS is available from Ms. Jane Metcalfe, Office of Emergency and Remedial Response (WH–548E), U.S. EPA, 401 M St., Washington, DC 20460 (202/382–7393).

The meeting is open to the public. Any member of the public wishing to attend or submit written comments to the Air Subgroup should notify Mr. Eric Males,

Executive Secretary, or Mrs. Dorothy Clark, Staff Secretary, of the Science Advisory Board at 202/382-2552 by July 22, 1987.

Dated: July 7, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87-15887 Filed 7-10-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Guidelines for Implementing a Policy of Capital Forbearance

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Amend Guidelines for Capital Forbearance Policy.

SUMMARY: Amendments to the FDIC's Guidelines for Capital Forbearance will extend the life of the program and broaden its applicability. This action is being taken because the existing policy is due to terminate at year-end and the troubled economic conditions which created the need for the program have not abated.

EFFECTIVE DATE: July 7, 1987.

FOR FURTHER INFORMATION CONTACT: The FDIC Regional Director, Division of Bank Supervision, for the region in which the bank is located, for information on application of the guidelines to a bank's specific circumstance; or, for general information, George J. Masa, Assistant Director, Supervision and Enforcement Activities, Division of Bank Supervision, Room 5025, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, (202) 898-6915.

SUPPLEMENTARY INFORMATION: Early in 1986, recognizing the severe financial stress on a number of financial institutions principally engaged in serving the agricultural sector of the economy, the three Federal bank regulatory agencies adopted a joint statement of policy with respect to capital problems being experienced by certain banks heavily impacted by agricultural lending. The policy was extended to banks serving the oil and gas sector of the economy as well. FDIC guidelines for implementation of the capital forbearance portion of the policy were published in BL-12-86 dated March 27, 1986, and allowed for access to the program through the end of 1987.

Though some improvements in the economies of the agricultural and oil and gas regions of the country have occurred, there are still a number of banks in those areas which continue to suffer from slow economic recovery. Consequently, the FDIC believes that an extension of the expiration date for obtaining capital forbearance is warranted. Numerous affected banks have utilized the policy, but it could be further strengthened by broadening its applicability. Therefore, the FDIC and the OCC have decided to amend their capital forbearance guidelines effective immediately.

While the revised guidelines have eliminated the fixed capital to asset ratios, banks seeking capital forbearance should be aware that: (a) Capital forbearance will not be approved for insolvent institutions and (b) capital plans must offer reasonable assurance of restoration of capital. Prospects for approval of capital forbearance for banks with low capital ratios would be enhanced if the capital plan contemplates an external infusion of capital over the course of the forbearance period.

The major changes to the existing program are:

a. The deadline for obtaining approval for capitol forbearance is extended two-years to December 31, 1989, and the period during which capital must be returned to normal levels is also extended two years to January 1, 1995.

b. The program will no longer be limited to banks that meet the definition of an agricultural or oil and gas bank. Instead, any bank will be considered for the program if it can be demonstrated that its difficulites are primarily attributed to economic problems beyond the control of management.

c. The fixed minimum capital to asset ratios set forth in the original guidelines have been eliminated.

The full text of the revised guidelines follows.

Guidelines for Implementing a Policy of Capital Forbearance

The FDIC recognizes that banks serving an inadequately diversified economic sector of the economy may suffer financial difficulties if that economic sector experiences a severe, unexpected and protracted downturn. Such banks may not be able to raise needed capital because of the temporary unattractiveness of the institution and/or their market area. These conditions may exist even though bank management followed prudent banking practices and had a successful performance record prior to the economic downturn. In light of these circumstances, the FDIC has modified its guidelines for capital forbearance to provide greater operational flexibility to well-managed, solvent and viable banks with concentrations in weak economic sectors.

The revised capital forbearance guidelines are effective immediately. Banks may request capital forbearance at any time through December 31, 1989, and must have restored their capital to normal levels on or before January 1, 1995. Forbearance means the FDIC will not issue a capital directive (12 CFR 325.6) to enforce normal capital standards (as established in 12 CFR Part 325), nor will the FDIC take formal administrative action under section 8(b) of the FDI Act (12 U.S.C. 1818(b)) to enforce these capital standards or to obtain other corrective actions relating to capital adequacy, provided bank management does not engage in abusive, unsafe or unsound practices and the bank meets, initially and on a continuing basis, the following qualifications and conditions:

1. The bank's weakened capital is largely the result of external problems in the economy beyond bank management's control and not due to self-dealing, excessive operating expenses, excessive dividends, actions taken solely for the purpose of qualifying for capital forbearance, or other instances of significant mismanagement or ownership abuse.

2. The bank provides a plan acceptable to the FDIC for restoring capital, by not later than January 1, 1995, to the normal capital standards (12 CFR Part 325). This plan should specifically address dividend levels; compensation to directors, executive officers or individuals who have a controlling interest; and payments for services or products furnished by affiliated companies. The plan should provide for realistic improvement in the bank's primary capital ratio, over the course of the forbearance period, from earnings, capital injections, asset shrinkage, or a combination thereof. An acceptable plan would normally include a discussion of the economic problems in the community and estimated balance sheets and income statements for the next two to five years. The use of outside consultants in preparing plans is not required or expected and FDIC Regional Office staffs are prepared to discuss the plans with bank management during the preparation stage. (Samples of previous successful requests are available from the Regional Offices.)

3. The FDIC is satisfied that bank management is competent and willing to address the bank's problems and successfully implement the plan to restore adequate capital.

4. The bank will file an annual progress report with the FDIC regarding its capital plan. Depending on an individual bank's progress, more frequent reports and/or a modified plan may be required.

Banks seeking to participate in this program should make a written request to the Regional Office of the FDIC. The request should reflect a need for forbearance, and include a capital improvement plan. Capital forbearance will be granted unless, within 60 days of receipt of the request, the FDIC notifies the bank that its request has been denied or informs the bank that additional information is needed.

Existing administrative actions against banks remain in effect, including provisions addressing capital. However, banks that believe they meet the qualifications for capital forbearance may request a modification or termination of the action.

The FDIC reserves the right to terminate capital forbearance for banks engaged in unsafe and unsound or other objectionable practices, or if it becomes apparent that the bank is unable to comply with its capital plan, or a modification thereto.

In some banks, low capital levels could cause difficulties in abiding by legal lending limits. The FDIC recognizes this problem but has no regulations addressing lending limits. Such problems, to the extent they occur in state-chartered nonmember banks, will have to be addressed through conventional loan participation or modification of state laws or regulations.

By order of the Board of Directors. Dated at Washington, DC, this 7th day of July 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-15839 Filed 7-10-87; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants; Frank Tao-Ching Shu d.b.a. Safeway Transport Co.

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Frank Tao-Ching Shu dba Safeway Transport Company, 434 Genesee Avenue, Staten Island, New York 10312

Charles John Goldstein, 408 South Spring Street, Los Angeles, California 90013

National Logistics Service, Inc., 6300 Liberty Road, Houston, Texas 77026; Principals: Samuel Marroquin, President, Jose Lopez, Vice President, Elizabeth Escamilla, Secretary

Ameritrans Express, Inc., 1424 NW 82nd Avenue, Miami, Florida 33126; Principals: Roy Leon, Director, Luz D. Estrada, President/Director

Newport Shipping Lines, Inc., 4334 West 142nd Street, Hawthorne, California 90250; Principals: Hwa Kyung Yoon, President/Secretary, Baik Yong Shin, Director, Hae Soon Yoon, Treasurer

Associated International Consultants, Inc., 66 Coronado Avenue, Kenner, Louisiana 70065; Principals: Iris Bornstein, President

R.S. Express, Inc., 805 Grandview Drive, South San Francisco, California 94080; Principals: Maha Osman, stockholder, Stefan Justi, stockholder, May Marquand, stockholder, Peter Jantzen, stockholder/Director, Jeri Hutchinson, stockholder, James Cesped, Director, Jay Helstern, Director, David Seminoff, Director, Carl Porter, stockholder, Bernard Freeman, stockholder, Steven Newman, stockholder

Express Packing and Forwarding, Inc., 940 West Troy Avenue, Indianapolis, Indiana 46225; Principals: Michael Athey, President, Craig Coleman, Vice President, K. Clay Smith, Treasurer

Alternative Freight Services, Inc., Peace Bridge Warehouse #211, Buffalo, New York 14213; Principals: Peter Vaccaro, President, Sylvia K. Phillips, Vice President, Thomas de Guehery, Vice President

Alan Groner dba AAA Customs Brokers, 9420 West Foster Street, Chicago, Illinois 60656

Karevan, Inc., 3555 Torrance Boulevard #204, Torrance, California 90503; Principals: Harold Thomasian, President/Director, Curtis Preston Mahnkey, Vice President, Aleta Marie Bergquist, Secretary/Treasurer

Lasco International, Inc., 4511 NW 37th Court, Miami, Florida 33142; Principals: Ernest Villoch, President/Treasurer/Director, Lucrecia Villoch, Vice President/Secretary/Director, Isabel Villoch, stockholder, Ana Maria Villoch, stockholder.

Dated: July 8, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-15794 Filed 7-10-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Applications To Engage de Novo in Permissible Nonbanking Activities; Central Wisconsin Bankshares, Inc., et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage in *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 26, 1987.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Central Wisconsin Bankshares, Inc.*, Wausau, Wisconsin; to engage *de novo* through its subsidiary CWB Mortgage, Inc., Wausau, Wisconsin; in mortgage banking activities pursuant to § 225.25(b)(1) of Regulation Y.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Consolidated Bancorp, Inc.*, Rosebud, Texas; to engage *de novo* through its subsidiary Consolidated Loan Service, Inc., Rosebud, Texas; in engaging in the activity of making, acquiring and/or servicing loans or other extensions of credit for itself or for others of the type made by a consumer finance or commercial finance company pursuant to § 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, July 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–15755 Filed 7–10–87; 8:45 am]

BILLING CODE 6210–01–M

Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company; First Bancorp, Inc.

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably" be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 30, 1987.

A **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Bancorp. Inc.*, Tonkawa, Oklahoma; to acquire 89.06 per cent of the voting shares of First Bancorp of Tonkawa, Inc., Tonkawa, Oklahoma; and thereby indirectly acquire First National Bank of Oklahoma, Tonkawa, Oklahoma (formerly The First National Bank of Tonkawa, Tonkawa, Oklahoma).

In connection with this application, Applicant has also applied to acquire Burton Insurance Trust, Tonkawa, Okalhoma, which holds 100 percent of the voting shares of Burton Insurance Agency, Inc., Tonkawa, Oklahoma, and thereby engage in general insurance agency activities in a town with a population of less than 5,000 pursuant to § 225.25(b)(8)(iii)(A) and in the sale of credit-related life and accident and health insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 7, 1987.

James McAfee,

Associate Secretary of the Baord.

[FR Doc. 87–15756 Filed 7–10–87; 8:45 am]

BILLING CODE 6210–01–M

Application To Engage de Novo in Permissible Nonbanking Activities; First Wisconsin Corp.

The organization listed in this notice has applied under § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 26, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Wisconsin Corporation*, Milwaukee, Wisconsin; to engage *de novo* through its subsidiary Elan Investment Services, Inc., Milwaukee, Wisconsin; in soliciting and transmitting orders for the purchase and sale of precious metals.

Board of Governors of the Federal Reserve System, July 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–15757 Filed 7–10–87; 8:45 am]

BILLING CODE 6210–01–M

Acquisition of Company Engaged in Permissible Nonbanking Activities; Mark Twain Bancshares, Inc.

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking

activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 3, 1987.

A. **Federal Reserve Bank of St. Louis.** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mark Twain Banchsares, Inc.*, St. Louis, Missouri; to acquire Accredited Premium Acceptance Corporation, St. Louis, Missouri; and thereby engage in making and servicing loans pursuant to § 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, July 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-15758 Filed 7-10-87; 8:45 am]

BILLING CODE 6210-01-M

Acquisitions of Shares of Banks or Bank Holding Companies; Michael E. Schrage, et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 3, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Michael E. Schrage*, Whiting, Indiana; to retain 23.62 percent of the voting shares of First Banchsares, Inc., Highland, Indiana.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 63166:

1. *Alfred F. Boudreau, Jr. Trust*, and Katherine F. Boudreau Trust, Tulsa, Oklahoma; to acquire an additional 0.4 percent of the voting shares of Brookside Banchsares, Inc., Tulsa, Oklahoma; and thereby indirectly acquire Brookside State Bank, Tulsa, Oklahoma.

2. *The Profit Sharing Plan and Trust*, and the Pension Plan and Trust of the Kansas City Otolaryngic Medical Group, Inc., Wade V. Robinett, M.D., Kansas City, Missouri, Trustee; to acquire an additional 6.6 percent of the voting shares of Superior Bancshares, Inc., Kansas City, Missouri; and thereby indirectly acquire Superior National Bank, Kansas City, Missouri.

3. *Ben A. Lanford, Sr.*, Dellie P. Lanford, and State Beer Distributors, Inc., all of Albuquerque, New Mexico; to acquire an additional 11.5 percent of the voting shares of The Bank of New Mexico Holding Company, Albuquerque, New Mexico, and thereby indirectly acquire The Bank of Albuquerque, Albuquerque, New Mexico, and The Bank of New Mexico, Las Vegas, New Mexico.

4. *Keith S. Scott*, Woodland Park, Colorado, Roger Hurst, Johnson, Kansas, Joe L. Durler, George W. Kilgore, Gene Weckerly, Grady Grissom, Harold Guldner, Roy W. Friesen, Charles Howell, Timothy C. Kohart, Steve J. Schell, and Gerald Clary, all of Syracuse, Kansas; to acquire 75.4 percent of the voting shares of Valley Bancorp, Inc., Hutchinson, Kansas; and thereby indirectly acquire The Valley State Bank, Syracuse, Kansas.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Mr. William K. Hood*, Newport Beach, California; to acquire up to 15 percent of the voting sahres of Pioneer Bancorp, Fullerton, California; and thereby indirectly acquire Pioneer Bank, Fullerton, California.

Board of Governors of the Federal Reserve System, July 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-15754 Filed 7-10-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Spring Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 31, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinios 60690:

1. *Spring Bancorp, Inc.*, Springfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Springfield, Springfield, Illinois.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Staun Bancorp, Inc.*, Springfield, Ilinois; to become a bank holding company by acquiring 100 percent of the voting shares of First Community State Bank, Staunton, Illinois. Comment on this application must be received by August 3, 1987.

Board of Governors of the Federal Reserve System, July 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-15759 Filed 7-10-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87P-0207]

Canned Pacific Salmon Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Bumble Bee Seafoods, Inc., to market test canned skinless and boneless chunk salmon packed in water and containing sodium tripolyphosphate to inhibit protein curd formation during retorting. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than October 13, 1987.

FOR FURTHER INFORMATION CONTACT: Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0110.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Bumble Bee Seafoods, Inc., San Diego, CA 92123.

The permit covers limited interstate marketing tests of canned skinless and boneless chunk salmon packed in water. The test product deviates from the standard of identity for canned Pacific salmon (21 CFR 161.170) in four ways: (1) The form of pack is chunk, i.e., not less than 50 percent of the drained weight of the salmon is retained on a ½-inch mesh screen; (2) the skin and backbone, i.e., vertebrae and associated bones (neural spines and ventral ribs), are removed; (3) water, in an amount not to exceed 10 percent of the water capacity of the can, will be used as a packing medium and to aid in dispersion of salt; and (4) sodium tripolyphosphate, in an amount not to exceed 0.50 percent of the weight of the finished food including free liquid, will be used to inhibit formation of protein curd during retorting. The test product meets all requirements of § 161.170, with the exception of these deviations. The permit provides for the temporary marketing of 1,000,000 cases of test product containing twenty-four 6½-ounce cans each. The test product will be distributed throughout the United States.

The test product is to be manufactured at the Petersburg Fisheries plant located in Petersburg, AK 99833.

Each of the ingredients used in the food is stated on the label as required by the applicable sections of 21 CFR Part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than October 13, 1987.

Dated: July 6, 1987.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-15765 Filed 7-10-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87P-0175]

Canned Pacific Salmon Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Carnation Co. to market test canned skinless and boneless chunk salmon packed in water and containing sodium tripolyphosphate to inhibit protein curd formation during retorting. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than October 13, 1987.

FOR FURTHER INFORMATION CONTACT: Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0110.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Carnation Co., Los Angeles, CA 90009.

The permit covers limited interstate marketing tests of canned skinless and boneless chunk salmon packed in water. The test product deviates from the standard of identity for canned Pacific salmon (21 CFR 161.170) in four ways: (1) The form of pack is chunk, i.e., not less than 50 percent of the drained weight of salmon is retained on ½-inch mesh screen; (2) the skin and backbone, i.e., vertebrae and associated bones (neural spines and ventral ribs) are removed; (3) water, in an amount not to exceed 10 percent of the water capacity of the can, will be used as a packing medium and to aid in dispersion of salt; and (4) sodium tripolyphosphate, in an amount not to exceed 0.50 percent of the weight of the finished food including free liquid, will be used to inhibit formation of protein curd during retorting. The test product meets all requirements of § 161.170 with the exception of these deviations. The permit provides for the temporary marketing of 100,000 cases of test product containing twenty-four 6½-ounce cans each. The test product will be distributed throughout the United States.

The test product is to be manufactured at the Petersburg Fisheries plant located in Petersburg, AK 99833.

Each of the ingredients used in the food is stated on the label as required by the applicable sections of 21 CFR Part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than October 13, 1987.

Dated: July 2, 1987.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-15766 Filed 7-10-87; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Advisory Council on Hazardous Substances Research and Training, July 20, 1987, which was

published in the **Federal Register** on June 30, (52 FR 24346).

This meeting was to be held at the National Institutes of Health, National Library of Medicine, Director's Board Room, Building 38, Bethesda, Maryland. The meeting will now be held at the National Institutes of Health, Building 16 (Stonehouse) Conference Room, Bethesda, Maryland.

The meeting will begin at 9:00 a.m. and end at approximately 4:30 p.m. The meeting is open to the public. Attendance is limited only by space available.

Dated: July 6, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-15768 Filed 7-10-87; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 1654, January 11, 1974, as amended most recently in part by 51 FR 35701, October 7, 1986) is amended to reflect a reorganization of the National Institute on Drug Abuse, ADAMHA. The reorganization abolishes the Division of Prevention and Communications.

Section HM-B, Organization and Functions, is amended as follows: (1) Delete the functional statement for the *Division of Prevention and Communications (HMH6)* in the National Institute on Drug Abuse.

Dated: June 29, 1987.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 87-15779 Filed 7-10-87; 8:45 am]

BILLING CODE 4160-20-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. I-87-145]

Intent To Issue a Finding of No Significant Impact on Canterbury Place, Crystal Lake, IL

The Department of Housing and Urban Development gives notice concerning the subject proposal, located between Route 31 and Barrville Road, south of Thunderbird Lake and north of South 176, that it intends to issue a Finding of No Significant Impact (FONSI) based on an Environmental Assessment (EA) for the project. Comments are solicited before the HUD Chicago Regional Office mades a final determination whether to proceed without preparing an Environmental Impact Statement (EIS).

Description

Canterbury Place is planned as a retirement community located in Crystal Lake, Illinois approximately 50 miles north-west of downtown Chicago. It was annexed, zoned, and received preliminary Planned Unit Development approval from Crystal Lake in 1985. As annexed, the plan includes a 600 bed nursing home (4 buildings), 2000 congregate living units (4 buildings), 916 independent living units (15 buildings) a combination of retail, business and professional offics to serve residents, an 18 hole golf course, a club house, and other recreational facilities. The entire community is planned to occur in phases over 15 years period and the first phase, a 99 bed nursing home, Ballashire Hall, is presently being considered for mortgage insurance by HUD.

Purpose of FONSI Notice

Pursuant to HUD environmental regulations at 24 CFR Part 50, an EA has been prepared by HUD's Chicago Regional Office to determine whether or not an EIS is required. It is the finding of the EA that there would be no significant impact on the human environment and that the project is in compliance with the National Environmental Policy Act and related environmental laws and authorities cited at 24 CFR 50-4. Therefore, in accordance with the applicable regulations a proposed FONSI has been prepared, and a Notice to that effect is hereby published. The Department, through this Notice, is cancelling the earlier Notice of Intent to Prepare an EIS, which was published in the Federal Register on October 27, 1986.

In accordance with 40 CFR 1501.4(e) of the Council on Environmental Quality regulations, there will be a thirty (30) day comment period before HUD makes its final determination on the FONSI. Interested individuals, Governmental agencies, and private organizations are invited to comment on the FONSI to the address set forth below:

Regional Environmental Officer,
Department of Housing and Urban Development, Chicago Regional Office, Room 1013, 547 West Jackson Boulevard, Chicago, Illinois 60606.

The EA and its supporting documentation may be viewed during normal business hours at the location noted above. Contacts concerning the EA should be made with Harry P. Blus, Regional Environmental Officer at (312) 353-2977. (This is not a toll-free commercial number.)

Dated: July 7, 1987.

Richard H. Broun,

Director, Office of Environment and Energy.

[FR Doc. 87-15803 Filed 7-10-87; 8:45 am]

BILLING CODE 4210-29-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-87-1668; FR-2299]

Transitional Housing Demonstration Program; Notice of Final Guidelines—Technical Amendment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of Final Guidelines—Technical Amendment.

SUMMARY: On June 9, 1987 (52 FR 21743), HUD published its final guidelines for the operation of the Transitional Housing Demonstration Program. This notice makes a technical amendment to the final guideline governing compliance with the National Historic Preservation Act.

EFFECTIVE DATE: July 13, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-5720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 9, 1987 (52 FR 21743), HUD published a notice announcing its final guidelines for the operation of the Transitional Housing Demonstration Program. The threshold requirements for selection under the Program that were announced in the final guidelines included a provision addressing the National Historic Preservation Act of 1966 (16 U.S.C. 470-470w-6). The guidelines (52 FR at 21765) provided:

> The applicant must provide a letter from the State Historic Preservation Officer (SHPO), indicating that *no acquisition or rehabilitation funded under the Program* would involve an historic property as defined in 36 CFR 800.2(e) (*i.e.*, an historic or prehistoric district, site, building, structure or object included in or eligible for inclusion in

the National Register of Historic Places) or would involve a structure that is immediately adjacent to an historic property that is listed on the Register. (Emphasis added.)

The purpose of this threshold requirement was to ensure compliance with section 106 of the National Historic Preservation Act, to comply with the congressional mandate for speedy implementation of the demonstration program, and to benefit homeless persons as quickly as possible.

We have reviewed the laws and authorities dealing with historic preservation. We have determined that the requirement for the submission of a SHPO statement that covers "acquisition and rehabilitation activities funded under the Program" does not fully address the requirements of the National Historic Preservation Act and the implementing regulations at 36 CFR Part 800. Undertakings covered by the historic preservation authorities include:

"any project, activity, or program that can result in changes in the character or use of historic properties, if any such historic properties are located in the area of potential effects. The project, activity, or program must be under the direct or indirect jurisdiction of a Federal agency or licensed or assisted by a Federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements not previously considered under section 106." (36 CFR 800.2(o)).

Undertakings covered under the National Historic Preservation Act may include transitional housing activities in addition to acquisition and rehabilitation funded under the Program. (E.g., An applicant may acquire and rehabilitate a structure in connection with the Transitional Housing Demonstration Program but not receive funding under the Program for an acquisition/rehabilitation advance. Also, HUD's payment for annual operating costs may result in changes in the character or use of an historic property even though no acquisition or rehabilitation is funded by HUD, or performed by a recipient.

To make sure that our guidelines fully address the requirements of the National Historic Preservation Act, the threshhold requirement found at paragraph IV.D.2.(iv)(d)(3) of the final guidelines (52 FR at 21765) is amended to read as follows:

The applicant must provide a letter from the State Historic Preservation Officer (SHPO), indicating that no project funded under the Program would involve an historic property as defined in 36 CFR 800.2(e) (*i.e.*, an historic or prehistoric district, site, building, structure or object included in or eligible for inclusion in the national Register of Historic Places) or would involve a structure that is immediately adjacent to an historic property that is listed on the Register.

Under the final guidelines, applicants are required to submit the SHPO letter (and all other application requirements) by August 7, 1987. While this notice expands the historic preservation requirement contained in the final guidelines, all applicants should have an adequate time period to acquire and submit the SHPO letter since the transmittal letter to the application package informs all applicants of HUD's intent to publish this technical amendment. The application package (Exhibit 7) conforms to the requirements of this amendment.

Other Information

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(1)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, at the above address.

The information collection requirements contained in this notice have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The OMB number is 2502–0361.

The Catalog of Federal Domestic Assistance Program Number is 14.178.

Authority: Section 101(g). Pub. L. 99–500 (approved October 18, 1986) and Pub. L. 99–591 (approved October 30, 1986), making appropriations as provided for in section 514 of H.R. 5313, 99th Cong., 2d Sess. (1986) (as passed by the House of Representatives and by the Senate), to the extent and in the manner provided for in H. Rep. No. 977, 99th Cong., 2d Sess. (1986); section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 1, 1987.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 87–15804 Filed 7–10–87; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–07–4212–13; A–22308]

Realty Action; Mohave County, AZ; Correction

Notice of Realty Action—Land Exchange with Private Party, Mohave County, Arizona (originally published in the **Federal Register** on June 25, Vol. 52, No. 122, page 23895).

In the first paragraph, change the legal description of the public lands in Gila and Salt River Meridian, Arizona, to T. 14 N., R. 20 W. (not R. 10 W.).

Dated: July 1, 1987.

J. Darwin Snell,

District Manager.

[FR Doc. 87–15828 Filed 7–10–87; 8:45 am]

BILLING CODE 4310–32–M

[NM–930–07–4220–10; NM NM 35829]

New Mexico; Legal Description of McGregor Range Withdrawal; Clarification and Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to Notice.

SUMMARY: This notice will clarify and correct errors and omissions in the heading, summary, and legal descriptions appearing in the notices dated May 20, 1987, and June 12, 1987.

FOR FURTHER INFORMATION CONTACT: Kay Thomas, BLM New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504–1449, 505–988–6589.

SUPPLEMENTARY INFORMATION: The heading, summary, and legal descriptions appearing in the notice of May 12, 1987, in FR Doc. 87–11551, published on pages 18960 through 18963 in the issue of Wednesday, May 20, 1987, are hereby corrected as follows:

The heading on page 18960 which reads "New Mexico; Withdrawal of Lands Under Section 2 of the Military Lands Withdrawal Act of 1986, McGregor Range" is hereby corrected to read "New Mexico; Legal Description of McGregor Range Withdrawal."

The summary in the first column on page 18960, which reads "Pursuant to Pub. L. 99–606 (H.R. 1790) dated November 6, 1986, the lands described in paragraph 2 of this notice, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral leasing laws and the geothermal leasing laws, subject to prior existing rights, and are reserved for training, weapons testing, and other defense related purposes by the Secretary of the Army, for the McGregor Range" is hereby corrected to read "This notice provides official publication of the legal descriptions of the McGregor Range Withdrawal in New Mexico, as required by section 2(a) of Pub. L. 99–606 enacted November 6, 1986."

On page 18961, in the second column, after the 25th line from the bottom of that column, immediately following T. 19 S., R. 10 E., insert "sec. 2, SE¼."

On page 18962, in the third column, the 23rd line which reads "sec. 7, NW¼NW¼" is hereby corrected to read "sec. 7, NE¼, NW¼NW¼."

The heading appearing in the correction of June 12, 1987, published on page 22577, in the issue of Friday, June 12, 1987, which reads "New Mexico; Withdrawal of Lands Under Section 2 of the Military Lands Withdrawal Act of 1986, McGregor Range" is hereby corrected to read "New Mexico; Legal Description of McGregor Range Withdrawal."

Dated: July 7, 1987.

Robert L. Schultz,

Acting State Director.

[FR Doc. 87-15799 Filed 7-10-87; 8:45 am]

BILLING CODE 4310-FB-M

National Park Service

Intention To Negotiate Concession Contract; Little Mountain Service Center, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Little Mountain Service Center, Inc., authorizing it to continue to provide an automotive service station with limited refreshment, souvenir and grocery sales for the public on the Natchez Trace Parkway for a period of five (5) years from January 1, 1988, through December 31, 1992.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment and finding of no significant impact may be reviewed in the office of the Superintendent, Natchez Trace Parkway.

The forgoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1987, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated. Interested parties should contact the Regional Director, Southeast Region, 75 Spring Street, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

C. W. Ogle,

Acting Regional Director, Southern Region.

[FR Doc. 87-15767 Filed 7-10-87; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31059]

Central Michigan Railway Co.; Acquisition and Operation Exemption; Certain Lines of Grand Trunk Western Railroad Co.

The Central Michigan Railway Company (CMR) has filed a notice of exemption to acquire and operate certain properties of the Grand Trunk Western Railroad Company (GTW). The property includes 228.5 route miles of rail line in Michigan and consists of the Muskegon subdivision between milepost 69.00 and milepost 197.601, excluding the right-of-way between Owosso, and Ashley, MI; the Coopersville subdivision between milepost 0.00 and milepost 8.00; the Paines subdivision between milepost 0.00 and milepost 3.30; the Saginaw subdivision between milepost 0.60 and milepost 57.90; the Midland subdivision between milepost 0.00 and milepost 17.20; the North Water Street Spur between milepost 0.00 and milepost 3.20; the South Water Street Spur between milepost 0.00 and milepost 6.20; and the Denmark Spur betwen milepost 0.00 and milepost 6.20; and the Denmark Spur between milepost 0.00 and milepost 4.70; and trackage rights; (1) Over the Saginaw subdivision between milepost 0.00 and milepost 0.60 and (2) over the Holly-Grand Rapids subdivision between milepost 65.70 and milepost 69.00.

The continuance in control of CMR and another rail carrier, the Detroit & Mackinac Railway Company, by the Straits Corporation is the subject of a petition for exemption filed concurrently in Finance Docket No. 31061.[1] Any comments must be filed with the Commission and served on Mark M. Levin, Weiner, McCaffery, Brodsky & Kaplan, Suite 800, 1350 New York Avenue, NW., Washington, DC 20005-4797; and Robert Walker, Grand Trunk Western Railroad Company, 131 West Lafeyette Boulevard, Detroit, MI 48226.[2] This transaction will also involve the issuance of securities by CMR which will be a Class III carrier. The issuance of these securities is exempt under 49 CFR 1175.1

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: July 9, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGree,

Secretary.

[FR Doc. 87-15952 Filed 7-10-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31046]

CSX Transportation, Inc.; Renewal of Trackage Rights Exemption; Central of Georgia Railroad Co.

Central of Georgia Railroad Company (Central) has agreed to grant a renewal

[1] CMR's acquisition of the involved GTW properties must await an effective Commission decision in Finance Docket No. 31061, exempting the continuance in control described above.

[2] The Railway Labor Executives' Association (RLEA) filed an unsupported request for labor protection claiming that this transaction is subject to the mandatory protection provisions of 49 U.S.C. 11347. The United Transportation Union (UTU) joins in RLEA's position. Mr. Robert Geiersbach opposes acquisitions of the involved GTW property until adequate labor protection is provided to the former Penn Central Railroad enginemen who work on lines and facilities acquired by GTW on April 1, 1976. Mr. Geierscach also requests the opportunity to provide testimony concerning his position.

Since this transaction involves an exemption from 49 U.S.C. 10901, only a showing of exceptional circumstances will justify the imposition of labor protective conditions. RLEA's, UTU's, and Mr. Geiersbach's labor protection requests are denied because the requisite showing has not been made. - *See Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901*, 1 I.C.C2d 810 (1985).

Mr. Geiersbach may file a petition for partial revocation of this exemption. *See* 49 U.S.C. 10505(d). In this petition Mr. Geiersbach can explain why this transaction will adversely affect him and how any adverse consequences constitute exceptional circumstances warranting the imposition of labor protective conditions. *See* 49 CFR 1180.4(e). Mr. Geiersbach may also, at that time, if he should so desire, provide arguments in support of his oral hearing request.

of trackage rights to CSX Transportation, Inc. (CSXT) over Central's 10.23-mile long line of railroad between Milledgeville, Baldwin County, GA, and Georgia Power Company's Plant Harlee in Putnam County, GA.[1] The trackage rights have already been granted.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).[2]

Decided: July 6, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-15827 Filed 7-10-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31058]

Mendocino Coast Railway, Inc. and California Western Railroad; Acquisition Exemption

Mendocino Coast Railway, Inc. (Mendocino), a wholly-owned subsidiary of Kyle Railways, Inc., has filed a notice of exemption to acquire and operate the property and trackage rights of California Western Railroad (California). Mendocino has been operating California's property and trackage rights pursuant to a lease agreement executed June 30, 1976, and authorized by the Commission.

Applicant states that its railroads do not connect with each other and that the acquired railroad would not connect with any railroad in applicant's corporate family. This transaction, therefore, involves the acquisition or continuance in control of a nonconnecting carrier that is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the requirements of 49 U.S.C. 10505(g)(2).[1]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.[2]

Decided: July 8, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-15876 Filed 7-10-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Pursuant to the National Cooperative Research Act of 1984; Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.*, written notice has been filed by Bell Communications Research, Inc. ("Bellcore") and Microwave Semiconductor Corporation, ("MSC") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties of the joint venture and (2) the nature and objectives of the joint venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 West Mount Pleasant Avenue, Livingston, New Jersey 07039.

MSC is a Delaware corporation with its principal place of business at 100 School House Road, Somerset, New Jersey 08873-1276.

Bellcore and MSC entered into an agreement effective May 7, 1987 to collaborate on research to secure a scientific understanding of the physical principles underlying the structure and the electrical and optical properties of compound semiconductor materials and to better understand their application for exchange and exchange access services, including, but not limited to investigating the application of GaAs IC technologies for high frequency lightwave systems.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87-15771 Filed 7-10-87; 8:45 am]

BILLING CODE 4410-01-M

LEGAL SERVICES CORPORATION

Request for Comments on a Grant Award; New Orleans Pro Bono Project

AGENCY: Legal Services Corporation.

ACTION: The Legal Services Corporation (LSC) announces that it is considering awarding a special one-time grant of $45,000 in 1987 to the New Orleans Pro Bono Project (Louisiana) to provide legal services to the indigents in Orleans Parish and surrounding parishes through the *pro bono* services of individual practitioners.

DATE: All comments and recommendations must be received by the Office of Field Services within thirty (30) calendar days of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Legal Services Corporation, Office of Field Services, Victoria O'Brien, Acting Assistant to the Director, 400 Virginia Avenue, SW, Washington, DC 20024-2751 (202) 863-1837.

SUPPLEMENTARY INFORMATION: Under the New Orleans Pro Bono Project, which will receive referrals from the New Orleans Legal Assistance Corporation, Inc., private attorneys will be recruited to handle three cases each per year. The current level of private attorney participation allows the Pro Bono Project to refer out over one thousand cases on an annual basis. The number of referrals is expected to

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[1] When the Commission initially approved this trackage rights agreement, the joint applicants were CSXT's predecessors, Georgia Railroad, Atlantic Coast Line Railroad Company, and Louisville and Nashville Railroad Company. Also, the rail line in question was owned by Central's predecessor, Central of Georgia Railway Company. After expiration of the initial agreement on March 31, 1980, a two-year extension was agreed upon. Then, by supplemental agreement of August 17, 1982, a 10-year extension was agreed upon. However, Commission approval was not sought for these agreements. The instant request is therefore being considered as an acquisition, rather than a renewal, of trackage rights.

[2] The Brotherhood of Locomotive Engineers (BLE) has filed a letter (protest) in opposition to approval of the application. It requests oral hearing and, if the application is ultimately approved, it seeks the inclusion of labor protective conditions. The Railway Labor Executives' Association also filed a request for labor protection. BLE has shown no basis for either an oral hearing or the denial of the exemption. Since this transaction involves an exemption from 49 U.S.C. 11343, the imposition of the labor protective conditions is mandatory and it has been imposed above.

[1] The Railway Labor Executives' Association (RLEA) filed a request for labor protection. Since this transaction involves an exemption from 49 U.S.C. 11343, whereby the imposition of labor protective conditions is mandatory, labor protective conditions have been imposed above.

[2] On June 22, 1987, the Commission denied a request by the Public Utilities Commission of the State of California and several supporting parties to stay the exemption.

increase as a result of greater private attorney participation. In addition to providing such legal services to LSC-eligible clients, the Pro Bono Project will provide participating private attorneys with training in poverty law areas. LSC is providing its support to this effort as a model project.

Interested persons are invited to submit written comments and/or recommendations concerning this grant action to Victoria O'Brien.

Dated: July 6, 1987.

Mary C. Higgins,

Acting Director, Office of Field Services.

[FR Doc. 87-15843 Filed 7-10-87; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Meeting

July 7, 1987.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Philadelphia, Pennsylvania, on August 6-7, 1987.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out her functions, to review applications for financial support and gifts offered to the Endowment, and to make recommendations thereon to the Chairman.

The committee meetings on Thursday, August 6, will be held in the Sheraton Society Hill Hotel at 1 Dock Street with the exception of the Preservation Committee which will meet at the American Philosophical Society Building at 105 South 5th Street in Philadelphia, Pennsylvania. A portion of the morning and afternoon sessions on August 6, 1987, will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the sessions on August 6, 1987, will be as follows:

Committee Meetings

(Open to the Public)

10:00 a.m.-10:30 a.m.: Committee Meetings—Policy Discussion
Education Programs—Flower Room
Fellowship Program—Frampton Room
General Programs—Reynolds Room
Research Programs—Shippen Room
State Programs—Board Room

10:30 a.m. until adjournment
(Closed to the Public for the reasons stated above)—Consideration of specific applications

(Open to the Public)

Policy Discussion

3:00 p.m.-3:30 p.m.: Preservation Grants—Conference Room

3:30 p.m. until adjournment:
(Closed to the Public for the reasons stated above)—Consideration of specific applications

The morning session on August 7, 1987, will convene at 9:00 a.m., in the second floor conference room of the Second National Bank at 420 Chestnut Street, and will be open to the public. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting
Reports
A. Introductory Remarks
B. Introduction of New Staff
C. Contracts Awarded in the Previous Quarter
D. National Capital Arts and Cultural Affairs Program
E. Application Report and Matching Report
F. Status of Fiscal Year 1987 Funds
G. Status of Fiscal Year 1988 Appropriation Request
H. Committee Reports on Policy and General Matters
1. Education Programs
2. Fellowship Programs
3. Preservations Grants
4. Research Programs
5. General Programs
6. State Programs
7. Jefferson Lecture

The remainder of the proposed meeting will be given to the consideration of the FY 1989 budget and specific application (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, DC 20506, or call area code (202) 786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 87-15793 Filed 7-10-87; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-225; Facility Operating License No. CX-22; Amdt. No. 7]

Rensselaer Polytechnic Institute Critical Facility, Department of Nuclear Engineering and Science; Order Modifying License

I

Rensselaer Polytechnic Institute (licensee) is the holder of Facility Operating License No. CX-22 (License) issued on July 23, 1964 (Possession Only) and July 20, 1965 (Operating), and with subsequent renewals on June 19, 1969 and December 2, 1983 issued by the U.S. Nuclear Regulatory Commission (Commission). The license authorizes the operation of the Rensselaer Polytechnic Institute Critical Facility (facility) at a power level not in excess of 100 watts (thermal). The facility is a research reactor located on the south side of the Mohawk River in Schenectady, New York, adjacent to a site belonging to the General Electric Company. The mailing address, however, is Rensselaer Polytechnic Institute Critical Facility, Department of Nuclear Engineering and Science, Troy, New York 12181.

II

On February 25, 1986, the Commission promulgated a final rule in 10 CFR 50.64 of its regulations limiting the use of high-enriched uranium (HEU) fuel in domestic research and test reactors (non-power reactors) (see 51 FR 6514). The rule became effective on March 27, 1986.

The rule requires that a licensee of an existing non-power reactor (as a separate matter, the rule also covers newly licensed non-power reactors) replace HEU fuel at its facility with low-enriched uranium (LEU) fuel acceptable to the Commission: (1) Unless the Commission has determined that the reactor has a unique purpose and (2) contingent upon Federal Government funding for conversion-related costs.

The rule is intended to promote the common defense and security by reducing the risk of theft and diversion of HEU fuel used in non-power reactors and the consequences to public health

and safety and the environment from such theft or diversion.

10 CFR 50.64(b)(2)(i) and (ii) require that a licensee of a non-power reactor (1) not initiate acquisition of additional HEU fuel, if LEU fuel acceptable to the Commission for that reactor is available when it proposes that acquisition and (2) replace all HEU fuel in its possession with available LEU fuel acceptable to the Commission for that reactor, in accordance with a schedule determined pursuant to 10 CFR 50.64(c)(2).

10 CFR 50.64(c)(2) of the rule, among other things, requires each licensee of a non-power reactor, authorized to possess and to use HEU fuel, to develop and to submit to the Director of the Office of Nuclear Reactor Regulation (Director) by March 27, 1987, and at 12-month intervals thereafter, a written proposal (proposal) for meeting the rule's requirements.

10 CFR 50.64(c)(2)(i) requires the licensee to include in its proposal: (1) a certification that Federal Government funding for conversion is available through the Department of Energy (DOE) or other appropriate Federal agency and (2) a schedule for conversion, based upon availability of fuel acceptable to the Commission for that reactor and upon consideration of other factors such as the availability of shipping casks, implementation of arrangements for the available financial support, and reactor usage.

10 CFR 50.64(c)(2)(iii) requires the licensee to include in its proposal, to the extent required to effect conversion, all necessary changes to the license, to the facility, and to the licensee's procedures (all three types of changes hereafter called modifications). This paragraph also requires the licensee to provide supporting safety analyses so as to meet the schedule established for conversion.

10 CFR 50.64(c)(2)(iii) also requires the Director to review the licensee's proposal, to confirm the status of Federal Government funding, and to determine a final schedule, if the licensee has submitted a schedule for conversion.

10 CFR 50.64(c)(3) requires the Director to review the licensee's supporting safety analyses and to issue an appropriate enforcement order directing both the conversion and, to the extent consistent with protecting the public health and safety, any necessary modifications. The Commission explained in the statement of considerations of the final rule that in most cases, if not all, the enforcement order would be in the form of an order to modify the license under 10 CFR 2.204 (see 51 FR 6514).

III

10 CFR 2.204 provides, among other things, that the Commission may modify a license by issuing an amendment on notice to the licensee that it may demand a hearing with respect to any part or all of the amendment within 20 days from the date of the notice or such longer period as the notice may provide. The amendment will become effective on the expiration of this 20-day-or-longer period. If the licensee requests a hearing during this period, the amendment will become effective on the date specified in an order made after the hearing.

IV

10 CFR 2.714 sets out the requirements for a person whose interest may be affected by any proceeding to initiate a hearing or to participate as a party.

V

On October 3, 1986, the Director received the licensee's proposal, including its proposed modifications, supporting safety analyses and schedule for conversion. The coversion consists of the installation of low-enriched UO_2 fuel pins, enriched to about 4.8% in the U-235 isotope, produced in the early-to-mid 1960s for use in the Special Power Excursion Reactor Test (SPERT) Program. The HEU fuel has been removed from the facility. The Licensing Conditions and Technical Specification changes needed to amend the facility license are included in the attachment to this Order. Also, the Technical Specifications have been revised to include minor editorial changes. On the bases of the licensee's submittals and on the requirements of 10 CFR 50.64, I have made a determination that the public health and safety and the common defense and security require the licensee to convert from the use of HEU to LEU fuel pursuant to the modifications set forth in the attachment based upon the schedule set out below.

VI

Accordingly, pursuant to sections 51, 53, 57, 101, 104, 161b., 161i., and 161o. of the Atomic Energy Act of 1954, as amended, and to the Commission's regulations in 10 CFR 2.204 and 50.64, it is hereby ordered that:

Within 30 days of the date of publication of this Order in the **Federal Register**, Facility License No. CX-22 is modified by amending the License Conditions and Technical Specifications as stated in the Attachment to this Order.

VII

The licensee or any other person whose interest is adversely affected by this Order may request a hearing within 30 days of its date of publication in the **Federal Register**. Any request for a hearing, petition for leave to intervene, or answer to this Order shall be submitted to the Director of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of the request, petition or answer shall also be sent to the Office of the General Counsel at the same address, and to the Regional Administrator, Region I, USNRC, 631 Park Avenue, King of Prussia, PA 19406. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held about this Order, the Commission will issue an order designating the time and place of the hearing and the issue to be considered in that hearing be whether this Order shall be sustained.

This Order shall become effective within 30 days of its date of publication in the **Federal Register** or, if a hearing is held, on the date specified in an order following further proceedings on this Order.

An Environmental Assessment with a finding of no significant impact on the environment has been prepared in conjunction with this Order and is available in the Nuclear Regulatory Commission's Public Document Room at 1717 H Street, NW, Washington, DC 20555.

Dated at Bethesda, Maryland, this 7th day of July 1987.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

Attachment To Order—Modifying License No. CX-22

Dated: July 7, 1987.

A. License Conditions Revised by This Order

No. 2.B.2. Pursuant to the Act and 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material," to receive, possess and use at any one time up to 21.12 kilograms of contained uranium-235 in SPERT (F-1) fuel pins and up to 80 grams of plutonium encapsulated in plutonium-beryllium neutron

sources, both in connection with operation of the facility.

No. 2.B.5. Delete. (This condition is deleted because it authorized possession of 21.12 kilograms of SPERT (F-1) fuel pins. This condition has now been included in License Condition No. 2.B.2.)

No. 2.C.2. The Technical Specifications contained in Appendix A, dated November 1983, as revised through Amendment 7, are hereby incorporated in the license. The licensee shall operate the reactor in accordance with these Technical Specifications.

B. Technical Specifications Revised by This Order

Table of Contents

[1] All of Section 6 of the Table of Contents has been revised so that it corresponds to the actual Technical Specifications.

1.0 Definitions

D. *Control Rod Assembly*—A control mechanism consisting of a stainless steel basket that houses two absorber sections, one above the other. These absorber sections may contain either enriched boron in iron, EuO_3 in a stainless steel cermet, stainless steel, or an alloy of silver-cadmium-indium. All absorber sections except the one containing silver-cadmium-indium are clad in stainless steel. All are of the same dimensions, nominally 2.6 inches square, with their poisons uniformly distributed. The absorbers, when fully inserted, shall extend above the top and to within one inch of the bottom of the active core.

N. *Reactor Secured*—(1) The full insertion of all control rods has been verified, (2) the console key is removed, and (3) no operation is in progress which involves moving fuel pins in the reactor vessel, the insertion or removal of experiments from the reactor vessel, or control rod maintenance.

O. *Reactor Shutdown*—The control rods are fully inserted and the reactor is shut down by at least 1.00$. The reactor is considered to be operating whenever this condition is not met and more than 60% of the total number of fuel pins required for criticality in a given configuration (Core A or Core B) have been loaded in the core.

Q. *Reportable Occurrence*—The occurrence of any facility condition that:

6. Results in uncontrolled or unanticipated change in reactivity of greater than 0.60$;

T. *Secured Experiment*—Any experiment, experimental facility, or component of an experiment is deemed to be secured, or in a secured position, if it is held in a stationary position relative to the reactor. The restraining forces must be equal to or greater than those that hold the fuel pins themselves in the reactor core.

2.0 Safety Limits and Limiting Safety System Settings

2.1 *Safety Limits—Fuel Pellet Temperature*

Applicability

Applies to the maximum temperature reached in any incore fuel pellet as a result of either normal operation or transient effects.

Objective

To identify the maximum temperature beyond which material degradation of the fuel and/or its cladding is expected.

Specification

Fuel pellet temperature at any point in the core, resulting from normal operation or transient effects, shall be limited to no more than 2000°C.

Bases

Specific determination of the melting point of the SPERT fuel has not been reported. A safety limit of 2000° C is below the listed melting point of UO_2 under a wide variety of conditions. The chosen value is conservative in view of variations that might result because of the presence of small quantities of impurities and the comparatively high vapor pressure of UO_2 at elevated temperatures. The safety limit specified is about 700° C below the measured melting point of UO_2 in a helium atmosphere.*

2.2 *Limiting Safety Setting-Reactor Power*

Bases

The maximum power level trip setting of 135 watts on Log Power and Period Channel 2(PP2) correlates with a reading of not greater than 90% on the highest scale of either of the two Linear Power Channels (LP1, LP2) as established by activation techniques. These scram setpoints ensure reactor shutdown and

*Reference: W.A. Duckworth, ed., "Physical Properties of Uranium Dioxide," *Uranium Dioxide: Properties and Nuclear Applications* (Washington, DC: Naval Reactors, Division of Reactor Development), 1961, pp. 173–228.

prevent significant energy deposition or enthalpy rise in the core in the event of any credible accident scenario.

The minimum flux level has been established at 2 cps to prevent a source-out startup and provide a positive indication of proper instrument function before any reactor startup.

The minimum 5-second period is specified so that the automatic safety system channels have sufficient time to respond in the event of a very rapid positive reactivity insertion. Power increase and energy deposition subsequent to scram initiation are thereby limited to well below the identified safety limit.

3.0 Limiting Conditions for Operation

3.1 *Reactor Control and Safety Systems*

Specifications

1. The excess reactivity of the reactor core above cold, clean critical shall not be greater than 0.60$. The maximum reactivity worth of any clean fuel pin shall be 0.20$.

2. There shall be a minimum of four operable control rods. The reactor shall be subcritical by more than 0.70$ with the most reactive control rod fully withdrawn.

(Paragraphs 3–9 have not changed and therefore are not included.)

10. The thermal power level shall be controlled so as not to exceed 100 watts, and the integrated thermal power for any consecutive 365 days shall not exceed 200 kilowatt-hours.

Bases

The minimum number of four control rods is specified to ensure that there is adequate shutdown capability even for the stuck control rod condition.

(Paragraphs 2–6 have not changed and therefore are not included.)

Limitations imposed on core reactivity, control rod worth, and reactor power preclude conditions that could allow the development of a potentially damaging accident. The limitations are conservative in view of core energy deposition, yet permit adequate flexibility in the research and instruction for which the facility is intended.

3.2 *Reactor Parameters*

Specifications

I. Above 100° F the isothermal temperature coefficient of reactivity shall be negative. The net positive reactivity insertion from the minimum operating temperature to the temperature at which the coefficient becomes negative shall be less than 0.15$.

2. The void coefficient of reactivity shall be negative, when the moderator temperature is above 100° F, within all standard fuel assemblies and have a minimum average negative value of 0.00043$/cc within the boundaries of the active fuel region.

Bases

The minimum absolute value of the temperature coefficient of reactivity is specified to ensure that negative reactivity is inserted when reactor temperature increases above 100° F. It is of note that even in the worst postulated accident scenario, such as considered in section 4 of the SAR (1964), reactivity insertion because of temperature change would be negligible. The minimum average negative value of the void coefficient is specified to ensure that the negative reactivity inserted because of void formation is greater than that which was calculated in the SAR.

3.4 *Experiments*

Bases

The 7th or last paragraph is amended to correct references to the regulations, i.e., 10 CFR 20.105 and 10 CFR 20.106 vs. 10 CFR 105(1) and 10 CFR 106 as follows:

Specifications 8 and 9 will ensure that the quantities of radioactive materials contained in experiments will be so limited that their failure will not result in exposures to individuals in restricted or unrestricted areas to exceed the maximum allowable exposures stated in 10 CFR 20. The restricted area maximum is defined in 10 CFR 20.101 and 10 CFR 20.103. The unrestricted area maximum is defined in 10 CFR 20.105 and 10 CFR 20.106.

5.0 Design Features

5.4. *Reactor*

5.4.2. *Reactor Core*

The reactor core shall consist of uranium fuel provided in the form of 4.8 weight percent enriched UO_2 pellets in stainless steel cladding, arranged in roughly a cylindrical fashion with four control rods placed symmetrically about the core periphery. Fuel pins, with an effective length of 91.44 cm are set on a square pitch of 1.49 cm to yield an effective core radius of approximately 35 cm. Two fuel pin arrangements have been evaluated. The first, referred to as "Core A," is the solid array of pins shown in Figure 4.3 of the SAR. The second, referred to as "Core B," is the annular array of pins shown in Figure 4.4 of the SAR. The pins themselves are supported and positioned on a fuel pin support plate, drilled with ¼-inch-diameter holes to accept tips on the end of each pin. The support plate rests on a carrier plate which forms the base of a three-tiered overall core support structure. An upper fuel lattice plate rests on the top plate, and both are drilled through with ½-inch-diameter holes on the prescribed pitch to accommodate the upper ends of the fuel pins. The lower fuel pin support plate, a middle plate, and the upper fuel pin lattice plate are secured with tie rods and bolts. The entire core structure is supported vertically and anchored by four posts set in the floor of the reactor tank. Finally, in the event the fuel pins are bowed but still satisfactory for use in the core, a plastic spacer plate may be installed on the middle plate. Figure 4.6 of the SAR depicts the total core assembly.

5.4.3. *Fuel Pins*

Fuel pins to be utilized are 4.8 weight percent enriched SPERT (F–1) fuel rods. Each fuel rod is made up of sintered UO_2 pellets, encased in a stainless steel tube, capped on both ends with a stainless steel cap and held in place with a chromium-nickel spring. An aluminum oxide (Al_2O_3) insulator between the fuel pellets and stainless steel caps on each end of the rod is installed. Gas gaps to accommodate fuel expansion are also provided at both the upper end and around the fuel pellets. Figure 4.7 of the SAR depicts a single fuel pin and its pertinent dimensions.

5.4.4. *Control Rod Assemblies*

Four control rod assemblies are installed, spaced 90 degrees apart at the core periphery. Each rod consists of a 6.99-cm square stainless steel tube which passes through the core and rests on a hydraulic buffer on the botton carrier plate of the support structure. Housed in each of these "baskets" are two neutron-absorber sections, one positioned above the other as depicted in Figure 4.8 of the SAR. The combination of the four rods must meet the values given in Table 5.2 of the SAR, with regard to reactivity with one stuck rod and shutdown margin.

5.6 *Fuel Storage and Transfer*

Old section 5.6 is deleted and section 5.7 is renumbered 5.6 and the last paragraph is modified as follows:

For a known system, up to a quadrant of fuel pins may be removed from the core or a single stationary fuel pin be replaced with another stationary pin only under the following conditions:

1. The net change in reactivity has been previously determined by measurement or calculation to be negative or less than 0.20$.

2. The reactor is subcritical by at least 1.00$ in reactivity.

6.0 Administrative Controls

6.2 *Procedures*

(2) Installation and removal of fuel pins, control rods, experiments, and experimental facilities.

6.5 *Reports*

In addition to requirements of applicable regulations, and in no way substituting therefore, all written reports shall be sent to the U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555, with a copy to the Region I Administrator.

6.5.2 *Non-Routine Reports*

(a) *Reportable Operational Occurrence Reports.* Notification shall be made within 24 hours by telephone and telegraph to the Administrator of Region I followed by a written report within 10 days in the event of a reportable operational occurrence as defined in section 1.0. The written report on these reportable operational occurrences, and to the extent possible, the preliminary telephone and telegraph notification shall: (1) Describe, analyze, and evaluate safety implications; (2) outline the measures taken to ensure that the cause of the condition is determined; (3) indicate the corrective action (including any assurance program) taken to prevent repetition of the occurrence and of similar occurrences involving similar components or systems; and (4) evaluate the safety implications of the incident in light of the cumulative experience obtained from the record of previous failures and malfunctions of similar systems and components.

(b) *Unusual Events.* A written report shall be forwarded within 30 days to the Administrator of Region I in the event of discovery of any substantial errors in the transient or accident analyses or in the methods used for such analyses, as described in the Safety Analysis Report or in the bases for the Technical Specifications.

[FR Doc. 87-15808 Filed 7-10-87; 8:45 am]
BILLING CODE 7590-01-M

Appointments to Performance Review Board for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointment to Performance Review Board for Senior Executive Service.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced the following new appointments to the NRC Performance Review Board (PRB):

Paul E. Bird, Director, Office of Personnel

John C. Hoyle, Assistant Secretary of the Commission, Office of the Secretary

William G. McDonald, Director, Office of Administration and Resources Management

Frank J. Miraglia, Associate Director for Projects, Office of Nuclear Reactor Regulation

John M. Montgomery, Executive Assistant to the Chairman, Office of the Chairman

Hugh L. Thompson, Director, Office of Nuclear Material Safety and Safeguards

In addition to the above appointments, the following members are continuing on the PRB:

Guy A. Arlotto, Director, Division of Engineering, Office of Nuclear Regulatory Research

Edward L. Jordan, Director, Office for Analysis and Evaluation of Operational Data

Robert D. Martin, Regional Administrator, Region IV

James A. Fitzgerald, Assistant General Counsel for Adjudications and Opinions, Office of the General Counsel

James H. Sniezek, Deputy Director, Office of Nuclear Reactor Regulation

William B. Kerr, Director, Office of Small and Disadvantaged Business Utilization and Civil Rights, continues to serve as an ex officio non-voting member.

The NRC Performance Review Board Panel has the following members, all of which are new appointees:

Robert M. Bernero, Deputy Director, Office of Nuclear Material Safety and Safeguards

Hudson B. Ragan, Assistant General Counsel for Administration, Office of the General Counsel

James M. Taylor, Deputy Executive Director for Regional Operations, Office of the Executive Director for Operations

All appointments are made pursuant to section 4314 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: July 7, 1987.

FOR FURTHER INFORMATION CONTACT: Guy A. Arlotto, Chair, Performance Review Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 301-443-7995.

Dated at Bethesda, Maryland, this 7th day of July 1987.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Chairman, Executive Resources Board.

[FR Doc. 87-15807 Filed 7-10-87; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24674; File No. SR-PSE-87-12]

Self-Regulatory Organizations; Filing and Order Granting Partial Accelerated Approval to a Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to the Exposure Time for Orders Transmitted Under the PSE Securities Communication Order Routing and Execution System ("SCOREX")

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 17, 1987, the Pacific Stock Exchange ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

On September 14, 1984, the Commission approved a rule filing submitted by the PSE (Release No. 21206, SR-PSE-84-14), which amended the PSE Securities Communication Order Routing and Execution System ("SCOREX"). In that filing, the SCOREX System was changed so that exposure time for SCOREX orders was decreased from thirty seconds to fifteen seconds. Although the original intent of the PSE filing was to implement the fifteen second exposure on a permanent basis, the SEC approved this change on a one-year pilot basis so that the SEC could formulate a uniform policy on the exposure of automatic orders by studying the SCOREX System along with that of the NYSE's "R4" System, Phlx's PACE System, and other small order execution systems. The Commission wished to await permanent approval until such review was completed. Following that initial approval, the PSE filed for a subsequent extension and received Commission approval (Release No. 34-22814; SR-PSE-85-39). At this time, the PSE is submitting this proposed rule filing for the purpose of implementing the fifteen second exposure time for SCOREX orders on a permanent basis, as well as to extend the 15 second pilot program to allow the program to continue

uninterrupted until Commission action has been completed.[1]

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 July 26, 1984, the PSE filed with the Commission a rule filing (SR–PSE–84–14) which proposed amending portions of the PSE Securities Communication Order Routing and Execution System ("SCOREX"). SCOREX is an automated execution system which is available to all member organizations and provides automatic execution of agency orders.

SCOREX orders are generally transmitted directly from a member firm to the Exchange computer system and displayed on the appropriate specialist's CRT screen, identifying the name of the member firm entering the order, whether the order is a buy or sell, the number of shares represented by the order, the stock symbol, and the price at which SCOREX will execute the order should the specialist take no action within fifteen seconds.

At its inception, the SCOREX automatic execution system had a thirty second exposure time limit, but the 1984 filing was submitted to decrease this to the now current fifteen second time. On September 14, 1984, the Commission approved this fifteen second exposure limitation on a pilot basis, instead of a permanent one, because the Commission wished to study SCOREX along with the other automatic execution systems used by the other exchanges, e.g., NYSE's "R4" System, and Phlx's PACE system. The PSE received a subsequent extension of this pilot system in 1986. At this time, the PSE is seeking, in accordance with its original intentions, to implement this system on a permanent basis [2] and extend its current pilot until the Commission makes a final determination.

The PSE believes that this rule filing is consistent with section 6(b)(5) of the Securities Exchange Act of 1934 ("Act"), in that it will facilitate transactions in securities traded on the PSE.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change imposes no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received by the Exchange.

III. Date of Effectiveness of the Proposed Rule Change and Time Period for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

However, the PSE has requested partial accelerated approval of that portion of the current proposal extending the pilot program allowing the 15 second order exposure period for an additional period prior to Commission action on permanent approval of the pilot. The PSE believes that reverting to a thirty second exposure period pending Commission consideration would be disruptive to the market.

The Commission finds that the proposed extension of the pilot program until September 30, 1987 is consistent with the requirements of the Act and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

For the reasons stated by the Exchange, and by the Commission in its initial approval of the pilot program, the Commission finds good cause in granting partial accelerated approval to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of the proposal. The Commission has already determined that a pilot program for a fifteen second order exposure period is an effective means of studying the regulatory issues concerning the interaction between order flow through execution systems, such as SCOREX and MAX, and the auction market process. The Commission will continue to study the program to aid in its evaluation of whether to approve the pilot on a permanent basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 3, 1987.

It is therefore ordered, that the proposal by the PSE to extend the pilot program be, and hereby is, approved until Septemer 30, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 2, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–15796 Filed 7–10–87; 8:45 am]

BILLING CODE 8010–01–M

[1] The Commission received an amendment to the filing from the PSE on June 2, 1987, requesting an extension of the pilot for a reasonable time, such as 90 days. *See* Letter from Kenneth J. Marcus, Staff Attorney, PSE, to Sharon Lawson, Branch Chief, Division of Market Regulation, SEC, dated June 1, 1987.

[2] The Commission is presently considering an identical proposal submitted by the Midwest Stock Exchange for orders entered through its Midwest Automated Execution (MAX) System. *See* Securities Exchange Act Release No. 24047 (February 2, 1987) 52 FR 4548.

[Release No. 34-24680; File No. SR-PHLX-87-21]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval to Proposed Rule Change

On June 23, 1987, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to apply the listing requirements for warrants under Phlx Rule 803 to the listing of foreign currency warrants. The Exchange is proposing to list foreign currency warrants, which will be obligations of their issuer, registered with the Commission, and subject to cash settlement in U.S. dollars during a term of two or more years from date of issuance. Rule 803 provides that the issuer of the warrants must have at least 250,000 warrants outstanding, exclusive of concentrated holdings and those of officers and directors, and at least 500 holders of a class of equity securities which would otherwise be eligible for listing.

The warrants that the Exchange anticipates listing may or may not be offered with a note issued under a common prospectus.[3] Warrants offered with a note will be detachable and traded separately. The warrant issuer will have such assets at the issuance of the warrants so that there is a reasonable expectation that it will have sufficient financial means to meet its settlement obligations.

The warrants will be cash settled, based upon the value of the U.S. dollar in relation to a particular foreign currency. The value of the warrant generally will track inversely the spot value of the foreign currency on which the warrant is based.

Because of the unique characteristics of such foreign currency warrants, the Phlx will distribute to its membership a circular providing specific guidance to member firms regarding their compliance responsibilities when handling transactions in warrants. The text of the circular is attached hereto as an *Exhibit*. Specifically, the circular recommends that investors in the warrants be afforded an explanation of the special characteristics and risks attendant to trading thereof, including limitations on exercise, if any. The circular also recommends the warrants "be sold only to investors whose accounts have been approved for options trading." If, however, a member or member organization undertakes to effect a transaction in warrants for a customer whose account has not been so approved, such member or member organization will be advised by the circular to make a careful determination that such warrants are suitable for such customer.[4]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5),[5] in that it is designed to prevent fraudulent and manipulative acts and practices, to facilitiate transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. The Phlx anticipates that nearly all trading in listed foreign currency warrants, which are securities subject to Rule 19c-3 of the Act,[6] will occur on the Exchange. Transactions effected through the facilities of the Exchange will be subject to, and customers will have the protection of, Phlx rules. To the extent that any trading occurs off the Exchange in the "third market," the trading will be subject to the rules of the National Association of Securities Dealers. In addition, the Exchange will issue to its members a circular, discussed above, describing certain factors to be considered by members or member organizations prior to effecting transactions in foreign currency warrants for customers. More specifically, that circular will alert members to the special disclosure and suitability obligations involved in this product. Finally, the minimum size of the issuer—at least $1,000,000 in net tangible assets—will help ensure that the issuer has sufficient financial means to meet its settlement obligations.[7]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of the proposal in the Federal Register. With respect to a particular warrants offering to be listed on the Phlx, the underwriter has indicated to the Exchange that the timing of the offering and listing on the Exchange is critical to the issuer, in view of fluctuations in foreign currency rates. Thus, the foreign currency warrants may have to be issued prior to the thirtieth day following publication of the proposed rule change. It is necessary, therefore, that the Exchange inform the underwriter, in connection with its negotiation of the offering, that the warrants are eligible for trading on the Exchange on the date of the offering. Furthermore the proposed rule change is substantially identical to the proposed rule change filed by the American Stock Exchange, Inc. (File No. SR-AMEX-87-15) that was granted accelerated approval by the Commission in Securities Exchange Act Release No. 24555 (June 5, 1987), 52 FR 22570.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Dated: July 7, 1987.

Jonathan G. Katz,

Secretary.

Exhibit

[Circular No. 47-87]

Memorandum

To: All Members, Member Organizations, Participants and Participant Organizations
From: Richard T. Chase
Date: June , 1987
Re: Listing of Currency Warrants and Customer Disclosure and Suitability Obligations

The following security of Corporation has been approved for Exchange listing and will commence trading on , 1987.

$ —year cash settled [Foreign Currency]. Warrants expiring .
Ticker Symbol .

The [Foreign Currency] Warrants have several unique characteristics and can be expected to fluctuate in value due to a number of interrelated factors, including, but not limited to, the exchange rate between the [Foreign Currency] and the Dollar. For these reasons, the Exchange recommends that [Foreign Currency] Warrant investors be

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1986).

[3] Any notes issued will be listed pursuant to the criteria set forth in Rule 803(d)(1) (criteria for listing bonds.)

[4] *See* Phlx Rules 746 (Diligence as to Accounts), 747 (Approval of Accounts), 748 (Supervision of Accounts) and 1026 (Suitability). In this regard, the Commission expects that member organizations, before effecting transactions in these warrants for an account, will evaluate the various factors used to determine whether an account is suitable for options trading. The Commission notes further that an account which is not approved for options trading generally would be appropriate for trading foreign currency warrants to the extent that the account satisfies the general options suitability requirements.

[5] 15 U.S.C. 78f(b)(5) (1982).

[6] 17 CFR 240.19c-3 (1986).

[7] Phlx Rule 803 requires an issuer who has warrants traded on the Phlx to satisfy the total net tangible asset requirement of $1,000,000 in paragraph (a)(4). The Phlx notes, however, that the standards set forth in Rule 803 are guidelines and are not mandatory.

[8] 15 U.S.C. 78s(b)(2) (1982).

[9] 17 CFR 200.30-3(a)(12) (1986).

afforded an explanation of the special characteristics and risks attendant to trading thereof.

The Exchange recommends that [Foreign Currency] Warrants be sold only to investors whose accounts have been approved for options trading pursuant to the rules regarding standardized options trading. However, if a member of member organization undertakes to effect a transaction in Warrants for a customer whose account has not been approved for options trading and who, for some reason, does not wish to open an options account, such member or member organization should make a careful determination that such Warrants are suitable for such customer.

Any questions should be directed to me at (215) 496–5066 or William W. Uchimoto, Acting General Counsel, at (215) 496–5208.

[FR Doc. 87–15797 Filed 7–10–87; 8:45 am]
BILLING CODE 8010–01–M

[Rel. No. IC–15864; 812–6625]

Application; United Investors Life Insurance Co., et al.

Date: July 7, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act).

Applicants: United Investors Life Insurance Company ("United Investors") United Investors Annuity Variable Account ("Variable Account" or "Account") and United Investors Equity Services, Inc. ("UIES").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 2(a)(35), 26(a)(2)(C) and 27(c)(2).

Summary of Application: Applicants seek the necessary relief to permit a sales expense charge and a mortality and expense risk charge to be deducted from the assets of the Variable Account.

Filing Date: February 13, 1987, and amended on May 23, 1987.

Hearing or Notification of Hearing: If no hearing is ordered the application will be granted. Any interested person may request a hearing on the application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on August 3, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you request. Serve the applicants with the request, either personally or by mail, and also send a copy to the Secretary of the SEC, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, 450 5th Street, NW., Washington, DC 20549. United Investors Life Insurance Company, 2001 Third Avenue South, Birmingham, Alabama 35233.

FOR FURTHER INFORMATION CONTACT: Joseph R. Fleming, Attorney, (202) 272–7308 or Lewis B. Reich, Special Counsel, (202) 272–2061 (Office of Insurance Products and Legal Compliance).

SUMMARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 253–4300).

Applicant's Representations and Statements

1. United Investors is a stock life insurance company that was incorporated in the State of Missouri on August 17, 1981 as the successor to a company of the same name established in Missouri on September 27, 1961. United Investors is a wholly-owned subsidiary of TMK/United, Inc., which in turn is indirectly wholly-owned by Torchmark Corporation. United Investors is principally engaged in offering life insurance and annuity contracts and is admitted to do business in the District of Columbia and all states except New York.

2. United Investors Annuity Variable Account was initially established by United Investors as a segregated asset account on December 8, 1981 and reactivated on December 5, 1986. The Variable Account has been registered as a unit investment trust under the Investment Company Act of 1940. The premiums paid under the Contract will be allocated to the Variable Account.

3. The Variable Account is currently divided into four investment divisions: The Money Market Division, the Bond Division, the High Income Division, and the Growth Division ("Investment Divisions"). Each Investment Division invests exclusively in shares of a corresponding portfolio of TMK/United Funds, Inc. (the "Fund").

4. United Investors Equity Services, Inc., is the principal underwriter and distributor of the Contracts. UIES is a wholly-owned subsidiary of United Investors.

5. The Contract is a deferred varible annuity contract. The Contract allows the Owner to accumulate funds on a tax-deferred basis based on the investment experience of assets underlying the Contract. The Contract also provides annuity payments on a variable basis after the retirement date.

6. The Contract pays a death benefit to the named beneficiary if the annuitant dies.

7. The Contract value is equal to the sum of the values of the Investment Division under the Contract. The Contractowner determines in the application how the purchase payments will be allocated among the Investment Divisions of the Variable Account. The Contract value will vary with the investment performance of the Investment Divisions selected.

8. Contractowners may surrender the Contract prior to the earlier of the retirement date or the death of the annuitant. After the first year, Contractowners may make a partial withdrawal from the Contract value. After any partial withdrawal, the Contract value must be at least $2,000. If it is less than this amount, the request will be treated as one for total surrender of the Contract for the full Contract value less any withdrawal charges and premium taxes. A $20 transaction charge will apply on withdrawals after the fourth withdrawal in any one year.

9. An annual deduction at an effective annual rate of .85% of the initial purchase payment will be made for the first ten years to compensate United Investors for certain sales and other distribution expenses incurred ("sales expense charge").

10. A charge for administrative expenses, not to exceed $50 per year, will be deducted from the contract value or from annuity payments.

11. A withdrawal charge is imposed on total surrenders and partial withdrawals in the first eight contract years. This charge will compensate United Investors for expenses incurred in the sale and distribution of the Contract that would have otherwise been recovered by the sales expenses charge had the Contract not been surrendered.

12. United Investors deducts a mortality and expense risk charge at an effective annual rate of .90% of the daily net asset value of the Investment Divisions. The level of this charge is guaranteed for the life of the Contract and may not be increased. The mortality risk borne by United Investors arises from its obligation to make monthly annuity payments regardless of how long all annuitants or any individual annuitant may live and from the risk that the death benefit may be greater than the Contract value.

13. A sales charge will be deducted from each additional purchase payment at a rate equal to 6% of the additional purchase payment. The withdrawal charge, the sales expense charge, and

the sales charge on additional purchase payments are collectively referred to as "Sales Charges."

14. Applicants request exemption from sections 2(a)(35), 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit the deduction of the sales expense charge from assets of the Variable Account. Applicants submit that the imposition of a sales expense charge over ten years is more favorable to Contractowners than an equivalent charge deducted from the initial purchase payment. Every Contractowner benefits from the fact that only a portion of the charge is assessed each year. Contractowners have the opportunity to earn income on more dollars than if the charge were deducted from the initial purchase payment when paid. Applicants represent that in no event will the sales expense charge when combined with the withdrawal charge imposed upon surrender or upon partial withdrawal on annuitization of the Contract exceed 8.5% of the initial premium.

15. United Investors submits that granting exemptive relief for the periodic sales expense charge is supported by relevant Commission precedent. In Rule 6e–3(T), the Commission specifically authorized sales expense charges to be deducted from the cash value of a flexible premium life insurance contract. The same reasoning that justifies the exemption provided in Rule 6e–3(T) for the deduction of sales loads from cash value for variable life insurance justifies exemptive relief in this instance.

16. Applicants request exemption from section 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the daily deduction of the .90% mortality and expense risks charge from the assets of the Variable Account.

17. Applicants argue that United Investors is entitled to reasonable compensation for its assumption of mortality and expense risks. Applicants represent that the charge of .90% under the Contracts made for mortality and expense risks is consistent with the protection of investors because it is a reasonable and proper insurance charge. United Investors represents that the charge of .90% for mortality and expense risks assumed by United Investors is within the range of industry practice with respect to comparable annuity products. This representation is based upon United Investors' analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates.

18. United Investors represents that it will maintain at its administrative offices, available to the Commission, a memorandum (and any other supporting documents) setting forth in detail the products analyzed in the course of, and the methodology and results of, comparative survey.

19. United Investors acknowledges that the Sales Charges may be insufficient to cover all costs relating to the distribution of the Contracts. United Investors also acknowledges that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed as being offset by distribution expenses not reimbursed by the Sales Charges. United Investors has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Variable Account and the Contractowners. United Investors represents that the basis for such conclusion is set forth in a memorandum which, together with any other documents used to support that conclusion, will be maintained by United Investors at its administrative offices and will be available to the Commission.

20. United Investors represents that the Variable Account will only invest in management investment companies which undertake, in the event such company adopts a plan under Rule 12b-1 to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, approve any such plan under Rule 12b-1.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–15833 Filed 7–10–87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending July 2, 1987

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 application, or motion 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 No. 44992

Date Filed: June 30, 1987.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 28, 1987.

Description: Application of Compania de Aviacion "Faucett," S.A. pursuant to section 402 of the Act and Subpart Q of the Regulations applies for a permit to engage in scheduled foreign air combination passenger, property and mail service between the United States and Peru.

Docket No. 44996

Date Filed: July 2, 1987.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 30, 1987.

Description: Application of American Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity authorizing it to engage in nonstop scheduled foreign air transportation of persons, property, and mail between the terminal point Dallas/Ft. Worth, Texas and the terminal point Vancouver, British Columbia, Canada.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87–15840 Filed 7–10–87; 8:45 am]

BILLING CODE 4910-62-M

[Docket 44946]

Reporting Violations Enforcement Proceeding; Assignment of Proceeding; Wrangell Air

July 8, 1987.

This proceeding has been assigned to Chief Administrative Law Judge William A. Kane, Jr. Future communications regarding this proceeding should be addressed to him at U.S. Department of Transportation, Office of Hearings, M–50, Room 9228, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2142.

Dated at Washington, DC, July 8, 1987.

William A. Kane, Jr.,

Chief Administrative Law Judge.

[FR Doc. 87–15841 Filed 7–10–87; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-87-15]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: August 3, 1987.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. XXXX, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on July 8, 1987.

Deborah E. King,

Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24440	American Flyers	14 CFR 141.91	To allow petitioner's schools currently in operation and those schools which may become operational in the future to be operated as satellite bases.
25313	Salair, Inc.	14 CFR 135.2	To allow petitioner to operate aircraft with a maximum payload capacity of 18,000 pounds under Part 135 of the FAR.
25195	Loral Systems Group	14 CFR 45.27(b)	To allow petitioner to place the registration markings on the outboard surface of each propulsion duct on its G2-22 airship.
25252	North American Airline Training Group	14 CFR 61.63(d)(2) and (d)(3), 61.157(d)(1), and 121.407(a)(1)(i).	To allow petitioner's students, who are applicants for a type rating to be added to any grade of pilot certificate in Boeing 727, 737, 747, and McDonnell Douglas DC-8, DC-9, and DC-10 aircraft, to complete a portion of that practical test in an airplane simulator.
20254	Royale Airlines	14 CFR 135.225(e)(1)	To allow petitioner's aircraft to take off from Polk Army Air Field, Fort Polk, Louisiana, with one-fourth mile visibility.
25196	Florida Institute of Technology	14 CFR 141.65	To allow petitioner to recommend graduates of its approved certification courses for flight instructor certificates and ratings without taking the FAA flight or written tests.
25275	Northern Pacific Transport, Inc.	14 CFR 91.39(b)	To allow petitioner to use restricted category aircraft under Part 125 for the carriage of outsize cargo between points in Alaska not served by any suitable form of surface transportation.
25280	American Airlines, Inc.	14 CFR Special Federal Aviation Regulations 36, paragraphs 11(a) and 11(b)(2).	To allow storage of substantiating data for a major repair at an original equipment manufacturer's facility in lieu of the American Airlines maintenance facility as required by SFAR 36. This would apply to certain original equipment manufacturer-generated reports concerning tests/stress investigations and when the reports are considered to be proprietary by the original equipment manufacturer.
25254	Omniflight Helicopters, Inc.	14 CFR 43.3(g)	To allow certificated pilots who are employed by petitioner to replace medical oxygen cylinders installed in aircraft operated by petitioner after such cylinders have been depleted.
16299	Kenmore Air Harbor, Inc.	14 CFR 141.37(e) and paragraph 3(b)(4) of Appendix D to Part 141.	To allow trainees of petitioner to use a seadrome without permanent runway lights for night training flights involving seaplanes and permitted crediting toward flight instruction and cross/country night flights in seaplanes with a landing in a body of water less than 100 miles from the point of departure, provided that those flights include a landing at a point other than the point of departure, and the flights are round trip night cross-country flights to a point more than 100 miles from the point of departure. *RESCINDED, June 29, 1987.*
24413	Flight Training International	14 CFR 61.63(d)(2) and (3) and 61.157(d)(1)	To allow trainees of petitioner, who are applicants for an airline transport pilot certificate or are applying for a type rating to be added to their pilot certificate, to substitute the practical test requirements of § 61.157(a) for those of § 61.63(d)(2) and (3) and to allow trainees to complete that portion of the practical test for an airline transport pilot certificate or for an additional type rating, as authorized by § 61.157(d), in a simulator. *GRANTED, June 30, 1987.*
19475	FlightSafety International	14 CFR 61.63(d)(2) and (3), 61.157(d)(1) and (e)(1), 121.407(a)(1) (i), portions of Part 61, Appendix A, andf portions of Part 121, Appendix H.	To allow trainees of petitioner to complete a practical test for the issuance of a type rating to be added to any grade of pilot certificates that includes the items and procedures for testing in an airplane simulator as set forth in Appendix A of Part 61 and to allow trainees to complete that portion of the practical test for an airline transport pilot certificate or for an additional type rating, as authorized by § 61.157 (d) and (e), in a simulator. *GRANTED, June 30, 1987.*
24779	FlightSafety International	14 CFR 135.293(c) and 135.297	To allow pilots, who in the preceding 90 days have successfully completed at least three takeoffs and three landings to a full stop in an airplane, to conduct the required 12-month competency checks and the 6-month proficiency checks in petitioner's approved visual simulator. *GRANTED, June 29, 1987.*
25138	St. Louis Public Schools	14 CFR 147.31(c)(1)(iv)	To allow petitioner th credit the students identified with training during the period from August 13, 1986, to November 13, 1986, when the school was in a noncertificated status. *GRANTED, June 24, 1987.*
25125 and 25126	Executive Air Fleet Corporation	14 CFR 91.191(a)(4), 135.165(a)(1), 135.165(a)(5), 135.165(a)(6), 135.165(b)(5), 135.165(b)(6) and 135.165(b)(7).	To allow petitioner and certain corporations and individuals contracting with petitioner for management services to opesrate airplanes in extended overwater operations that are equipped with only one operational long-range navigation system and one operational high-frequency communication system. *GRANTED, June 22, 1987.*
10632	Rocky Mountain Airways, Inc.	14 CFR 135.181(a)(2)	To allow petitioner to use, as an alternate means of compliance with the performance requirements of § 135.161(a)(2), procedures and operations authorized by § 121.201(b) for compliance with the en route limitations on the route from Denver to Aspen, Colorado. *GRANTED, June 18, 1987.*

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
23147	Boeing Commercial Airplane Company	14 CFR 91.195(a)(1)	To allow petitioner to conduct noise measurement tests, Ground Proximity Warning System research and development, and FAA certification flight tests at altitudes lower than 1,000 feet above the surface. *GRANTED, April 29, 1987.*
25322	Mrs. Jacquelyn B. Kenley and/or Mr. McDowell E. Kenley.	14 CFR 121.311(b)	To allow petitioners to carry their handicapped daughter, Laura Ann, in their arms during takeoffs and landings even though she has reached her second birthday. *GRANTED, July 2, 1987.*

[FR Doc. 87-15763 Filed 7-10-87; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1986 Rev., Supp. No. 21]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; the Central National Insurance Co. of Omaha

Notice is hereby given that The Central National Insurance Company of Omaha has voluntarily surrendered its Treasury Certificate of Authority. As such, the authority granted to The Central National Insurance Company of Omaha, under the United States Code, Title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective this date.

The Company was last listed as an acceptable surety on Federal bonds at 51 FR 23930, July 1, 1986.

With respect to any bonds currently in force with The Central National Insurance Company of Omaha, bond-approving officers for the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20226, telephone (202) 634–2381.

Dated: June 30, 1987.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 87-15720 Filed 7-10-87; 8:45 am]
BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "African Art in the Cycle of Life" (see list [1] imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Museum of African Art, Smithsonian Institution, Washington, DC, beginning on or about September 15, 1987, to on or about March 20, 1988, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: July 8, 1987.

C. Normand Poirier,

Acting General Counsel.

[FR Doc. 87-15902 Filed 7-9-87; 8:45 am]
BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Scientific Review and Evaluation Board for Health Services Research and Development; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92–463 that a meeting of the Scientific Review and Evaluation Board for Health Services Research and Development will be held at the Park Terrace Hotel, 1515 Rhode Island Avenue, NW., Washington, DC on July 28, 1987. The meeting will open at 8 a.m. on July 28, 1987. The purpose of the meeting will be to review research and development applications for scientific and technical merit and to make recommendations to the Assistant Chielf Medical Director for Research and Development regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the July 28th session for approximately one hour to cover administrative matters and to discuss the general status of the program. During the closed session, the Board will be reviewing research and development applications. The review involves oral review, staff and consultant critiques of research protocols, and similar documents that necessitate the consideration of personnel qualifications and the performance and competence of individual investigators.

Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with section 552b, subsections (c)(4), (c)(6), and (c)(9)(B), title 5, United States Code and the determination of the Administrator of Veterans Affairs under section 10(d) of Pub. L. 92–463 as amended by section 5(c) of Pub. L. 94–409.

Due to the limited seating capacity of the room those who plan to attend the open session should contact Mrs. Carolyn Smith, Program Analyst, Health Services Research and Development Service, 810 Vermont Avenue NW., Washington, DC, 20420, (phone: 202/233–5365) at least 5 days before the meeting.

Dated: June 30, 1987.

By direction of the Administrator.

Robert W. Schultz,

Associate Deputy Administrator for Public Affairs.

[FR Doc. 87-15751 Filed 7-10-87; 8:45 am]
BILLING CODE 8320-01-M

[1] A copy of the list of covered objects may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of USIA. The telephone number is 202–485–7976, and the address is Room 700, U.S. Information Agency, 301–4th Street, SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 52, No. 133
Monday, July 13, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., July 10, 1987.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matter

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-15873 Filed 7-9-87; 11:41 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, July 15, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: *FY 89 Budget*

The staff will brief the Commission on the proposed fiscal year 1989 budget.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 504 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

Sheldon D. Butts,

Deputy Secretary.

July 9, 1987.

[FR Doc. 87-15888 Filed 7-9-87; 1:18 pm]

BILLING CODE 6355-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published on Friday, July 10, 1987.

PREVIOUSLY ANNOUNCEMENT TIME AND DATE OF MEETING: 2:00 p.m. (eastern time) Monday, July 20, 1987.

CHANGE IN THE MEETING:

An Open Session has been added to the meeting beginning at 2:00 p.m. the Closed Session will immediately follow.

Agenda is as follows:

1. Announcement of Notation Vote(s)
2. Report on Commission Operations (Optional)
3. Further Consideration of Coverage of Apprenticeship Programs by the Age Discrimination in Employment Act and a Related Petition for Rulemaking.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634-6748.

Dated: July 9, 1987.

Cynthia C. Matthews,

Executive Officer.

[FR Doc. 87-15914 Filed 7-9-87; 3:42 pm]

BILLING CODE 6750-06-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, July 7, 1987, the Corporation's Board of Directors determined, on motion of Chairman Robert L. Clarke (Comptroller of the Currency), second by Director C.C. Hope Jr. (Appointive), concurred in by Chairman L. William Seidman, that Corporation business required the withdrawal from the agenda for consideration in open session and the addition to agenda for consideration at Board's closed meeting to be held at 2:30 p.m. the same day, of the following matter:

Application of Union Warren Savings Bank, Boston, Massachusetts, an insured stock savings bank, for consent to merge with Home Owners Federal Savings and Loan Association, Boston, Massachusetts, a non-FDIC-insured institution, under the charter and title of Home Owners Federal Savings and Loan Association.

In voting the to move this matter from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matter in a meeting open to public observation; that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii), of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)); and that no earlir notice of the change in the subject matter of the meeting was practicable.

Dated: July 8, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-15885 Filed 7-9-87; 12:41 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, July 7, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Request for relief from reimbursement under the Truth in Lending Simplification and Reform Act: Name and location of Bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii).

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Matters relating to the possible failure of certain insured banks: Names and locations of banks authorized to be exempt from disclosure pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Memorandum regarding the Corporation's corporate activites.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(2), (c)(8), (c)(9)(A)(ii),

and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 8, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–15886 Filed 7–9–87; 12:41 pm]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 25338, July 6, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:30 a.m., Thursday, July 9, 1987.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Building proposals and budget regarding the Helena Branch of the Federal Reserve Bank of Minneapolis. (This item was originally announced for a closed meeting on July 6, 1987.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: July 9, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–15904 Filed 7–9–87; 3:13 pm]

BILLING CODE 6210–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (52 FR 25518, July 7, 1987).

STATUS: CLOSED MEETING.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, July 1, 1987.

The following item will be considered at a closed meeting scheduled for Friday, June 10, 1987, at 2:00 p.m.

Legislative matter relating to enforcement program.

Commissioner Peters, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kevin Fogarty at (202) 272–3195.

Jonathan G. Katz,

Secretary.

July 8, 1987.

[FR Doc. 87–15928 Filed 7–9–87; 3:55 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of July 13, 1987.

A closed meeting will be held on Tuesday, July 14, 1987, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Peters, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 14, 1987, at 2:30 p.m., will be:

Institution of an administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Formal order of investigation.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272–2149.

Jonathan G. Katz,

Secretary.

July 8, 1987.

[FR Doc. 87–15929 Filed 7–9–87; 3:55 pm]

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federal register

Monday
July 13, 1987

Part II

State Justice Institute

Grant Guideline

STATE JUSTICE INSTITUTE

Grant Guideline

AGENCY: State Justice Institute.

ACTION: Final guideline.

SUMMARY: This guideline sets forth the administrative, programmatic, and financial requirements attendant to Fiscal Year 1987 State Justice Institute grants, cooperative agreements, and contracts, including the procedures and program areas for Round 2 funding.

EFFECTIVE DATE: August 12, 1987.

FOR FURTHER INFORMATION CONTACT: David I. Tevelin, Executive Director, or Richard Van Duizend, Deputy Director, 120 S. Fairfax St., Alexandria, Va. 22314, (703) 684–6100.

SUPPLEMENTARY INFORMATION: Pursuant to the State Justice Institute Act of 1984, Pub. L. 98–620, 42 U.S.C. 10701, *et seq.*, the Institute is authorized to award grants, cooperative agreements, and contracts to State and local courts, nonprofit organizations, and others for the purpose of improving the administration of justice in the State courts of the United States. On March 9, 1987, the Institute published its FY 1987 Program Guideline in the **Federal Register**. 52 FR 7249. The Institute published a proposed Grant Guideline in the **Federal Register** on May 11, 1987 (52 FR 17708). The final Grant Guideline published today implements the Act and the Program Guideline by setting forth the rules regarding the application for, and use of Institute funds.

The Institute received comments on the proposed Grant Guideline from a number of organizations, including the Conference of Chief Justices, the Conference of State Court Administrators, the National Council of Juvenile and Family Court Judges, the National Association of State Judicial Educators, the National Center for State Courts, and the American Academy of Judicial Education.

Comments were expressly invited on the following areas of the proposed guideline: The administrative role of the State Supreme Court or its designated agency or council; the method of payment of grant funds; audits; procurement; and the grant application form. Several respondents commented on the administrative role of the Supreme Court and audits. An analysis of the comments received and the Institute's response to them is set forth below.

Administrative Role of State Supreme Court or Designated Agency or Council

With respect to the administrative role of the State Supreme Court, one commenter asked the Institute to use the same definition of the term as is found in the Institute's enabling legislation (see 42 U.S.C. 1701(7)), and to clarify which court is the responsible administrative agency in those States having more than one court of final appeal. The Institute accepted those suggestions and incorporated them in section III.B. of the final guideline.

Another commenter recommended that the State Supreme Courts have only "programmatic approval" authority over State or local court applications and be permitted to designate the State or local court as the direct grantee of SJI funds. The State Justice Institute Act, however, does not authorize the Institute to approve such arrangements. See 42 U.S.C. 10705(b)(4), which requires the Supreme Court or its designated agency or council to "receive, administer, and be accountable for all funds awarded by the Institute" to State or local courts. In those cases where the State Supreme Court lacks the administrative capacity to exercise the required responsibilities, the necessary administrative functions may be performed by another agency or judicial council authorized under State law to perform such functions. The guideline, however, requires that the Supreme Court, or its designated agency or council, receive the funds and "ensure" compliance with the Institute's financial and administrative requirements. The intended effect of that specific term and the guideline in general is to require the Supreme Court, or its designee, to exercise the necessary oversight over the required functions, even if it does not perform those functions itself.

Audits

With respect to the nature of the annual fiscal audit the statute requires of all recipients, one respondent suggested that the Institute accept an audit either of the grantee's entire operations, as would be done under a "single audit" approach, or of only the project funded. The Institute has accepted this recommendation. See section XI.J.2. The final guideline also requires that the audit be conducted in accordance with the standards of the American Institute of Certified Public Accountants by an independent auditor or a State or local agency authorized to audit government agencies. *Id.* In addition, as recommended by one commenter, the final guideline requires non-profit organizations other than universities to submit a copy of their most recent certified financial audit with their application. The final guideline also requires a non-profit organization applying for funds to submit evidence of its exemption from taxation under section 501(c) of the Internal Revenue Code.

With respect to the method of payment of grant funds, the Institute intends to establish as simple and expeditious a method of payment to grantees as possible, consistent with generally accepted accounting and financial reporting practices. Because of the relatively small number and size of anticipated Institute grants, the Institute has been advised by the Department of the Treasury that it will be unable to use the new Letter of Credit system now being implemented by the Department. As a result, the guideline simply presents a summary description of an efficient procedure for requesting advances or reimbursements. See section XI.G.1. The Institute is exploring the possibility of disbursing its own funds; however, it is more likely that payments will be disbursed by U.S. Treasury checks. If this is so, payments of over $25,000 may be made electronically via the Treasury Financial Communications System (TFCS). The guideline will be amended to reflect the actual system ultimately implemented.

With regard to procurement, the final guideline imposes the same administrative requirements, conditions, and selection criteria on applicants seeking contracts for programmatic purposes as it imposes on applicants seeking grants or cooperative agreements for such purposes. The application form has been revised to clarify and simplify the information requested.

Other changes were made in the final guideline as a result of the comments received or further consideration by the Institute. A discussion of the changes made, and the reasons suggested changes were not made, is presented below:

Section IV. Eligibility for Award

One commenter asked the Institute to clarify the eligibility of Indian tribal courts for institute funding. In the absence of clear statutory authorization for grants to Indian courts, the Institute believes it can provide funding only to State and local courts. As a result, Indian tribal courts are ineligible for Institute funds.

Two commenters suggested that the Institute set out criteria for defining which organizations providing education and training to judicial personnel are entitled to "priority" funding status under 42 U.S.C. 10705(b)(1)(C). A thorough review of the legislative history of the State Justice Institute Act reveals little guidance on this issue. The

final guideline does, however, provide two broad criteria for determining priority status: (1) The principal purpose or activity of the applicant must be to provide educational and training to State and local judges and court personnel; and (2) the applicant must demonstrate a record of substantial experience in the field of judicial education and training. These criteria would prevent an organization with no history of judicial education, or organizations which provide judicial training only as part of a broader mission, from being entitled to priority status under paragraph 10705(b)(1)(C). The criteria appear necessary to implement Congress' intentions in this area. As the Institute gathers more experience in interpreting and administering the Act, it may find further revisions of the definition prudent.

Section V. Types of Projects and Amounts of Awards

The final guideline states that the Board will give serious consideration to applications seeking annual funding in amounts up to $300,000 (rather than the proposed $500,000) and that awards in excess of $200,000 (rather than $500,000) are likely to be made only for "highly promising proposals that will have a significant impact nationally." The revised figures reflect the experience of the Institute in considering concept papers for Round One. The proposed levels proved to be unrealistically high and potentially misleading in the face of nearly 200 concept papers requesting $31 million, a figure approximately ten times greater than the amount available in Round 1.

In addition, the final guideline deletes a proposed paragraph reserving grants of up to $50,000 for research projects. Because the Board is likely to support research projects in amounts greater than as well as below $50,000, the paragraph is unnecessary. Deletion of this paragraph should not be construed as diminishing in any way the Institute's interest in funding court-related research projects.

Section VI. Concept Paper Review Procedures

This section, which is new to the final guideline, is in all substantial respects identical to the concept paper review procedures set forth in the March 9 Program Guideline. It is being placed in this guideline for ease of reference. Language has been added to this section emphasizing the Institute's intention to strictly enforce the ten-page limitation on the length of concept papers. The concept paper deadline for Round 2 funding is September 18, 1987.

Section VII. Application Review Procedures

One respondent recommended that the Institute publish the point values the Institute assigns to each selection criterion for purposes of staff review. This recommendation was not accepted for the following reasons.

Like the proposed guideline, the final guideline indicates which criteria are accorded "greatest weight," which are accorded "substantial weight," and which other factors will also be considered by the Board in the award process. Section VII.B. The points used by staff to preliminarily score applications are used only to provide a rough ranking of applications for the Board's review. The Board's decisions are not bound by the point rankings, but by the criteria, and the weight assigned them by the guideline. Publication of the points used by the staff to rank applications may give the points more emphasis than they warrant in the review process, unduly focus appeals on subjective differences in point scoring rather than the underlying broader reasons for the denial of an application, and lead some applicants to tailor their proposals more to the scoring scheme than to the needs of the project they propose.

A commenter also suggested that the criteria accorded "greatest weight" and those accorded "substantial weight" be reversed. The latter criteria, in its view, "determine the value of a proposed project to the State courts and should be given the greatest weight." The Institute has taken one element from the "substantial weight" list and added it to the "greatest weight" list but has otherwise declined to adopt this recommendation in the final guideline. The Institute believes that the criteria that should be given greatest weight at the application stage are those that are most likely to assure the delivery of the promised result: A sound methodology; qualified staff; a sound management plan; and a reasonable budget. The Institute has added the criterion of "demonstration of cooperation and support of other organizations and agencies that may be affected by the project" to this group because it is a key factor in assuring the ultimate success of the project.

The second group of important criteria includes those that present a promising project of need and interest to the State courts across the nation: "special interest" status; need; replicability; broad benefits; and dissemination of project results to the States. These criteria are accorded the greatest weight at the concept paper stage, which is primarily intended to identify the most promising proposals having the greatest potential national impact. As a result, each of the proposals considered at the application stage will already have been ranked high on these factors and the primary consideration at that point must be, in essence: Which of these good ideas are most likely to actually accomplish the results intended? The final criterion included in this group (dissemination of project results) was added to the guideline in response to a commenter's recommendation that this feature is essential to assuring national impact and use by the States.

In response to a commenter's request for clarification of the way in which the Institute would consider the degree of commitment demonstrated by those responsible for providing match, the Institute has eliminated the clause in question. Questions about whether match will be provided will of necessity have to be clarified to the satisfaction of the Board prior to the approval of any application.

Another commenter recommended that the Institute use a peer review process for all applications. The Institute has adopted the proposed guideline's provision that peer reviews will be used "when necessary." The Board of Directors has established a committee of the Board to authorize the use of outside reviewers on an "as needed" basis.

Section VIII, Compliance Requirements

Two commenters belived the "conflict of interest" provisions of the proposed guideline were sufficiently confusing as to warrant their elimination or substantial revision. The Institute has substantially revised one section (section VIII.D.2) in a manner that should eliminate confusion over its practical application but still preserve its intended effect of assuring both the appearance and practice of high standards of integrity in Institute-supported projects.

The other proposed provision (section VIII.D.1) was retained, with unrelated minor modifications. The Institute will not interpret that provision to prohibit employees of SJI granees from contacting SJI about grant-related financial matters in which they have no personal financial interest beyond their employee status. The provision is designed to prohibit employees of grantees from engaging in decisions regarding the use of grant funds that may affect their personal financial

interests apart from their status as employees of the grantee.

Section IX. Application Requirements

One commenter expressed concern that the program narrative would require applicants to denigrate the efforts of other organizations or courts that may have been unable to remedy the problem addressed by the application. The language of section IX.C has been revised to clarify that such a presentation is neither required nor encouraged. An explanation of the types of information to be included in the budget narrative has also been added to this section.

Section X. Submission Requirements

The final guideline requires applicants to submit only 4 copies of their application (plus the original) rather than 13.

Section XI. Financial Requirements

Two commenters recommended the deletion of the requirement that non-profit organizations and local units of government that receive funds directly from the Institute refund any interest earned on advanced grant funds. Because a line of Comptroller General decisions establishes the principle that grantees other than States must return interest earned on advanced grant funds to the United States Treasury (see, e.g., 64 Comp. Gen. 96 (1984), 59 Comp. Gen. 218 (1980), 42 Comp. Gen. 289 (1962)), the Institute is retaining the requirement in section XI.F.1.

One commenter urged SJI not to inhibit the transfer of Institute-supported work products by permitting grantees to charge royalties on the products they develop under grants. The final guideline, like the proposed guideline, permits grantees to copyright grant-supported works and to retain royalties earned on such products. Section XI.F.2. The Institute, however, retains a royalty-free license to reproduce and disseminate such works. Section VIII.0. This license will help the Institute assure the broad dissemination of grant-supported documents at a reasonable cost, or no cost. These provisions are substantially identical to the royalty and copyright provisions of the Office of Management and Budget Circulars governing Federal grants.

Two commenters stated that the proposed requirement that grantees time their requests to ensure that "cash on hand is the minimum needed for disbursements to be made immediately or within a few days" was unduly restrictive. The commenters recommended that grantees be permitted to request funds sufficient to meet their financial needs for one month. This recommendation has not been accepted. The language of the final guideline (section XI.G.1) is consistent with Office of Management and Budget regulations governing Federal grantor agencies and with Department of Treasury cash management practices. Grantee disbursements for payroll will generally be made on a regular basis and amounts required for that purpose may be anticipated in advance. Similarly, miscellaneous disbursements can be made on a scheduled basis. The Institute therefore anticipates that grantees will ordinarily be able to schedule their payments in such a fashion that advances would arrive a few days prior to the actual disbursement of funds and that this process could be done as few as one or two time a month.

One commenter asked whether section XI.H.2 could indicate whether the cost of preparing a formal grant application after approval of a concept paper is an allowable cost under the grant. Section XI.H.2 has been amended to clarify that the cost of preparing an application is not an allowable cost.

A commenter also recommeded that the maximum allowable compensation that could be paid consultants without the prior written approval of the Institute be raised from $200 a day to a figure in the $300–400 range. The commenter noted that qualified consultants are generally unavailable for $200 a day or less and that a higher authorized figure would reduce the paperwork burdens on the grantee and SJI. The final guideline retains the $200 figure. The Institute will monitor the paperwork burdens resulting from the $200 standard and revise the rate requiring prior approval in the future, if the $200 figure proves unduly burdensome on the Institute or its grantees.

Section XII. Grant Adjustments

The information originally contained in section XII of the proposed guideline is now reflected in section VI of the final guideline. A new section XII has been added to the final guideline to clarify the types of grant adjustments which require the prior approval of the Institute.

Other minor changes were made for purposes of clarifying the guideline and reducing duplicative information.

State Justice Institute Grant Guideline

Table of Contents

Summary

This guideline sets forth the programmatic, financial, and administrative requirements of grants, cooperative agreements, and contracts awarded by the State Justice Institute. The Institute, a private nonprofit corporation established by an Act of Congress, is authorized to award grants, cooperative agreements and contracts to State and local courts and their agencies; national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branch of State governments; and national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

The Institute may also award funds to other nonprofit organizations with expertise in judicial administration; institutions of higher education; individuals, partnerships, firms, or corporations; and private agencies with expertise in judicial administration if the objectives of the funded program can be better served by such an entity. Funds may also be awarded to Federal, State or local agencies and institutions other than courts for services that cannot be provided for adequately through nongovernmental arrangements.

Approximately $6.5 million is available for grants, contracts, and cooperative agreements from FY 1987 appropriations. The Institute may also provide financial assistance in the form of interagency agreements with other grantors. The Institute will consider applications for funding support that address any of the areas specified in its enabling legislation; however, the Board of Directors of the Institute has designated certain program areas as being of special interest.

The Institute has established two rounds of competition for FY 1987 funds, with concept paper submission deadlines of April 17 and September 18, 1987, respectively. This guideline applies to formal applications submitted for the first round of funding, and concept

papers and formal applications submitted for the second round of funding.

The awards made by the State Justice Institute are governed by the requirements of this guideline and the authority conferred by Pub. L. 98–620, Title II, 42 U.S.C. 10701, *et seq.*

I. Background

The State Justice Institute ["Institute"] was established by Pub. L. 98–620 to improve the administration of justice in the State courts in the United States. Incorporated in the State of Virginia as a private, nonprofit corporation, the Institute is charged, by statute, with the responsibility to:

A. Direct a national program of financial assistance designed to assure that each citizen of the United States is provided ready access to a fair and effective system of justice;

B. Foster coordination and cooperation with the Federal judiciary;

C. Promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

D. Encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

To accomplish these broad objectives, the Institute is authorized to provide funds to State courts, national organizations which support and are supported by State courts, national judicial education organizations, and other organizations that can assist in improving the quality of justice in the State courts.

The Institute is supervised by an eleven-member Board of Directors appointed by the President, by and with the consent of the Senate. The Board is statutorily composed of six judges, a state court administrator and four members of the public, no more than two of whom can be of the same political party.

The Institute's program budget for Fiscal Year 1987 is approximately $6.5 million. Through the award of grants, contracts and cooperative agreements, the Institute is authorized to perform the following activities:

1. Support research, demonstrations, special projects, technical assistance, and training to improve the administration of justice in the State courts;

2. Provide for the preparation, publication, and dissemination of information regarding State judicial systems;

3. Participate in joint projects with Federal agencies and other private grantors;

4. Evaluate or provide for the evaluation of programs and projects funded by the Institute to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have contributed to improving the quality of justice in the State courts;

5. Encourage and assist in furthering judicial education;

6. Encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

7. Be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

II. Scope of the Program

During its first year of operation, the Institute is considering applications for funding support that address any of the areas specified in its enabling legislation. The Board has, however, designated certain program areas as being of "special interest." See section II. B. The experience of the Board in reviewing concept papers and applications during the first year, and other information received from applicants, other interested parties, the research community and the general public will shape the Board's priorities in future years.

A. Authorized Program Areas

The State Justice Institute Act authorizes the Institute to fund projects addressing one or more of the following program areas:

1. Assistance to State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

2. Education and training programs for judges and other court personnel for the performance of their general duties and for specialized functions, and national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

3. Research on alternative means for using judicial and nonjudicial personnel in court decisionmaking activities, implementation of demonstration programs to test such innovative approaches, and evaluations of their effectiveness;

4. Studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and support to States to implement plans for improved court organization and financing;

5. Support for State court planning and budgeting staffs and the provision of technical assistance in resource allocation and service forecasting techniques;

6. Studies of the adequacy of court management systems in State and local courts, and implementation and evaluation of innovative responses to records management, date processing, court personnel management, reporting and transcription of court proceedings, and juror untilization and management;

7. Collection and compilation of statistical data and other information on the work of the courts and on the work of other agencies which relate to and affect the work of courts;

8. Studies of the causes of trial and appellate court delay in resolving cases, and establishing and evaluating experimental programs for reducing case processing time;

9. Development and testing of methods for measuring the performance of judges and courts and experiments in the use of such measures to improve the functioning of judges and the courts;

10. Studies of court rules and procedures, discovery devices, and evidentiary standards to identify problems with operation of such rules, procedures, devices, and standards; and the development of alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and testing of the utility of those alternative approaches;

11. Studies of the outcomes of cases in selected areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity; and the development, testing and evaluation of alternative approaches to resolving cases in such problem areas;

12. Support for programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance

13. Testing and evaluating experimental approaches to provide increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

14. Other programs, consistent with the purposes of the Act, as may be

deemed appropriate by the Institute, including projects dealing with the relationship between Federal and State court systems in areas where there is concurrent State-Federal jurisdiction and where Federal courts, directly or indirectly, review State court proceedings.

Funds will *not* be made available for ordinary, routine operation of court systems in any of these areas.

B. Special Interest Program Areas

1. General Description

The Institute is interested in funding both innovative programs and programs of proven merit that can be replicated in other jurisdictions. Although applications in any of the foregoing program areas are eligible for funding in FY 1987, the Institute is especially interested in funding those proposals that: (1) Formulate new procedures and techniques, or enhance existing arrangements to improve the courts; (2) address aspects of the State judicial systems that are in special need of serious attention; (3) have national significance in terms of their impact; and (4) develop products, techniques, and materials which are relevant to and may be readily transferred among State and local courts.

A project will be identified as a "special interest" project if it meets the four criteria set forth above and (1) it falls within the scope of the "special interest" program areas designated below or (2) information coming to the attention of the Institute from the State courts, their affiliated organizations, the research literature, or other sources demonstrates that the project responds to another special need or interest of the State courts.

2. Specific Categories

The Board has designated the areas set forth below as "special interest" program categories. The order of listing does not imply any ordering of priorities among the program areas.

a. The development and implementation of innovative measures to encourage and enhance judicial careers, other than direct increases in salary;

b. Education and training for judges and other key court personnel, including the development of innovative training materials and curricula, the improvement of existing court education programs, and the preparation of State court education plans to ensure a comprehensive training program and the effective allocation of limited court education resources;

c. The implementation and evaluation of dispute resolution methods that have a substantial likelihood of resolving disputes more fairly, more expeditiously, and less expensively than the traditional judicial process;

d. The application of technology to improve the operation of court management systems and judicial practices at both the trial and appellate court levels, including the development of materials to assist judges and court managers in selecting technology appropriate to a court's needs;

e. The implementation and testing of legal and administrative procedures relating to jurors, including those with a substantial likelihood of improving juror use and jury system management, clarifying juror orientation and instructions, and otherwise expediting, reducing the cost, and enhancing the fairness of the jury process;

f. The implementation and evaluation of programs and procedures designed to substantially reduce expense and delay in litigation at the trial or the appellate level or both, including the use of differentiated case processing and other innovative techniques, and the collection, compilation, and analysis of statistical data necessary for determining the causes of unnecessary expense and delay, isolating areas of concern, and evaluating the efficacy of "solutions";

g. The implementation and evaluation of procedures for effectively imposing, collecting, and enforcing orders to pay fines, restitution, assessments, and other monetary penalties or obligations;

h. The implementation and testing of innovative court procedures for handling domestic violence cases effectively and expeditiously;

i. The implementation and testing of court-based programs and procedures providing fairer treatment for victims of crimes and witnesses in both civil and criminal cases;

j. Research to develop creative ideas and procedures that could improve the administration of justice in the State courts and at the same time reduce the work burdens of the Federal courts. Such research projects might address innovative State court procedures for:

- Processing complex multistate litigation in State courts;
- Reducing the burdens attendant to Federal habeas corpus cases involving State convictions;
- Facilitating the adjudication of Federal law questions by State courts with appropriate opportunities for review; and
- Otherwise allocating judicial burdens between and among Federal and State courts.

Other areas of research would include studies examining the likely impact of the elimination or restriction of Federal diversity jurisdiction on the State courts, and the factors that motivate litigants to select the Federal or State courts in cases where there is joint jurisdiction; and

k. Technical assistance programs to transfer effective programs and procedures in any of the foregoing "special interest" categories to other jurisdictions.

Applications which address a "special interest" program area will be accorded a preference in the rating process. (See the selection criteria listed in section VII, Application Review Procedures.)

III. Definitions

The following definitions apply for the purposes of this guideline:

A. *Institute*: The State Justice Institute.

B. *State Supreme Court*: The highest appellate court in a State, unless, for the purposes of the Institute program, a constitutionally or legislatively established judicial council acts in place of that court. In States having more than one court with final appellate authority, *State Supreme Court* shall mean that court which also has administrative responsibility for the State's judicial system. *State Supreme Court* also includes the office of the court or council, if any, it designates to perform the functions described in this guideline.

C. *Designated Agency or Council*: The office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for funds and to receive, administer, and be accountable for those funds.

D. *Grantor Agency*: The State Justice Institute.

E. *Grantee*: The organization, entity, or individual to which an award of Institute funds is made. For a grant based on an application from a State or local court, *grantee* refers to the State Supreme Court.

F. *Subgrantee*: A State or local court which receives Institute funds through the State Supreme Court.

G. *Match*: The portion of project costs not borne by the Institute. *Match* includes both cash and in-kind contributions.

IV. Eligibility for Award

In awarding funds to accomplish these objectives and purposes, the Institute has been directed by Congress to give priority to State and local courts and their agencies (42 U.S.C. 10705(b)(1)(A)); national nonprofit organizations

controlled by, operating in conjunction with, and serving the judicial branches of State governments (42 U.S.C. 10705(b)(1)(B)); and national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments (42 U.S.C. 10705(b)(1)(C)).

An applicant will be considered a "priority" education and training applicant under section 10705(b)(1)(C) if: (1) The principal purpose or activity of the applicant is to provide education and training to State and local judges and court personnel; and (2) the applicant demonstrates a record of substantial experience in the field of judicial education and training.

The Institute also is authorized to make awards to other nonprofit organizations with expertise in judicial administration, institutions of higher education, individuals, partnerships, firms, corporations, and private agencies with expertise in judicial administration, provided that the objectives of the relevant program area(s) can be served better. In making this judgment, the Institute will consider the likely replicability of the projects' methodology and results in other jurisdictions. For-profit organizations are also eligible for grants and cooperative agreements; however, they must waive their fees.

Finally, the Institute is authorized to make awards to Federal, State or local agencies and institutions other than courts for services that cannot be adequately provided through nongovernmental arrangements.

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court or its designated agency or council. The latter shall receive all Institute funds awarded to such courts and be responsible for assuring proper administration of Institute funds, in accordance with section XI.B.2 of this guideline. A list of persons to contact in each State regarding approval of applications from State and local courts and administration of Institute grants to those courts is contained in Appendix 1.

V. Types of Projects and Amounts of Awards

The Institute has placed no limitation on the overall number of awards or the number of awards in each area of interest. The general types of projects are:

A. Education and training;
B. Research and evaluation;
C. Demonstration; and
D. Technical assistance.

The Board will give serious consideration to applications seeking funding in amounts up to $300,000. Awards in excess of $200,000 are likely to be rare and to be made, if at all, only for highly promising proposals that will have a significant impact nationally. Proposed project periods should not exceed 24 months.

VI. Concept Paper Submission Requirements

Concept papers are an extremely important part of the application process because they enable the Institute to learn the program areas of primary interest to the courts and to explore innovative ideas, without imposing heavy burdens on prospective applicants. The use of concept papers also permits the Institute to better project the nature and amount of grant awards. Because of their importance, the Institute requires all parties requesting financial assistance from the Institute to submit concept papers prior to submitting a formal grant application. This requirement may be waived by the Board only if it determines that extraordinary circumstances exist to justify the waiver.

A. Format and Content

Concept papers must be no more than 10 double-spaced pages on 8½ by 11 inch paper. Margins should not be less than 1 inch. The papers should contain:

1. A title describing the proposed project;
2. A brief indication of the program area(s), and "special interest" area(s), if any, addressed by the paper;
3. An explanation of the need for the project;
4. A summary description of the approach to be taken;
5. A description of the products that will result and the degree to which they will be applicable to courts across the nation;
6. An explanation of the expected benefits to be derived from the project;
7. The identity of the key staff (if known) and a summary description of their qualifications;
8. A preliminary budget estimate including the anticipated costs for personnel, fringe benefits, travel, equipment, supplies, contracts, indirect costs, and other anticipated major expenditure categories;
9. The amount, nature (cash or non-cash), and source of match to be provided (see section VIII.C. below); and
10. A statement of whether financial assistance for the project has been or will be sought from other sources.

The Institute will not accept concept papers exceeding 10 pages. The page limit does not include letters of cooperation or endorsements. Additional material should not be attached unless it is essential to impart a clear understanding of the project.

B. Selection Criteria

Concept papers will be rated on the basis of the following criteria:

1. The demonstration of need for the project;
2. The soundness and innovativeness of the approach described;
3. The demonstration of the project's replicability in other jurisdictions;
4. The benefits to be derived from the project;
5. The reasonableness of the proposed budget; and
6. The proposed project's relationship to a "special interest" area as discussed in Section II.B. above.

In determining which concept papers will be selected for development into full applications, the Institute will also consider the availability of financial assistance from other sources for the project, the amount and nature (cash or non-cash) of the submitter's anticipated match, and whether the submitter is a "priority" applicant under the Institute's enabling legislation (see 42 U.S.C. 10705(b)(1) and section IV above).

C. Submission Requirements

An original and three copies of all concept papers submitted for consideration during Round 2 must be *RECEIVED* by the State Justice Institute on or before 5:30 p.m. Eastern Daylight Time on September 18, 1987. All concept papers should be sent to: State Justice Institute, 120 S. Fairfax Street, Alexandria, Virginia 22314.

Receipt of each concept paper will be acknowledged in writing. Extensions of the deadline for receipt of concept papers will not be granted.

The Board will meet on November 5–6, 1987 to review the concept papers and invite applications. The Institute will send written notice to all submitters of the Board's decision regarding their concept papers. Applications invited by the Board will be due in early January, 1988. The Institute anticipates that awards for Round 2 will be approved in February, 1988.

VII. Application Review Procedures

Except in extraordinary circumstances as specified in section VI, a formal application is to be submitted only upon invitation of the Board following review of a concept paper.

A. Preliminary Inquiries

The Institute staff will answer inquiries concerning application

procedures. The staff contact will be named in the Institute's letter inviting submission of a formal application.

B. Selection Criteria

All applications will be rated on the basis of the criteria set forth below.

1. The Institute will accord the greatest weight to the following criteria:

—The soundness of the methodology described;
—The qualifications of the project's staff;
—The applicant's management plan and organizational capabilities;
—The reasonableness of the proposed budget; and
—The demonstration of cooperation and support of other organizations and agencies that may be affected by the project.

2. Substantial weight will also be accorded to:

—Whether the application proposes a project in a "special interest" area as discussed in section II.B above;
—The demonstration of need for the project;
—The demonstration of the project's replicability in other jurisdictions; and
—The benefits to be derived from the project.

In determining which applicants to fund, the Institute will also consider the applicant's standing in relation to the statutory priorities discussed in section IV above; the availability of financial assistance from other sources for the project; the anticipated distribution of funding for other projects by subject matter and geographical location; and the amount and nature (cash or non-cash) of the applicant's match.

C. Review and Approval Process

Applications will be competitively reviewed by the Board of Directors of the Institute. Awards approved by the Board will be signed by the Chairman of the Board on behalf of the Institute. All applications considered by the Board will first be reviewed by the Institute staff. When necessary, applications may be reviewed by outside experts.

D. Return Policy

Unless a specific request is made, unsuccessful applications will not be returned. Applicants are advised that Institute records are subject to the provisions of the Federal Freedom of Information Act, 5 U.S.C. 552.

E. Notification of Intention to Award

The State Justice Institute will send written notice to applicants concerning all Board decisions to approve or deny their respective applications.

VIII. Compliance Requirements

The State Justice Institute Act (Pub. L. 98–620) contains limitations and conditions on grants, contracts and cooperative agreements of which applicants and recipients should be aware. In addition to eligibility requirements which must be met to be considered for an award from the Institute, all applicants should be aware of and all recipients will be responsible for ensuring compliance with the following:

A. State and Local Court Systems

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council. The latter shall receive, administer, and be accountable for all funds awarded to such courts. 42 U.S.C. 10705(b)(4). Appendix 1 to this guideline lists the agencies, councils and contact persons designated to administer Institute awards to the State and local courts.

B. Matching Requirements

1. All awards to State or local judicial systems require a match from private or public sources of not less than 50 percent of the total amount of the Institute's award. A cash match, non-cash match, or both may be provided, but the Institute will give preference to those applicants who provide a cash match to the Institute's award. The requirement to provide match may be waived in exceptionally rare circumstances upon approval of the Chief Justice of the highest court in the State and a majority of the Board of Directors. 42 U.S.C. 10705(d).

2. Other eligible recipients of Institute funds are not required to provide a match, but are encouraged to contribute to meeting the costs of the project (see section VII.B above).

C. Conflict of Interest

Personnel and other officials connected with Institute-funded programs shall adhere to the following requirements:

1. No official or employee of a recipient court or organization shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which Institute funds are used, where to his/her knowledge he/she or his/her immediate family, partners, organization other than a public agency in which he/she is serving as officer, director, trustee, partner, or employee or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

2. In the use of Institute project funds, an official or employee of a recipient court or organization shall avoid any action which might result in or create the appearance of:

a. Using an official position for private gain; or

b. Affecting adversely the confidence of the public in the integrity of the Institute program.

3. Requests for proposal or invitations for bids issued by a recipient of Institute funds or a subgrantee or subcontractor will provide notice to prospective bidders that the contractors who develop or draft specifications, requirements, statements of work and/or requests for proposals for a proposed procurement will be excluded from bidding on or submitting a proposal to compete for the award of such procurement.

D. Lobbying

Funds awarded to recipients by the Institute shall not be used, indirectly or directly, to influence Executive orders or similar promulgations by Federal, State or local agencies, or to influence the passage or defeat of any legislation by Federal, State or local legislative bodies. 42 U.S.C. 10706(a).

E. Political Activities

No recipient shall contribute or make available Institute funds, program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office. Recipients are also prohibited from using funds in advocating or opposing any ballot measure, initiative, or referendum. Finally, officers and employees of recipients shall not intentionally identify the Institute or recipients with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office. 42 U.S.C. 10706(a).

F. Advocacy

No funds made available by the Institute may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities. 42 U.S.C. 10706(b).

G. Supplantation and Construction

To ensure that funds are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used for the following purposes:

1. To supplant State or local funds supporting a program or activity;

2. To construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or

3. To solely purchase equipment for a court system.

H. Refunding of Applications

Unless the terms of an award expressly obligate the Institute to approve refunding a project in a subsequent time period, no application submitted by a recipient that seeks further funding from the Institute for the same or another project shall be entitled to treatment as an application for refunding for the purposes of 42 U.S.C. 10706(a)(3) or 42 U.S.C. 10708.

I. Reporting Requirements

Recipients of Institute funds shall submit Quarterly Progress and Financial Reports within 30 days of the close of each calendar quarter. These reports shall include a narrative description of project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period.

The quarterly financial status report shall be submitted in accordance with section XI.G.2 of this guideline.

J. Audit

Each recipient must provide for an annual fiscal audit. (See section XI.J of this guideline for the requirements of such audits.)

Accounting principles employed in recording transactions and preparing financial statements must be based upon generally accepted accounting principles (GAAP).

K. Suspension of Funding

The Institute may, after providing a recipient reasonable notice and opportunity to submit written documentation demonstrating why fund termination or suspension should not occur, terminate or suspend funding of a project that fails to comply substantially with the Act, Institute guidelines, or the terms and conditions of the award. 42 U.S.C. 10708(1).

L. Title to Property

At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with Institute funds shall vest in the recipient court, organization, or individual that purchased the property if certification is made to the Institute that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act, as approved by the Institute. If such certification is not made or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

M. *Disclaimer.* Recipients of Institute funds shall prominently display the following disclaimer on all project-related products developed with Institute funds:

> This [document, film, videotape, etc.] was developed under a [grant, cooperative agreement, contract] from the State Justice Institute. Points of view expressed herein are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute.

N. *Copyrights.* Except as otherwise provided in the terms and conditions of an Institute award, a recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

O. *Inventions and Patents.* If any patentable items, patent rights, processes, or inventions are produced in the course of Institute-sponsored work, such fact shall be promptly and fully reported to the Institute. Unless there is a prior agreement between the grantee and the Institute on disposition of such items, the Institute shall determine whether protection of the invention or discovery shall be sought. The Institute will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government Patent Policy as printed in 36 FR 16889).

IX. Application requirements

An application for Institute funding support must include an application form, budget forms (with appropriate documentation), a project abstract and program narrative, and certain certifications and assurances. These documents are described below. Appendix 2 contains a set of the financial and administrative forms with detailed explanations and instructions.

A. Forms

1. *Application Forms* (FORM A)—The application form requests basic information regarding the proposed project, the applicant, and the amount of funding support requested. It also requires the signature of an individual authorized to certify on behalf of the applicant that the information contained in the application is true and complete, that submission of the application has been authorized by the applicant, and that if funding for the proposed project is approved, the applicant will comply with the requirements and conditions of the award, including the assurances set forth in Form D.

2. *Certificate of State Approval* (FORM B)—An application from a State or local court must include a copy of FORM B signed by the State's Chief Judge or Chief Justice, the director of the designated agency, or the head of the designated council. The signature denotes that the proposed project has been approved by the State's highest court or the agency or council it has designated. It denotes further, that if funding for the project is approved by the Institute, that court or designated agency or council will receive, administer, and be accountable for the awarded funds.

3. *Budget Forms* (FORM C or C1)—Applicants may submit the proposed project budget either in the tabular format of FORM C or in the spreadsheet formate of FORM C1. Applicants requesting more than $100,000 are encouraged to use the spreadsheet format. If the proposed project period is for more than 12 months, a separate form should be submitted for the portion of the project extending beyond month 12.

In addition to FORM C or C1, applicants must provide a detailed budget narrative providing an explanation of the basis for the estimates in each budget category.

If funds from other sources are required to conduct the project, either as

match or to support other aspects of the project, the source, current status of the request, and anticipated decision date must be provided.

4. *Assurances* (FORM D)—This form lists the statutory, regulatory, and policy requirements and conditions with which recipients of Institute funds must comply.

B. Project Abstract

The abstract should highlight the purposes, goals, methods and anticipated benefits of the proposed project. It should not exceed one single-spaced page on 8½ by 11 inch paper.

C. Program Narrative

The program narrative should not exceed 25 double-spaced pages on 8½ by 11 inch paper. Margins should not be less than 1 inch. The page limit does not include appendices containing résumés and letters of cooperation or endorsement. Additional background material may be attached only if it is essential to obtaining a clear understanding of the proposed project. Numerous and lengthy appendices are strongly discouraged.

The program narrative should address the following topics.

1. *Project Objectives*—A clear, concise statement of what the proposed project is intended to accomplish.

2. *Program Areas to be Covered*—A discussion of the relationship of the proposed work to the program areas listed in the State Justice Institute Act, and, if appropriate, the Institute's Special Interest program areas.

3. *Need for the Project*—If the project is to be conducted in a specific location(s), a discussion of the particular needs of the project site(s) to be addressed by the project and why those needs are not being met through the use of existing materials, programs, procedures, services or other resources.

If the project is not site specific, a discussion of the problems that the proposed project will address, and why existing materials, programs, procedures, services or other resources are not adequately resolving those problems. The discussion should include specific references to the relevant literature and to the experience in the field.

4. *Tasks and Methods*—A delineation of the tasks to be performed and the methods to be used for accomplishing each task. For example:

- *For research and evaluation projects,* the data sources, data collection strategies, variables to be examined, and analytic procedures to be used for conducting the research or evaluation and ensuring the validity and general applicability of the results.
- *For education and training projects,* the instructional methods to be used; the proposed number and length of the conferences, courses, seminars or workshops to be conducted; the materials to be provided and how they will be developed; the audience anticipated and how it will be obtained; the cost to participants; and the methods to be used for evaluating the usefulness and effectiveness of the training.
- *For demonstration projects,* how the sites will be identified and their cooperation obtained; how the program or procedures will be implemented and monitored; and how the results of the demonstration will be determined and assessed.
- *For technical assistance projects,* the types of assistance that will be provided; the particular program area(s) for which assistance will be provided, how requests will be obtained and the type of assistance determined; how suitable providers will be selected and briefed; how reports will be reviewed; the cost to recipients; and how the usefulness and impact of the technical assistance will be determined and assessed.

If the cooperation of courts, organizations, agencies, or individuals other than the applicant is required to conduct the project, written assurances of cooperation and availability should be attached as an appendix.

5. *Project Management*—A detailed management plan including the starting and completion date for each task, the time commitments to the project of key staff and their responsibilities regarding each project task; and the procedures that will be used to ensure that all tasks are performed on time, within budget, and at the highest level of quality. The management plan must also provide for the submission of Quarterly Progress and Financial Reports within 30 days of the close of each calendar quarter.

6. *Products*—A description of the products to be developed by the project (e.g., monographs, training curricula and materials, videotapes, articles, handbooks) including when they will be submitted and how and to whom they will be disseminated. The products of research and evalution projects should normally include an executive summary of the final report.

7. *Applicant Status*—A statement demonstating whether the applicant (if the applicant is not a State or local court) qualifies as either a national non-profit organization controlled by, operating in conjunction with, and serving the judicial branches of State governments; or a national non-profit organization for the education and training of State court judges and support personnel. See section IV. An applicant other than a State or local court that may qualify as a priority recipient pursuant to 42 U.S.C. 10705 (b)(1)(B) or (1)(C) must set forth the basis for designation as a priority recipient in its application. If the applicant is neither such an organization nor a State court, this section must demonstrate how it will serve the objectives of the relevant program area(s) in terms of replicability and other appropriate factors. Applicants that are non-judicial units of Federal, State, or local government must demonstrate that the proposed services are not available from non-governmental sources.

8. *Staff Capability*—A summary of the training and experience of the key staff members that qualify them for conducting and managing the proposed project. If one or more key staff members are not known at the time of the application, a description of the criteria that will be used to select persons for these positions should be included.

9. *Organizational Capacity*—A statement describing the capacity of the applicant to administer the grant funds including the financial systems used to monitor project expenditures (and income, if any), documentation of the applicant's 501(c) taxexempt status as determined by the Internal Revenue Service, and a summary of the applicant's past experience in administering grants, as well as any resources or capabilities that the applicant has that will particularly assist in the successful completion of the project. If the applicant is a non-profit organization (other than a university), it must also provide a copy of its most recent certified audit report. Other applicants may be required to provide such a report if specifically requested to do so by the Institute.

D. Budget Narrative

The budget narrative should provide the basis for the computation of all project-related costs. Additional background or schedules may be attached only if they are essential to obtaining a clear understanding of the proposed budget. Numerous and lengthy appendices are strongly discouraged. The budget narrative should address the following items.

1. *Justification of Personnel Compensation.* The applicant should address the basis for personnel compensation and explain any deviations from current rates or

established written organization policies.

2. *Fringe Benefit Computation.* The applicant should provide a description of the fringe benefits provided to employees. If percentages are used, the authority for such use should be presented as well as a description of the elements included in the determination of the percentage rate.

3. *Consultant/Contractual Services.* The applicant should describe the type of each service to be provided. The basis for compensation rates and the method for selection should also be included. Rates for consultant services must be set in accordance with Section XI.H.2 of this guideline.

4. *Travel.* Transportation amounts and per diem rates must be in accordance with the policies of the applicant organization. If the applicant does not have an established travel policy, then travel rates shall be consistent with those established by the Institute. (A copy of the Institute's travel policy is available upon request.) The budget narrative should include a description of the rate method used and address per diem rates separate from transportation expenses. The purpose for travel should also be include in the narrative.

5. *Equipment.* The applicant should describe the equipment required to accomplish the goals and objectives of the grant. Leased equipment should be distinguished from equipment to be purchased. The method of procurement should also be described. Equipment purchases for automatic data processing equipment must be in accordance with Section XI.H.2 of this guideline.

6. *Supplies.* The applicant should provide a general description of the supplies necessary to accomplish the goals and objectives of the grant.

7. *Construction.* Construction expenses are prohibited except for the limited purposes set forth in Section VIII.G.2 of this guideline. Any allowable construction or renovation expense should be described in detail in the budget narrative.

8. *Telephone.* Applicants should include anticipated telephone charges, distinguishing between monthly charges and long distance charges in the budget narrative.

9. *Postage.* Anticipated postage costs for project-related mailings should be described in the budget narrative. The cost of special mailings such as for a survey or for announcing a workshop should be distinguished from routine operational mailing costs.

10. *Printing/Photocopying.* Anticipated costs for printing or photocopying should be included in the budget narrative.

11. *Indirect Costs.* Applicants should describe the indirect cost rates applicable to the grant in detail. These rates must be established in accordance with Section XI.H.3 of this guideline.

12. *Match.* The applicant should describe the source of any matching contribution and the nature of the match provided. Any additional contributions to the project should be described in this section of the budget narrative as well.

X. Submission Requirements

An application package containing the application, an original signature on FORM A (and on FORM B, if the application is from a State or local court), and four photocpies of the application package must be provided to the State Justice Institute. *All applications must be Received by the State Justice Institute on or before 5:30 p.m. Eastern Daylight Time on July 24, 1987.* Applications should be sent to: State Justice Institute, 120 S. Fairfax Street, Alexandria, Virginia 22314.

Receipt of each proposal will be acknowledged in writing. Extensions of the deadline for receipt of applications will not be granted.

XI. Financial Requirements

A. Accounting Systems and Financial Records

All grantees, subgrantees, contractors and other organizations directly or indirectly receiving Institute funds are required to establish and maintain accounting systems and financial records to accurately account for funds they receive. These records shall include total program costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget.

1. Purpose

The purpose of this section is to establish accounting system requirements and to offer guidance on procedures which will assist all grantees/subgrantees in:

a. Complying with the statutory requirements for the awarding, disbursement, and accounting of funds;

b. Complying with regulatory requirements of the Institute for the financial management and disposition of funds;

c. Generating financial data which can be used in the planning, management and control of programs; and

d. Facilitating an effective audit of funded programs and projects.

2. References

Except where inconsistent with specific provisions of this guideline, the following regulations, directives and reports are applicable to Institute grants and cooperative agreements. These materials supplement the requirements of this section for accounting systems and financial recordkeeping and provide additional guidance on how these requirements may be satisfied.

a. *Office of Management and Budget (OMB) Circular A–21;* Cost Principles for Educational Institutions.

b. *Office of Management and Budget (OMB) Circular A–87,* Cost Principles for State and Local Governments.

c. *Office of Management and Budget (OMB) Circular A–88 (revised),* Indirect Cost Rates, Audit and Audit Followup at Educational Institutions.

d. *Office of Management and Budget (OMB) Circular A–102,* Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

e. *Office of Management and Budget (OMB) Circular A–110,* Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

f. *Office of Management and Budget (OMB) Circular A–128,* Audits of State and Local Governments.

g. *Office of Management and Budget (OMB) Circular A–122,* Cost Principles for Non-profit Organizations.

B. Supervision and Monitoring Responsibilities

1. Grantee Responsibilities

All grantees receiving direct awards from the Institute are responsible for the management and fiscal control of all funds. Responsibilities include the accounting of receipts and expenditures, the maintaining of adequate financial records and the refunding of expenditures disallowed by audits.

2. Responsibilities of State Supreme Court

Each application for funding from a State or a local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council.

The State Supreme Court shall receive all Institute funds awarded to such courts and shall be responsible for assuring proper administration of Institute funds. The State Supreme Court is responsible for all aspects of the project including proper accounting and financial recordkeeping by the subgrantee. These responsibilities include:

a. *Reviewing Financial Operations.* The State Supreme Court should be familiar with, and periodically monitor,

its subgrantees' financial operations, records system and procedures. Particular attention should be directed to the maintenance of current financial data.

b. *Recording Financial Activities.* The subgrantee's grant award or contract obligation, as well as cash advances and other financial activities, should be recorded in the financial records of the State Supreme Court in summary form. Subgrantee expenditures should be recorded on the books of the State Supreme Court *OR* evidenced by report forms duly filed by the subgrantee. Non-Institute contributions applied to projects by subgrantees should likewise be recorded, as should any project income resulting from program operations.

c. *Budgeting and Budget Review.* The State Supreme Court should ensure that each subgrantee prepares an adequate budget on which its award commitment will be based.

The detail of each project budget should be maintained on file by the State Supreme Court.

d. *Accounting for Non-Institute Contributions.* The State Supreme Court will ensure, in those instances where subgrantees are required to furnish non-Institute matching funds that the requirements and limitations of this guideline are applied to such funds.

e. *Audit Requirment.* The State Supreme Court is required to ensure that subgrantees have met the necessary audit requirements as set forth by the Institute (see section VIII.J and XI.J).

f. *Reporting Irregularities.* The State Supreme Court and its subgrantees are responsible for promptly reporting to the Institute the nature and circumstances surrounding any financial irregularities discovered.

C. Accounting System

The grantee is responsible for establishing and maintaining an adequate system of accounting and internal controls for itself and for ensuring that an adequate system exists for each of its subgrantees and contractors. An acceptable and adequate accounting system is considered to be one which:

1. Properly accounts for receipt of funds under each grant awarded and the expenditure of funds for each grant by category of expenditure (including matching contributions and project income);

2. Assures that expended funds are applied to the appropriate budget category included within the approved grant;

3. Presents and classifies historical costs of the grant as required for budgetary and evaluation purposes;

4. Provides cost and property controls to assure optimal use of grant funds;

5. Is integrated with a system of internal controls adequate to safeguard the funds and assets covered, check the accuracy and reliability of the accounting data, promote operational efficiency, and assure conformance with any general or special conditions of the grant;

6. Meets the prescribed requirements for periodic financial reporting of operations; and

7. Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

D. Total Cost Budgeting and Accounting

Accounting for all funds awarded by the Institute shall be structured and executed on a "total project cost" basis. That is, total project costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget shall be the foundation for fiscal administration and accounting. Grant applications and financial reports require budget and cost estimates on the basis of total costs.

1. Timing of Matching Contributions

Matching contributions need not be applied at the exact time of the obligation of Institute funds.

However, the full matching share must be obligated by the end of the period for which the Institute funds have been made available for obligation under an approved project.

2. Records for Match

All grantees must maintain records which clearly show the source, amount, and timing of all matching contributions. In addition, if a project has included, within its approved budget, contributions which exceed the required matching portion, the grantee must maintain records of those contributions in the same manner as it does the Institute funds and required matching shares. For all grants made to State and local courts, the State Supreme Court has primary responsibility for grantee/subgrantee compliance with the requirements of this section. (See XI.B.2).

E. Maintenance and Retention of Records

All financial records, supporting documents, statistical records and all other records pertinent to grants, subgrants, cooperative agreements or contracts under grants shall be retained by each organization participating in a project for at least three years for purposes of examination and audit. State Supreme Courts may impose record retention and maintenance requirements in addition to those prescribed in this chapter.

1. Coverage

The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and related documents and records. Source documents include copies of all grant and subgrant awards, applications, and required grantee/subgrantee financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under a grant, subgrant or contract, whether they are employed full-time or part-time. Time and effort reports will be required for consultants.

2. Retention Period

The three-year retention period starts from the date of the submission of the final expenditure report or, for grants which are renewed annually, from the date of submission of the annual expenditure report.

3. Maintenance

Grantees and subgrantees are expected to see that records of different fiscal years are separately identified and maintained so that requested information can be readily located. Grantees and subgrantees are also obligated to protect records adequately against fire or other damage. When records are stored away from the grantee's/subgrantee's principal office, a written index of the location of stored records should be on hand, and ready access should be assured.

F. Project-Related Income

Records of the receipt and disposition of project-related income must be maintained by the grantee in the same manner as required for the project funds that gave rise to the income. The policies governing the disposition of the various types of project-related income are listed below.

1. Interest

A State and any agency or instrumentality of a State including State institutions of higher education and State hospitals, shall not be held accountable for interest earned on advances of project funds. When funds

are awarded to subgrantees through a State, the subgrantees are not held accountable for interest earned on advances of project funds. Local units of government that are direct grantees and nonprofit organizations must refund any interest earned. Grantees shall so order their affairs to ensure minimum balances in their respective grant cash accounts.

2. Other Project Income

a. *Royalties.* The grantee/subgrantee may retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the project provide otherwise.

b. *Registration/Tuition Fees and Other.* These types of project income shall be treated in accordance with disposition instructions set forth in the project's terms and conditions.

G. Payments and Financial Reporting Requirements

1. Payment of Grant Funds

The procedures and regulations set forth below are applicable to all Institute grant funds and grantees.

a. *Request for Advance or Reimbursement of Funds.* Grantees will receive funds on a "Check-Issued" basis. Upon receipt, review, and approval of a Request for Advance or Reimbursement by the Institute, a check will be issued directly to the grantee or its designated fiscal agent. A request must be limited to the grantee's immediate cash needs. The Request for Advance or Reimbursement, along with the instructions for its preparation, will be included in the official Institute award package.

b. *Termination of Advance Funding.* When a grantee organization receiving cash advances from the Institute—

(i) Demonstrates an unwillingness or inability to attain program or project goals, or to establish procedures that will minimize the time elapsing between cash advances and disbursements, or cannot adhere to guideline requirements or special conditions;

(ii) Engages in the improper award and administration of subgrants or contracts; or

(iii) Is unable to submit reliable and/or timely reports,

the Institute may terminate advance financing and require the grantee organization to finance its operations with its own working capital. Payments to the grantee shall then be made by the use of the Institute check method to reimburse the grantee for actual cash disbursements. In the event the grantee continues to be deficient, the Institute reserves the right to suspend payments until the deficiencies are corrected.

c. *Principle of Minimum Cash on Hand.* Recipient organizations should request funds based upon immediate disbursement requirements. Grantees should time their requests to ensure that cash on hand is the minimum needed for disbursements to be made immediately or within a few days. Idle funds in the hands of subgrantees will impair the goals of good cash management.

2. Financial Reporting

In order to obtain financial information concerning the use of funds, the Institute requires that grantees/subgrantees of these funds submit timely reports for review.

The Financial Status Report is required from all grantees for each active quarter on a calendar-quarter basis. It is designed to reflect financial information relating to Institute funds, State and local matching shares, and any other fund sources included in the approved project budget. The report contains information on obligations as well as outlays. A copy of the Financial Status Report, along with instructions for its preparation and reporting due dates, will be included in the official Institute award package.

3. *Consequences of Non-Compliance with Submission Requirements*

Failure of the grantee organization to submit required financial and program reports may result in a suspension of grant payments.

H. Allowability of Costs

1. *General*

Except as may be otherwise provided in the conditions of a particular grant, cost allowability shall be determined in accordance with the principles set forth in *OMB Circulars A–87,* Cost Principles for State and Local Governments; *A–21,* Cost Principles Applicable to Grants and Contracts with Educational Institutions; and *A–122,* Cost Principles for Non-Profit Organizations.

2. *Costs Requiring Prior Approval*

a. *Preagreement Costs.* The written prior approval of the Institute is required for costs which are considered necessary to the project but occur prior to the starting date of the grant period.

b. *Automated Data Processing (ADP) Equipment and Software.* The written prior approval of the Institute is required when the amount of the equipment to be purchased exceeds $20,000 and the software to be purchased exceeds $5,000.

c. *Consultants.* The written prior approval of the Institute is required when the rate of compensation to be paid a consultant exceeds $200 a day.

3. *Indirect Costs*

These are costs of an organization that are not readily assignable to a particular project, but are necessary to the operation of the organization and the performance of the project. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect costs. It is the policy of the Institute that all costs should be budgeted directly; however, if a recipient has an indirect cost rate approved by a Federal agency as set forth below, the Institute will accept that rate.

a. *Approved Plan Available.* (1) The Institute will accept any indirect cost rate or allocation plan previously approved for a grantee by any Federal granting agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars. A copy of the approved rate agreement must be submitted to the Institue.

(2) Where flat rates are accepted in lieu of actual indirect costs, grantees may not also charge expenses normally included in overhead pools, e.g., accounting services, legal services, building occupancy and maintenance, etc., as direct costs.

(3) Organizations with an approved indirect cost rate, utilizing total direct costs as the base, usually exclude contracts under grants from any overhead recovery. The negotiation agreement will stipulate that contracts are excluded from the base for overhead recovery.

B. *Establishment of Indirect Cost Rates.* In order to be reimbursed for indirect costs, a grantee or organization must first establish an appropriate indirect cost rate. To do this, the grantee must prepare an indirect cost rate proposal and submit it to the Institute. The proposal must be submitted in a timely manner (within three months after the start of the grant period) to assure recovery of the full amount of allowable indirect costs, and it must be developed in accordance with principles and procedures appropriate to the type of grantee institution involved.

c. *No Approved Plan.* If an indirect cost proposal for recovery of actual indirect costs is not submitted to the Institute within three months after the start of the grant period, indirect costs will be irrevocably disallowed for all months prior to the month that the

indirect cost proposal is received. This policy is effective for all grant awards.

I. Procurement and Property Management Standards

1. Procurement Standards

For State and local governments, the Institute is adopting the standards set forth in Attachment O of *OMB Circular A–102.* Institutions of higher education, hospitals, and other non-profit organizations will be governed by the standards set forth in Attachment O of *OMB Circular A–110.*

2. Property Management Standards

The property management standards as prescribed in Attachment N of *OMB Circulars A–102* and *A–110* shall be applicable to all grantees and subgrantees of Institute funds except as provided in subsection b. below.

a. *Acquisition.* All grantees/subgrantees are required to be prudent in the acquisition and management of property with grant funds. If suitable property required for the successful execution of projects is already available within the grantee or subgrantee organization, expenditures of grant funds for the acquisition of new property will be considered unnecessary.

b. *Title to Property.* At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with Institute funds shall vest in the court, organization, or individual that purchased the property if certification is made to the Institute that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act, as approved by the Institute. If such certification is not received, or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

J. Audit Requirements

1. Audit Objectives

Grants and other agreements are awarded subject to conditions of fiscal, program and general administration to which the recipient expressly agrees. Accordingly, the audit objective is to review the grantee's or subgrantee's administration of grant funds and required non-Institute contributions for the purpose of determining whether the recipient has:

a. Established an accounting system integrated with adequate internal fiscal and management controls to provide full accountability for revenues, expenditures, assets, and liabilities;

b. Prepared financial statements which are presented fairly, in accordance with generally accepted accounting principles;

c. Prepared Institute financial reports (including Financial Status Reports, Cash Reports, and Requests for Advances and Reimbursements) which contain accurate and reliable financial data, and are presented in accordance with prescribed procedures; and

d. Expended Institute funds in accordance with the terms of applicable agreements and those provisions of Federal law or Institute regulations that could have a material effect on the financial statements or on the awards tested.

2. Implementation

Each grantee (including State or local courts receiving a subgrant from the State Supreme Court) shall provide for an annual fiscal audit. The audit may be of the entire grantee organization or of the specific project funded by the Institute. The audit shall be conducted by an independent auditing organization or a State or local agency authorized to audit government agencies. The audit shall be conducted in compliance with these guidelines and in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants. A written report shall be prepared upon completion of the audit. Grantees are responsible for submitting copies of the reports to the Institute.

If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to management officials of the grantee above the level of involvement. The grantee, in turn, shall promptly notify the Institute of the illegal acts or irregularities and of proposed and actual actions, if any.

Failure to have audits performed as required may result in the withholding of new awards and/or suspension of funds or changes in the method of payment on active grants.

3. Resolution and Clearance of Audit Reports

Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each grant recipient shall have policies and procedures for acting on audit recommendations by designating officials responsible for: follow-up, maintaining a record of the actions taken on recommendations and time schedules, responding to and acting on audit recommendations, and submitting periodic reports to the Institute on recommendations and actions taken.

4. Consequences of Non-Resolution of Audit Issues

It is the general policy of the State Justice Institute not to make new grant awards to an applicant having an unresolved audit report involving Institute awards. Failure of the grantee organization to resolve audit questions may also result in the suspension of payments for active Institute grants to that organization.

K. Close-Out of Grants

1. Definition

Close-out is a process by which the Institute determines that all applicable administrative and financial actions and all required work of the grant may have been completed by both the grantee and the Institute.

2. Grantee Close-Out Requirements

Within 90 days after the end date of the grant or any approved extension thereof (revised end date), the following documents must be submitted by the grantee to the Institute.

a. *Financial Status Report.* The FINAL report of expenditures must have no unliquidated obligations and must indicate the exact balance of unobligated funds. Any unobligated/unexpended funds will be deobligated from the award amount by the Institute. Grantees on a check-issued basis, who have drawn down funds in excess of their obligations/expenditures, must return any unused funds to the Institute at the same time they submit the final report.

b. *Final Progress Report.* This report should be prepared in accordance with instructions provided by the Institute.

XII. Grant Adjustments

All requests for program or budget adjustments requiring Institute approval must be submitted in a timely manner by the project director. All requests for changes from the approved application will be carefully reviewed for both consistency with this guideline and the enhancement of grant goals and objectives.

A. Grant Adjustments Requiring Prior Written Approval

There are several types of grant adjustments which require the prior written approval of the Institute. Examples of these adjustments include:

1. Budget revisions among direct cost categories which exceed or are expected to exceed 5 percent of the approved budget.

2. A change in the scope of work to be performed or the objectives of the project (see section XII.D).

3. A change in the project site.

4. A change in the project period, such as an extension of the grant period and/or extension of the expenditure deadline (see section XII.E).

5. Satisfaction of special conditions, if required.

6. A change in our temporary absence of the project director (see sections XII.F and G).

7. A successor in interest or name change agreements.

8. A transfer or contracting out of grant-supported activities (see section XII.H).

9. Preagreement costs, the purchase of automated data processing equipment and software, and consultant rates, as specified in section XI.H.2 of this guideline.

B. Request for Grant Adjustments

All grantees and subgrantees must promptly notify the SJI program managers, in writing, or events or proposed changes which may require an adjustment from the approved application. In requesting an adjustment, the grantee must set forth the reasons and basis for the proposed adjustment and any other information the SJI program managers determines would help the Institute's review.

C. Notification of Approval/Disapproval

If request is approved, the grantee will be sent a Grant Adjustment Notice signed by the Executive Director or his/her designee. If the request is denied, the grantee will be sent a written explanation of the reasons for the denial.

D. Changes in the Scope of the Grant

A grantee/subgrantee may make minor changes in methodology, approach, or other aspects of the grant to expedite achievement of the grant's objectives with subsequent notification of the SJI program manager. Major changes in scope, duration, training or other significant areas must be approved in advance by the Institute.

E. Date Changes

Requests for changes or extensions of the grant period are to be made 90 days in advance of the end date of the grant whenever possible. In no instance may the request be made less than 30 days before the end date of the grant.

F. Temporary Absence of the Project Director

Whenever absence of the project director is expected to exceed a continuous period of one month, the plans for the conduct of the project director's duties during such absence must be approved in advance by the Institute. This information must be provided in a letter signed by an authorized representative of the grantee/subgrantee at least 30 days before the departure of the project director, or as soon as it is known that the project director will be absent. The grant may be terminated if arrangements are not approved in advance by the Institute.

G. Withdrawal of/Change in Project Director

If the project director relinquishes or expects to relinquish active direction of the project, the Institute must be notified immediately. In such cases, if the grantee/subgrantee wishes to terminate the project, the Institute will forward procedural instructions upon notification of such intent. If the grantee wishes to continue the project under the direction of another individual, a statement of the candidate's qualifications should be sent to the Institute for review and approval. The grant may be terminated if the qualifications of the proposed individual are not approved in advance by the Institute.

H. Transferring or Contracting Out of Grant-Supported Activities

A principal activity of the grant-supported project shall not be transferred or contracted out to another organization without specific prior approval by the Institute. All such arrangements should be formalized in a contract or other written agreement between the parties involved. Copies of the proposed contract or agreement must be submitted for prior approval at the earliest possible time. The contract or agreement must, at a minimum, state the activities to be performed, the time schedule, the policies and procedures to be followed, the dollar limitation of the agreement, and the cost principles to be followed in determining what costs, both direct and indirect, are to be allowed. The contract or other written agreement must not affect the grantee's overall responsibility for the direction of the project and accountability to the Institute.

David I. Tevelin,

Executive Director.

Appendix 1.—Contact Persons for State Agencies Administering Institute Grants To State and Local Courts as of July 7, 1987

Mr. Allen L. Tapley, Administrative Director of the Courts, Administrative Office of the Courts, 817 South Court Street, Montgomery, Alabama 36130, (205) 834–7990

Mr. Arthur H. Snowden II, Administrative Director of the Court, Supreme Court, State of Alaska, 303 K Street, Anchorage, Alaska 99501, (907) 264–0547

Mr. William L. McDonald, Administrative Director, Supreme Court of Arizona, 209 West Wing, State Capitol, Phoenix, Arizona 85007, (602) 255–4359

Mr. Christopher Thomas, Executive Secretary, Arkansas Judicial Department, Supreme Court of Arkansas, Justice Building, Little Rock, Arkansas 72201, (501) 371–2295

Mr. William E. Davis, Director, Administrative Office of the Courts, State Building, 350 McAllister Street, Room 3154, San Francisco, California 94102, (415) 557–1581

Mr. James D. Thomas, State Court Administrator, Colorado Judicial Department, State Judicial Building, 2 East 14th Avenue, Room 215, Denver, Colorado 80203, (303) 861–1111, ext. 125

Mr. Bruce Borre, Director, Research and Planning, Office of the Chief Court Administrator, Drawer N, Station A, Hartford, Connecticut 06106, (203) 722–5836

Mr. Ted Philyaw, Director, Administrative Office of the Courts, Carvel State Office Building, 820 N. French Street, Wilmington, Delaware 19801, (302) 571–2480

Mr. James Lynch, Deputy Executive Officer, Courts of the District of Columbia, 500 Indiana Avenue NW., Washington, DC 20001, (202) 879–1700

Mr. Kenneth Palmer, State Court Administrator, Office of the State Courts Administrator, Supreme Court Building, Tallahassee, Florida 32399–1900, (904) 488–8621

Mr. Robert L. Doss, Jr., Director, Administrative Office of the Courts, The Judicial Council of Georgia, 244 Washington Street, SW., Suite 500, Atlanta, Georgia 30334, (404) 656–5171

Mr. Robert E. Leon Guerrero, Administrative Director, Superior Court of Guam, Judiciary Building, 110 West O'Brien Drive, Agana, Guam 96910, 011 (671) 472–8961 through 8968

Ms. Janice Wolfe, Administrative Director of Courts, The Judiciary, Post Office Box 2560, Honolulu, Hawaii 96804, (808) 548–4605

Mr. Carl F. Bianchi, Administrative Director of the Courts, Supreme Court Building, 451 West State Street, Boise, Idaho 83720, (208) 334–2246

Mr. William J. O'Brien, State Court Administrator, Supreme Court of Iowa, State House, Des Moines, Iowa 50319, (515) 281–5241

Dr. Howard P. Schwartz, Judicial Administrator, Kansas Judicial Center, 301 West 10th Street, Topeka, Kansas 66612, (913) 296–4873

Ms. Laura Stammel, Comptroller, Administrative Office of the Courts, 403 Wapping Street, Frankfort, Kentucky 40601, (502) 564–2350

Dr. Hugh M. Collins, Chief Deputy Judicial Administrator, Supreme Court of Louisiana, 301 Loyola Avenue, Room 109, New

Orleans, Louisiana 70112–1887, (504) 568–5747

Mr. Dana R. Baggett, State Court Administrator, Administrative Office of the Courts, P.O. Box 4820, Downtown Station, Portland, Maine 04112, (207) 879–4792

Mr. Peter J. Lally, Assistant State Court Administrator, Courts of Appeal Building, 361 Rowe Boulevard, Annapolis, Maryland 21401, (301) 974–2141

Honorable Arthur M. Mason, Chief Administrative Justice of the Trial Court, 317 New Courthouse, Boston, Massachusetts 02108, (617) 725–8787

Honorable Dorothy Comstock Riley, Chief Justice, Supreme Court of Michigan, Law Building, Post Office Box 30052, Lansing, Michigan 48909, (517) 373–0128

Ms. Sue K. Dosal, State Court Administrator, Supreme Court of Minnesota, 230 State Capitol, St. Paul, Minnesota 55155, (617) 296–2474

Mr. Jim Oppedahl, Court Administrator, Montana Supreme Court, Justice Building, 215 North Sanders, Helena, Montana 59620–3001, (406) 444–2621

Mr. Joseph C. Steele, State Court Administrator, 1220 State Capitol Building, Lincoln, Nebraska 68509, (404) 471–2643

Mr. Robert Lipscher, Administrative Director, Administrative Office of the Courts, CN–037, RJH Justice Complex, Trenton, New Jersey 08625, (609) 984–0275

Mr. Jeffrey Leidinger, Director, Administrative Office of the Courts, Supreme Court of New Hampshire, Noble Drive, Concord, New Hampshire 03301, (603) 271–2521

Honorable Albert M. Rosenblatt, Chief Administrative Judge, New York State Office of Court Administrator, Empire State Plaza, Agency Building 4, 20th Floor, Albany, New York 12207, (913) 431–1930

Mr. Franklin E. Freeman, Jr., Administrative Director, Administrative Office of the Courts, Post Office Box 2448, Raleigh, North Carolina 27602, (919) 733–7106/7107

Mr. William G. Bohn, State Court Administrator, Supreme Court of North Dakota, State Capitol Building, Bismarck, North Dakota 58505, (701) 224–4216

Mr. Stephen W. Stover, Administrative Director of the Courts, Supreme Court of Ohio, State Office Tower, 30 East Broad Street, Columbus, Ohio 43266–0419, (614) 466–2653

Mr. Charles E. Ferrell, Jr., Administrative Director, Administrative Office of the Courts, 1915 N. Stiles, Suite 305, Oklahoma City, Oklahoma 73105, (405) 521–2450

Mr. R. William Linden, Jr., State Court Administrator, Supreme Court of Oregon, Supreme Court Building, Salem, Oregon 97310, (503) 378–6046

Mr. Ralph Hunsicker, Administrative Office of Pennsylvania Courts, 407 City Towers, 301 Chestnut Street, Harrisburg, Pennsylvania 17101, (717) 783–7322

Mr. Alfredo Rivera, Director, Planning and Management Division, Office of Court Administration, General Court of Justice, Vela Street Stop 35½, Call Box 22A, Hato Rey, Puerto Rico 00919, (809) 763–5460

Mr. Walter Kane, State Court Administrator, Supreme Court of Rhode Island, 250 Benefit Street, Providence, Rhode Island 02903, (401) 277–3263 or 277–3272

Mr. Louis L. Rosen, Director, South Carolina Court Administration, Post Office Box 50447, Columbia, South Carolina 29250, (803) 758–2961

Honorable George W. Wuest, Chief Justice, Supreme Court of South Dakota, 500 East Capitol Avenue, Pierre, South Dakota 57501, (605) 773–4885

Mr. Cletus W. McWilliams, Executive Secretary, Supreme Court of Tennessee, Supreme Court Building, Room 422, Nashville, Tennessee 37219, (615) 741–2687

Mr. C. Raymond Judice, Executive Director, Texas Judicial Council, Post Office Box 12066, Austin, Texas 78711, (512) 463–1625

Honorable Gordon R. Hall, Chief Justice, Supreme Court of Utah, State Capitol Building, Room 332, Salt Lake City, Utah 84114, (801) 533–5285

Mr. Thomas J. Lehner, Court Administrator, Supreme Court of Vermont, 111 State Street, Montpelier, Vermont 05602, (802) 828–3281

Ms. Viola E. Smith, Clerk of the Court/Administrator, Territorial Court of the Virgin Islands, Post Office Box 70, Charlotte Amalie, St. Thomas, Virgin Islands 00801, (809) 774–6680, ext. 248

Mr. Robert N. Baldwin, Executive Secretary, Supreme Court of Virginia, Administrative Offices, 100 North Ninth Street, 3rd Floor, Richmond, Virginia 23219, (804) 786–6455

Ms. Mary McQueen, Administrator for the Courts, Supreme Court of Washington, Temple of Justice, Olympia, Washington 98504, (206) 753–5780

Mr. Paul Crabtree, Administrative Director of the Courts, Administrative Office, 402–E State Capitol, Charleston, West Virginia 25305, (304) 348–0145

Justice Walter Urbigkit, Supreme Court of Wyoming, Supreme Court Building, Cheyenne, Wyoming 82002, (307) 777–7571

BILLING CODE 6820-SC-M

Appendix 2—SJI Application Forms and Instructions

FORM A

State Justice Institute

APPLICATION

1. **APPLICANT**
   a. Applicant Name _____
   b. Organization Unit _____
   c. Street/P.O. Box _____
   d. City _____
   e. State _____ f. Zip Code _____
   g. Name and Telephone Number of Contact Person _____

2. **TYPE OF APPLICANT** *(Circle appropriate letter)*
   a. State or local court
   b. National organization operating in conjunction with State court
   c. National state court education/training organization
   d. College or University
   e. Other non-profit organization or agency
   f. Individual
   g. Corporation or partnership
   h. Other unit of government
   i. Other _____ *(specify)*

3. **EMPLOYER IDENTIFICATION NUMBER** _____

4. **ENTITY RESPONSIBLE FOR FUNDS** *(if different from applicant)*
   a. Name of Responsible Entity _____
   b. Street/P.O. Box _____
   c. City _____
   d. State _____ e. Zip Code _____
   f. Name and Telephone Number of Contact Person _____

5. **TYPE OF PROJECT** *(Circle most appropriate letter)*
   a. Education/Training
   b. Research/Evaluation
   c. Demonstration
   d. Technical Assistance
   e. Other _____ *(specify)*

6. **TYPE OF APPLICATION** *(Circle appropriate letter)*
   a. New
   b. Continuation
   c. Supplemental

7. **TITLE OF PROPOSED PROJECT**

8. **PROPOSED START DATE** _____

9. **PROJECT DURATION** *(Months)* _____

10. a. **AMOUNT REQUESTED FROM SJI** $ _____
    b. **AMOUNT OF MATCH**
    Cash match $ _____
    Non-cash match $ _____
    TOTAL MATCH $ _____
    c. **TOTAL PROJECT COST** $ _____

11. **IF THIS APPLICATION HAS BEEN SUBMITTED TO OTHER FUNDING SOURCES, PLEASE PROVIDE THE FOLLOWING INFORMATION:**
    Source _____
    Date Submitted _____
    Amount Sought _____
    Disposition (if any) or Current Status _____

12. **CONGRESSIONAL DISTRICT OF:** _____ Applicant _____ Project (If Different than Applicant)

13. **CERTIFICATION**
On behalf of the applicant, I hereby certify that to the best of my knowledge the information in this application is true and complete. I have read the attached assurances (Form D) and understand that if this application is approved for funding the award will be subject to those assurances. I certify that the applicant will comply with the assurances if the application is approved, and that I am lawfully authorized to make these representations on behalf on the applicant.

_____ _____ _____
SIGNATURE OF RESPONSIBLE OFFICIAL OF APPLICANT (For application from State and local courts Form B Certificate of State Approval must be attached.) TITLE DATE

FOR INSTITUTE USE ONLY

14. a. APPLICATION NUMBER _____
    b. Concept Paper Number _____

15. DATE RECEIVED

16. DATE OF ACTION

17. ACTION TAKEN
    a. Awarded
    b. Rejected
    c. Returned for Modification
    d. Deferred
    e. Withdrawn
    f. Other _____

18. TYPE OF AWARD
    a. Grant
    b. Cooperative Agreement
    c. Contract

19. a. AMOUNT OF AWARD
    $ _____
    b. Amount of Match Required
    $ _____

BILLING CODE 6820-SC-C

Instructions for SJI Application— Form A

1. (a)–(g) Legal Name Of Applicant court, entity or individual; Name Of The Organizational Unit, if any, that will conduct the project; Complete Address of applicant; Name and telephone number of a Contact Person who can provide further information about this application.

2. (a) State of Local Court includes all appellate, general jurisdiction, limited jurisdiction, and special jurisdiction courts. Agencies of state and local courts include all governmental offices that are supervised by or report for administrative purposes to the chief or presiding justice or judge, or his or her designee.

(b) National Organizations Operating in Conjunction with State Courts include national non-profit organizations controlled by, operating in conjunction with, and serving the State courts.

(c) National State Court Education/ Training Organizations include national non-profit organizations for the education and training of judges support of the judicial branch of State government.

(d) College Or University includes all institutions of higher education.

(e) Other Non-profit Organization or Agency includes those non-profit organizations and private agencies with expertise in judicial administration not included in sub-paragraphs (b)–(d).

(f) Individual means a person not applying in conjunction with or on behalf of an entity identified in one of the other categories.

(g) Corporation Or Partnership includes for-profit and not-for-profit entities not falling within one of the other categories.

(h) Other Unit Of Government includes offices, programs, commissions, committees, or other entities that are supervised by or report for administrative purposes to the chief executive or the head of an executive branch agency or his or her designee, or to any legislative officer, chairperson or official.

3. Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

4. (a)–(f) Entity Responsible For Funds is the court or organization that will receive, administer, and account for any monies awarded. For example, if the applicant is a State or local court, the responsible entity would be the State's Supreme Court or its designated agency or council in accordance with 42 U.S.C. 10705(b)(4). If the applicant is a special university program, the responsible entity may be the program, the university itself, or the university's grant office depending on the university's structure. Applicants should complete this block only if the entity that will be responsible for the funds is different from the applicant.

5. (a)–(e) Circle the letter of the Type of activities that best characterizes the project. If project funds will be substantially divided among two or more types of activities, circle the letters for each of those activities.

6. (a) New refers to the first award of State Justice Institute funds for a particular project, whether or not the applicant has received previous awards from the Institute.

(b) Continuation refers to an extension for an additonal funding period.

(c) Supplemental refers to the award of additional funds to permit an existing project to complete the tasks originally proposed or to augment the scope of the project.

7. The Title Of the Proposed Project should reflect the objectives of the activities to be conducted.

8. The Proposed Start Date of the project should be the earliest feasible date on which the applicant will be able to begin project activities following the date of award. An explanation should be provided in the Program Narrative if the proposed start date is more than 90 days after the estimated award date set forth in the Application Review Procedures section of the current Grant Guideline.

9. Project Duration refers to the number of months the applicant estimates will be needed to complete all project tasks after the proposed start date.

10. (a) Insert the Amount Requested from the State Justice Institute to conduct the project.

(b) The Amount Of Match is the amount, if any, to be contributed to the project by the applicant, by a unit of State or local government, by a Federal agency, or by private sources. See 42 U.S.C. 10705(d).

Cash Match refers to funds directly contributed by the applicant, a unit of State or local government, a Federal agency, or private sources to support the project.

Non-cash Match refers to in-kind contributions by the applicant, a unit of State or local government, or private sources to support the project. The applicant should describe, in detail, both the value it assigns to in-kind contributions and the basis for determining that value.

Total Match refers to the sum of the cash and in-kind contributions to the project.

(c) Total Project Cost represents the sum of the amount requested from the Institute and all match contributions to the project.

11. If this application or an application requesting support for the same project or an essentially similar project has been Previously Submitted to another funding source (Federal or private), the name of the source, the date of the previous submission, the amount of funding sought, and disposition (if any) should be entered.

12. Enter the applicant's Congressional District and the Congressional District(s) in which most of the project activities will take place. If the project activities are not site-specific, for example a series of training workshops that will bring together participants from around the State, the country, or from a particular region, enter statewide, national, or regional, as appropriate in the space provided.

FORM B
(Instructions on reverse side)

State Justice Institute

CERTIFICATE OF STATE APPROVAL

The _____
Name of State Supreme Court or Designated Agency or Council

has reviewed the application entitled _____

_____

prepared by _____,
Name of Applicant

approves its submission to the State Justice Institute, and agrees to receive, administer and be accountable for all funds awarded by the Institute pursuant to the application.

_____ _____
Signature *Date*

_____
Name

_____
Title

Instructions—Form B

The State Justice Institute Act requires that:

Each application for funding by a State or local court shall be approved, consistent with State law, by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts. 42 U.S.C. 10705(b)(4).

Form B or its equivalent must therefore be included in applications submitted by all appellate, general jurisdiction, limited jurisdiction, and special jurisdiction courts supported primarily by State, county, municipal, or other non-federal funds, and by all agencies and offices that are supervised by or report for administrative purposes to the chief or presiding justice or judge of such a court, or his or her designee.

The term "State Supreme Court" refers to the court of last resort of a State. "Designated agency or council" refers to the office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for funds and to receive, administer and be accountable for those funds.

Form B should be signed by the Chief Judge or Chief Justice of the State Supreme Court, or by the director of the designated agency or chair of the designated council. If the designated agency or council differs from the designee listed in Appendix 1 of the State Justice Institute Grant Guideline, evidence of the new or additional designation should be attached.

BILLING CODE 6820-SC-M

FORM C
(Instructions on reverse side)

State Justice Institute

PROJECT BUDGET
(TABULAR FORMAT)

Applicant: _____
Project Title _____
For Project Activity from _____ **to** _____
Total Amount Requested for Project from SJI $ _____

ITEM	SJI FUNDS	STATE FUNDS	FEDERAL FUNDS	APPLICANT FUNDS	OTHER FUNDS	IN-KIND SUPPORT	TOTAL
Personnel							
Fringe Benefits							
Consultant/Contractual							
Travel							
Equipment							
Supplies							
Telephone							
Postage							
Printing/Photocopying							
Audit							
Other (Specify)							
Direct Costs							
Indirect Costs							
Total							

Remarks:

FORM C1
(Instructions on reverse side)

State Justice Institute

PAGE OF

PROJECT BUDGET
(SPREADSHEET FORMAT)

Applicant: _____
Project Title _____
For Project Activity from _____ **to** _____
Total Amount Requested for Project from SJI $ _____

ITEM	TASK #	TASK #	TASK #	TASK #	TASK #	TASK #	TOTAL
Personnel							
Fringe Benefits							
Consultant/Contractual							
Travel							
Equipment							
Supplies							
Telephone							
Postage							
Printing/Photocopying							
Audit							
Other (Specify)							
Direct Costs							
Indirect Costs							
SJI TOTAL							
STATE							
FEDERAL							
APPLICANT							
OTHER							
IN-KIND							
Total							

BILLING CODE 6820-SC-C

Application Budget

Applicants may submit the proposed project budgets either in the tabular format of Form C or in a spreadsheet format similar to Form C1. Applicants requesting more than $100,000 are encouraged to use the spreadsheet format. If the proposed project period is for more than 12 months, a separate form should be submitted for each succeeding twelve-month period or a portion thereof beyond month 12.

In addition to Form C or C1, applicants must provide a detailed budget narrative providing an explanation of the basis for the estimates in each budget category (see section IX.D). If the applicant is requesting indirect costs and has an indirect cost rate that has been approved by a Federal agency, the basis for that rate together with a copy of the letter or other official document stating that it has been approved should be attached.

If funds from other sources have been requested either as match or to support other aspects of the project, the source, current status of the request, and anticipated decision date must be provided.

Form D

State Justice Institute—Assurances

The applicant hereby assures and certifies that it possesses legal authority to apply for the award, and that if funds are awarded by the State Justice Institute pursuant to this application, it will comply with all applicable provisions of law and the regulations, policies, guidelines and requirements of the Institute as they relate to the acceptance and use of Institute funds pursuant to this application. The applicant further assures and certifies with respect to this application, that:

1. No person will, on the basis of race, sex, national origin, disability, color, or creed be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by Institute funds, and that the applicant will immediately take any measures necessary to effectuate this assurance.

2. In accordance with 42 U.S.C. 10706(a), funds awarded to the applicant by the Institute will not be used, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by Federal, State or local agencies, or to influence the passage or defeat of any legislation or constitutional amendment by any Federal, State or local legislative body.

3. In accordance with 42 U.S.C. 10706(a) and 10707(c):

a. It will not contribute or make available Institute funds, project personnel, or equipment to any political party or association, to the campaign of any candidate for public or party office, or to influence the passage or defeat of any ballot measure, initiative, or referendum;

b. No officer or employee of the applicant will intentionally identify the Institute or the applicant with any partisan or nonpartisan political activity or the campaign of any candidate for public or party office; and,

c. No officer or employee of the applicant will engage in partisan political activity while engage in work supported in whole or in part by the Institute.

4. In accordance with 42 U.S.C. 10706(b), no funds awarded by the Institute will be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

5. In accordance with 42 U.S.C. 10706(d), no funds awarded by the Institute will be used to supplant State or local funds supporting a program or activity; to construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or to solely purchase equipment for a court system.

6. It will provide for an annual fiscal audit of the project.

7. It will give the Institute, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award.

8. Resarch or statistical information that is furnished during the course of the project and that is identifiable to any specific private person, will not be used or revealed for any purpose other than the purpose for which it was obtained, nor will such information or copies thereof be offered as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding without the consent of the person who furnished the information.

9. All products prepared as the result of the project will be originally-developed material unless otherwise specifically provided for in the award document, and that material not originally developed that is included in such products must be properly identified, whether the material is in a verbatim or extensive paraphrase format.

10. The following statement will be prominently displayed on all products prepared as a result of the project:

This [document, film, videotape, etc.] was developed under a [grant, cooperative agreement, contract] from the State Justice Institute. Points of view expressed herein are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute.

11. Except as otherwise provided in the terms and conditions of an Institute award, the recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

12. It will submit quarterly progress and financial reports within 30 days of the close of each calendar quarter during the funding period; that progress reports will include a narrative description of project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period; and that financial reports will contain the information requested on the financial report form included in the award documents.

13. At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with Institute funds shall vest in the recipient court, organization, or individual that purchased the property if certification is made to the Institute that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act, as approved by the Institute. If such certification is not made or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

14. The person signing the application is authorized to do so on behalf of the applicant and to obligate the applicant to comply with the assurances enumerated above.

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federal register

Monday
July 13, 1987

Part III

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Promising Approaches for the Prevention, Intervention and Treatment of Illegal Drug and Alcohol Use Among Juveniles; Notice of Issuance of Solicitation for Applications

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Promising Approaches for the Prevention, Intervention and Treatment of Illegal Drug and Alcohol Use Among Juveniles

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of issuance of a solicitation for applications to develop a program for the prevention, intervention, and treatment of illegal drug and alcohol use among juveniles.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to sections 224(a)(1) and (5) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is sponsoring a development initiative to assess, develop, test and disseminate information on promising approaches for the prevention, intervention, and treatment of chronic illegal drug use among high risk juveniles.

The purpose of this program is to assist communities experiencing high rates of adolescent drug and alcohol abuse through the identification and review of promising juvenile drug programs, the subsequent development and testing of program prototypes and the provision of training based on the prototypes. The overall goal of the program is to provide communities with the necessary skills and information to adopt and implement promising approaches for the prevention, intervention, and treatment of chronic juvenile drug and alcohol abuse.

OJJDP and The Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) jointly sponsored research and practitioner conferences on juvenile offenders with serious drug, alcohol and mental health problems. There is general agreement among researchers and practitioners that much is known about the etiology and impact of the problem, as well as promising approaches to prevent, intervene and treat drug and alcohol abuse, particularly among youth. Therefore the Office intends to apply this body of knowledge to the development, dissemination, and testing of prototypical approaches to address the problem. OJJDP proposes to accomplish this task by sponsoring this development effort which will include:

- Identification and assessment of selected programmatic approaches;
- Prototype (model) development based on the existing approaches;
- Development of training and technical assistance materials to transfer the prototype designs;
- Testing of the prototypes; and
- Dissemination of program products and results.

Eligibility: Public agencies and private not-for-profit organizations which can demonstrate the capability to conduct a development program and deliver training and technical assistance in the area of alcohol and substance abuse are invited to submit applications to enter into a cooperative agreement with OJJDP. OJJDP will select the applicant which presents the most cost-effective approach, and which best demonstrates the organizational capability, knowledge of and experience in the fields of alcohol and substance abuse, juvenile justice, program evaluation and training. The project period for this program is four years. The first budget period is for 24 months. OJJDP has allocated up to $500,000 for this period. Based on successful completion of the first budget period, several non-competing continuation awards are anticipated. Applicants are encouraged to present cost-competitive proposals.

FOR FURTHER INFORMATION CONTACT: Frank M. Porpotage, II, Special Emphasis Division (202/724–8491) or Catherine Sanders, Research and Program Development Division, (202/724–5929) OJJDP, 633 Indiana Avenue, NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION:

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I. Introduction

Surveys of high school seniors indicate that, nationally, the rate of drug use has been stable or declining since 1980. It is still, however, unacceptably high among seniors in the class of 1985. Over 50% have tried marijuana, 18% have tried inhalants, 4.9% have used PCP, 17% have tried cocaine, 26% have used stimulants and 92.2% have tried alcohol (Johnston et. al., 1986). These rates would probably be somewhat higher if youth who dropped out prior to their senior year were included in the survey. The National Institute on Drug Abuse 1985 National Household Survey which includes youth in grades 10–12 (approximately 15–17 years of age) also showed trends in use from 1982 to 1985 to be stable. Forty-nine percent (49%) reported past month use of alcohol, twenty-one percent (21%) past month use of marijuana and four percent (4%) past month use of cocaine (Clayton, 1986).

Effective programming to prevent and treat juvenile drug abuse should be based on the soundest available research on causes or risk factors for juvenile drug abuse. There is a growing consensus, based on multiple studies, that the risk factors for becoming a chronic (multiple) drug abuser and a serious juvenile offender include:

1) Poor and inconsistent family management practices and poor family communication;

2) Parental drug or alcohol abuse;

3) Poor school adjustment, and academic performance, and low commitment to education;

4) Association with drug and delinquency-involved peers;

5) Inadequate "social bonding" to parents, teachers and law abiding peers; and,

6) Positive attitudes toward drug use and delinquent behavior.

In developing programs to prevent or treat juvenile drug abuse, it is important to recognize that the risk factors differ for different patterns of behavior (e.g. experimentation, occasional use, and regular drug use). Accordingly, the particular types of behavior to be presented or treated should be specified in developing strategies and programs to reduce juvenile drug use (Clayton, 1986; Hawkins et. al., 1986).

There are few definitive evaluations of juvenile drug prevention or treatment programs. A joint conference sponsored by OJJDP and ADAMHA in 1984 produced the following types of recommendations for programming:

- An array of well-designed and carefully implemented services from prevention through intervention to treatment and aftercare;
- Coordination of resources through case management;
- Programs should be specifically designed to handle juveniles; and,
- Programs should include evaluation components to help ensure effectiveness.

Based on a comprehensive review of the literature on risk factors for drug abuse and program evaluation, Hawkins et. al (1986) conclude that further development and testing of treatment and control interventions for youth with serious delinquency and drug problems is necessary. Accordingly, OJJDP is sponsoring a development initiative to apply the research on risk factors for drug use to the assessment,

development, testing and dissemination of promising approaches to the prevention, intervention, and treatment of chronic drug abuse among high risk juveniles.

II. Program Goals and Objectives

A. Goals

1. To develop and test promising approaches for drug and alcohol abuse prevention, intervention and treatment for high risk juveniles.
2. To provide the capability to selected localities to implement promising approaches to reducing illegal drug and alcohol abuse among juveniles through intensive training and technical assistance.
3. To disseminate prototypical program designs for drug and alcohol abuse prevention, intervention and treatment for high risk juveniles.

B. Objectives

1. Assess existing research on juvenile drug use and the system response, develop criteria for identifying promising approaches, and review and describe existing programs.
2. Develop prototypical approaches based on the research and the assessment of selected operational programs.
3. Develop a dissemination strategy and related training and technical assistance materials to facilitate the transfer of the prototypes to ten (10) metropolitan centers, including the test sites.
4. Test the program prototypes.

III. Program Strategy

OJJDP planning and program development activities are guided by a framework which specifies four sequential phases of development: Research, development, demonstration and dissemination. The framework guides the decision-making process regarding the funding of future phases of the program.

This is a development initiative. The purpose of the development phase is to develop prototype models and to determine their effectiveness through a controlled testing process. The program will be conducted in four discrete incremental stages. The stages consist of: 1) An assessment of the problem of juvenile involvement in drug abuse and of selected operational programs; 2) a comprehensive description of the development, implementation and operation of prototypical approaches; 3) the development of a training and technical assistance package in order to provide intensive training to test sites which are implementing the prototypes; and, 4) testing of the prototypes. All technical portions and subject matters of the program will be guided by recommendations of an advisory committee established specifically for the program. The advisory committee will provide comments and recommendations regarding the strategies and activities for this program.

Each stage of the incremental program development process detailed below is designed to result in a complete and publishable product (e.g., final assessment report), and a dissemination strategy to inform the field of the development of the program, and the products and results of each stage. A decision is made at the completion of each stage, based on availability of funds, and the quality and utility of the products, whether to invest additional funds to complete the current stage or terminate the program.

Stage 1—Assessment

The first phase of the program consists of an assessment of what is known about juvenile involvement in drug abuse, and drug program evaluation in order to apply this information to the identification and review and of operational promising programs for prevention, intervention, and treatment of drug and alcohol abuse among high risk juveniles. The literature review should address the extent of and major locations of, juvenile involvement in illegal drug use. It should focus on which youth regularly use drugs and what types of drugs they use, risk factors for involvement in different drug use patterns, and the systems' responses to these juveniles. Finally, it should focus on existing evaluations of drug prevention and treatment programs aimed at chronic use among high risk juveniles. The purpose of the literature review is to identify the most definitive theoretical and empirical research findings in order to apply them to the review of existing programs, and the development of prototypical model(s).

The grantee will develop criteria for identifying "promising" approaches to the prevention, intervention, and treatment of chronic illegal drug abuse among high risk juveniles, and use the criteria to select programs for review and documentation. Information to be collected and assessed should include, at a minimum, the historical development of the program; conceptual framework/theoretical assumptions, number and type of youth served; program costs per unit of service and per client; evaluation findings; sources of funding; staffing requirements; and program approach to management/administration.

The assessment should provide the basis for refining the goals and objectives of the development program. Specifically, it should identify the key questions that need to be answered regarding the feasibility and effectiveness of the drug and alcohol prevention, intervention, and treatment programs for high risk youth.

Activities

The major activities of this stage are:
- Establishment of a program advisory committee;
- Development of the assessment plan;
- Review of the literature review;
- Development of criteria for identifying promising programs;
- Identification and description of operational promising programs;
- Development of preliminary testing design guidelines;
- Preparation of assessment report; and,
- Development and implementation of a dissemination strategy.

Products

The products to be completed during this stage are:
- Assessment Plan—specifying, in detail, the approach and activities to be undertaken for each step of the assessment stage;
- Draft and final report on the results of the assessment which includes:

—Literature review;
—Criteria for identifying promising programs;
—Description of operational promising programs and approaches;
—Recommendations for refining the goals and objectives of the program;
—Recommendations for developing prototypical/model approaches;
—Preliminary testing design guidelines; and,

- Dissemination strategy to inform the field of the development of the program, and the products and results of this stage.

Stage 2—Prototypes and Related Policies and Procedures Development

Upon successful completion of stage 1, and with the approval of OJJDP, the grantee will develop prototype designs for the development, implementation and operation of drug programs for the prevention, intervention and treatment of illegal drug use among youth. The prototype designs will be accompanied by detailed policy and procedure manuals. The activities and products of this stage will be based on the information generated as a result of the

assessment. Appropriate technical and subject matter expertise will be utilized to design the prototypes which will be based in part on the operational programs described in the preceding stage.

The prototype design and related policies and procedures will provide guidance regarding: Identification of the appropriate target population; relationship of the program to other public and private youth-serving agencies; funding program organization and management; the philosophy and content of the intervention; resource development; program monitoring; and evaluation of program effectiveness. This information will become part of a training and technical assistance package for dissemination to the appropriate State and local agencies, depending on the nature and auspices of each prototype.

Activities

The major activities of this stage are:

- Preparation of a plan for developing the prototypes and related policies and procedures;
- Development of the prototypes and related policies and procedures;
- Participation and review by the program advisory committee; and,
- Development and implementation of a dissemination strategy.

Products

The products to be completed during this stage are:

- Plan for prototype development specifying in detail, the approach and activities to be undertaken for each step of this stage, and the projected costs on a monthly basis;
- Draft and final prototype design(s) and related policy and procedure manual(s); and,
- Dissemination strategy to inform the field of the development of the program and the products and results of this stage.

Stage 3—Training and Technical Assistance

Upon successful completion of stage 2, and with the approval of the OJJDP, the grantee will transfer the prototype design(s), including policies and procedures, into a training and technical assistance package.

A comprehensive training manual that outlines the major issues in prevention, intervention and treatment of chronic drug abuse among juveniles, and details the program prototype(s), must be developed to encourage and facilitate implementation of the prototype(s).

The training manual should be the focal point of the entire training and technical assistance package. The major audience will be policymakers and practitioners involved in resource allocation and program development related to juvenile drug use. The manual should be designed for presentation in a formal training session and for independent use in jurisdictions that do not participate in formal training sessions. Therefore, each manual should include a complete description of the prototype and incorporate related policies and procedures. The manual should also contain instructions and supplementary materials for trainers to facilitate presentation, and ensure understanding and successful adaptation and implementation of the prototypes. The training manual will then be submitted to OJJDP in draft for approval.

Activities

The major activities of this stage are:

- Preparation of a plan for developing the training and technical assistance package;
- Development of the training and technical assistance materials;
- Recruitment and preparation of the training and technical assistance personnel;
- Testing of the training manual;
- Participation and review by the advisory committees; and,
- Development and implementation of a dissemination strategy, which may include workshops or seminars for policymakers and practitioners.

Products

The products to be completed during this stage are:

- Plan for the development of the training and technical assistance package;
- Identification of training and technical assistance personnel;
- Draft and final training and technical assistance package-including the training curriculum manual and information materials; and,
- Dissemination strategy to inform the field of the development of the program and the products and results of this stage.

Stage 4—Prototype Implementation and Testing

While a decision to test the prototype designs will be made during or following completion of the prototype development stage, the applicant is expected to explain the methods and approaches that will be employed to implement this stage. As noted, funds for this stage will be provided under a second non-competing application for an additional budget period. In order to ensure the applicant's understanding of the entire development effort, the initial application must address and explain the implementation and coordination of all four stages of the initiative (i.e., assessment; prototype development; training and technical assistance development; and testing).

This state of the program consists of a test, in selected jurisdictions, of the prototypes developed in stage two. The grantee will be required to assist the Office in developing a solicitation to make awards to test sites. It will also be required to provide intensive training and technical assistance to help the test sites implement the prototypes on an experimental basis. Finally, the grantee will be expected to work cooperatively with an independent evaluator to ensure the integrity of the data collection and feedback activities.

Activities

The major activities of this stage are:

- Development of recommendations for a program announcement to select test sites;
- Assistance to OJJDP in review and selection of test sites;
- Provision of intensive training and technical assistance to test sites regarding the implementation of prototypes on an experimental basis;
- Development of procedures for working cooperatively with program evaluation, particularly in the areas of data collection and feedback; and,
- Development and implementation of a dissemination strategy.

Products

The major products for this stage are:

- Recommendations for the program announcement for test sites;
- Plan for providing training and technical assistance to test sites; and,
- Dissemination strategy to inform the field of the development of the program, and the products and results of this stage.

IV. Dollar Amount and Duration

Up to $500,000 has been allocated for the initial award. One cooperative agreement will be awarded competitively, and the initial budget period will be for 24 months. It is anticipated that this development program will entail four years of program activities (i.e, a four year project period), and consist of four stages (assessment, prototype development: Policies and procedures, training and technical assistance, and testing). The initial award will provide support for stages one through three.

Supplemental funds will be allocated for additional budget periods.

Funds for noncompetitive continuation awards (i.e., additional budget periods within the approved four year project period) may be withheld for justifiable reasons. They include: 1) The results do not justify further program activity; 2) the grantee is delinquent in submitting required reports; 3) adequate grantor agency funds are not available to support the project; 4) the grantee has failed to show satisfactory progress in achieving the objectives of the project or otherwise failed to meet the terms and conditions of the award; 5) a grantee's management practices have failed to provide adequate stewardship of grantor agency funds; 6) outstanding audit exceptions have not been cleared; and 7) any other reason which would indicate that continued funding would not be in the best interest of the Government.

A separate agency will be selected competitively to perform the evaluation of the selected prototypes/models.

V. Eligibility Requirements

Applications are invited from public agencies and not-for-profit private organizations. Applicant organizations may choose to submit joint proposals with other eligible organizations as long as one organization is designated in the application as the applicant and any co-applicants are designated as such. Togehter co-applicants must meet the eligibility requirements specified in A. and B. below.

The applicant must demonstrate experience in the following areas in order to be eligible for consideration:

A. The development and delivery of training or technical assistance related to adult or juvenile drug and alcohol abuse programs; and,

B. Applied research or evaluation of adult or juvenile alcohol and drug abuse programs and policies.

The applicant must also demonstrate that they have the management and financial capability to effectively implement a project of this size and scope. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding consideration.

VI. Application Requirements

All applicants must submit a completed Standard Form 424, Application for Federal Assistance (OF 424), including a program narrative, a detailed budget, and budget narrative. All applications must include the following information outlined in this section VII of the solicitation in Part IV, Program Narrative of the application. The Program Narrative of the application should not exceed 70 double-spaced pages in length.

In submitting applications which contain more than one organization, the relationships among the parties must be set forth in the application. As a general rule, organizations which describe their working relationship in the development of products and the delivery of services as primarily cooperative or collaborative in nature will be considered co-applicants. In the event of a co-applicant submission, one co-applicant must be designated as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other co-applicants. Under this arrangement each organization would agree to be jointly and severally responsible for all project funds and services. Each co-applicant must sign the SF-424 and indicate their acceptance of the conditions of joint and several responsibility with the other co-applicants.

Applications which include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $10,000.

In addition to the requirements specified in the instructions for the preparation of Standard Form 424, the following information must be included in the application:

A. Organizational Capability—Applicants must demonstrate that they are eligible to compete for this cooperative agreement on the basis of eligibility criteria established in section V. of this solicitation.

1. Organizational Experience—Applicants must concisely describe their organizational experience with respect to the eligibility criteria specified in section V. above. Applicants must demonstrate how their organizational experience and capabilities will enable them to achieve the goals and objectives of this initiative. Applicants are invited to append one example of prior work products of a similar nature to their application.

2. Financial Capability—In addition to the assurances provided in Part V, Assurances (SF-424), applicants must also demonstrate that their organization has or can establish fiscal controls and accounting procedures which assure that Federal funds available under this agreement are disbursed and accounted for properly. Applicants who have not previously received federal funds will be asked to submit a copy of the Office of Justice Assistance, Research and Statistics (OJARS) Accounting System and Financial Capability Questionnaire (OJARS Form 7120/1). Copies of the form will be provided in the application kit and must be prepared and submitted along with the application. Other applicants may be requested to submit this form. All questions are to be answered regardless of instructions (section C.I.B. note). The CPA certification is required only of those applicants who have not previously received Federal funding.

B. Program Goals—A succinct statement of your understanding of the goals and objectives of the program should be included. The application should also include a problem statement and a discussion of the potential contribution of this program to the field.

C. Program Strategy—Applicants should describe the proposed approach for achieving the goals and objectives of the development program. A discussion of how each of the four stages of the program would be accomplished should be included.

D. Program Implementation Plan—Applicants should prepare a plan which outlines the major activities involved in implementing the program describes how they will allocate available resources to implement the program, and how the program will be managed.

The plan must also include an annotated organizational chart depicting the roles and describing the responsibilities of key organizational/functional components, and a list of key personnel responsible for managing and implementing the four major elements of the program. Applicants must present detailed position descriptions, qualifications, and selection criteria for each position. Applicants should also provide recommendations for program advisory committee members. This documentation and individuals' résumés may be submitted as appendices to the application.

E. Time-task plan—Applicants must develop a time-task plan for the 24-month project period, clearly identifying major milestones and products. This must include designation of organizational responsibility and a schedule for the completion of the tasks and products identified in section IV.B and indicate the anticipated cost schedule per month for the entire project period.

F. Products—Applicants must concisely describe the interim and final products of each stage of the program, and must address the purpose, audience, and usefulness to the field of each product.

G. Program Budget—Applicants shall provide a 24-month budget with a detailed justification for all costs,

including the basis for computation of these costs. Applicants should include a budget estimate to complete the balance of the program. Applications submitted by co-applicants and/or those containing contract(s) must include detailed budgets for each organization's expenses. The budget should include funds for a four-person Program Advisory Committee to meet four times during the first 24 month budget period.

VII. Procedures and Criteria for Selection

All applications will be evaluated and rated based on the extent to which they meet the following weighted criteria. In general, all applications received will be reviewed in terms of their responsiveness to the minimum program application requirements, organizational capability, and thoroughness and innovativeness in responding to strategic issues in project implementation. Applications will be evaluated by a peer review panel according to the OJJDP Competition and Peer Review Policy, 28 CFR Part 34, Subpart B, published August 2, 1985, at 50 FR 31366–31367. The selection criteria and their point values (weights) are as follows:

A. Organizational Capability (20 Points)

1. The extent and quality of organizational experience in the development, delivery, and coordination of adult or juvenile drug and alcohol abuse related research, training, or technical assistance which have been national in scope. (10 points)

2. Adequate fiscal controls and accounting procedures to ensure that the applicant can effectively implement a project of this size and scope, and to ensure the proper disbursal and accounting of Federal funds. (10 points)

B. Soundness of the Proposed Strategy (30 points)

Appropriateness and technical adequacy of the approach to each stage of the program for meeting the goals and objectives; and potential utility of proposed products.

C. Qualifications of Project Staff (20 points)

1. The qualifications of staff identified to manage and implement the program including staff to be hired through contracts. (10 points)

2. The clarity and appropriateness of position descriptions, required qualifications and selection criteria relative to the specific functions set out in the Implementation Plan. (10 points)

D. Clarity and appropriateness of the program implementation plan (15 Points)

Adequacy and appropriateness of the activities, and the project management structure; and the feasibility of the time-task plan.

E. Budget (15 points)

Completeness, reasonableness, appropriateness and cost-effectiveness of the proposed costs, in relationship to the proposed strategy and tasks to be accomplished.

Applications will be evaluated by a peer review panel. The results of peer review will be a relative aggregate ranking of applications in the form of "Summary of Ratings." These will ordinarily be based on numerical values assigned by individual peer reviewers. Peer review recommendations, in conjuction with the results of internal review and any necessary supplementary review, will assist the Administrator in considering competing applications and in selection of the application for funding. The final award decision will be made by the OJJDP Administrator.

VIII. Submission of Applications

All applicants responding to this solicitation should be aware of the following requirements for submission:

1. Organizations which plan to respond to this announcement are requested to submit written notification of their intent to apply to OJJDP by July 29, 1987. Such notification should specify: The name of the applicant organization, mailing address, telephone number, and primary contact person. In the event that organizations intend to apply as co-applicants, each of the co-applicants are to provide the above information. The submission of this notification is optional. It is requested to assist OJJDP in estimating the workload associated with the review of applications and for notifying potential applicants of any supplemental information related to the preparation of their applications.

2. Applicants must submit the original signed application and three copies to OJJDP. The necessary forms for applications (Standard Form 424) will be provided upon request.

Applications must be received by mail or hand delivered to the OJJDP by 5:00 p.m. EST on August 20, 1987. Those applications sent by mail should be addressed OJJDP, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, DC 20531. Hand delivered applications must be taken to the OJJDP, Room 780, 633 Indiana Avenue, NW., Washington, DC between the hours of 8:00 a.m. and 5:00 p.m. except Saturday, Sundays or Federal holidays.

3. The OJJDP will notify applicants in writing of the receipt of their application. Subsequently, applicants will be notified by letter as to the decision made regarding whether or not their submission will be recommended for funding. It is anticipated that the cooperative agreement may be awarded as early as September, 1987.

IX. Civil Rights Compliance

A. All recipients of OJJDP assistance including any contractors, must comply with the non-discrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended: Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations (28 CFR Part 42, Subparts C, D, E, and G).

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC) of the Office of Justice Programs.

C. Applicants shall maintain such records and submit to the OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in benefits of, or denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under any award.

X. References

Clayton, R.R. "Drug Use Among Children and Adolescents," Paper prepared for the Office of Juvenile Justice and Delinquency Prevention, December 1986.

Hawkins, J.D., Lishner, D.M., Jenson, J.M., Catalano, R.F. "Delinquents and Drugs: What the Evidence Suggests About Prevention and Treatment Programming." Paper prepared for the National Institute on Drug Abuse, July, 1986.

Johnston, L.D., O'Malley, P.M., and Bachman, J.G. "Drug Use Among American High School Students, College Students and Other Young Adults": National Trends Through 1985. University of Michigan Institute for Social Research.

Juvenile Offenders with Serious Drug, Alcohol and Mental Health Problems. Alcohol, Drug Abuse and Mental Health Administration DHHS, and Office of Juvenile Justice and Delinquency Prevention, D.O.J., 1986.

Verne Speirs,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

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Monday
July 13, 1987

Part IV

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Intensive Community-Based Aftercare Programs; Notice of Issuance of Solicitation for Applications

DEPARTMENT OF JUSTICE

Intensive Community-Based Aftercare Programs

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of issuance of a solicitation for applications to develop a program to reduce the incidence of crime committed by serious juvenile offenders by developing effective community-based aftercare programs.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to sections 224(a)(1) and (5) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is sponsoring a development initiative to assess, develop, test, and disseminate intensive community-based aftercare program prototypes/models for chronic serious juvenile offenders who initially require residential care.

The overall goal for the program is to reduce the incidence of crime committed by chronic serious juvenile offenders who are released from secure confinement.

This is to be accomplished by assisting public and private correction agencies in developing and implementing effective intensive community-based aftercare programs. It is important to recognize that most juvenile offenders return to the same communities with the same set of negative influences which often negates any progress that may have been made in the correctional setting. OJJDP proposes to address this issue by sponsoring a development effort composed of four incremental stages which will include:

- An assessment of relevant information and of existing juvenile intensive community-based aftercare programs which are currently in operation or under development;
- The development of program prototypes (models) and related policies and procedures to guide state and local juvenile corrections agencies and policymakers in the development and implementation of effective intensive community-based aftercare programs;
- Development and provision of intensive training, technical assistance, and information materials to transfer the prototype programs to selected public and private correction agency test sites;
- Implementation and testing of the prototype programs; and,
- Dissemination of program products and results.

Public agencies and private not-for-profit organizations are invited to submit applications to enter into a cooperative agreement with OJJDP. OJJDP will select the applicant who presents the most cost-effective approach and who best demonstrates the organizational capability, knowledge and experience to conduct a comprehensive program of this type. The project period is for three years. OJJDP has allocated up to $350,000 for the first 24 month budget period of the program. Based on successful completion of the first budget period, a 12 month non-competing continuation award is anticipated. Applicants are encouraged to submit cost-competitive proposals.

The deadline for the receipt of applications is August 20, 1987.

The competition will be conducted according to the OJJDP Competition and Peer Review Policy, 28 CFR Part 34, Subpart A published August 2, 1985 at 50 FR 31365–31367.

FOR FURTHER INFORMATION CONTACT: Frank O. Smith, Special Emphasis Division, OJJDP (202–724–5914) or Daniel Bryant, Research and Program Development Division, OJJDP (202–724–5929), 633 Indiana Avenue, NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION:

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I. Introduction and Background

Community-based aftercare is one of the most essential, yet often neglected components of the juvenile justice system. Many researchers and juvenile correction practitioners believe that the lack of community-based aftercare services for the chronic serious juvenile offender is a significant factor in recidivism. These youths (aged 15 to 17 with five or more prior offenses) represent the majority of most corrrectional institution populations. Often any attitudinal or behavior improvements that occur in the correctional program disappear when youth return to the community. After release, more than 70 percent of them are rearrested within one year, and more than 50 percent will be returned to some form of secure confinement.

Research suggests the first three to six months after release is the most critical period of readjustment. It is during this period that peer pressure is very strong, and reaffiliation with social institutions and law-abiding friends is of primary importance. This adjustment may be particularly difficult for youth involved in chronic substance abuse or who have serious mental health problems. Relationships to family, school, and employment are often not adequate to offset pressures for involvement in illegal activities. In the absence of the usual internal and external social controls, juveniles returning to the community require close supervision and assistance in developing attachments to law-abiding peers and commitments to family, education and employment, and belief in the value of the law. (Hawkins et al., 1986). The effectiveness of these efforts will influence the likelihood of youth remaining crime-free or returning to illegal activities.

The Massachusetts Department of Youth Services (DYS), for example, has implemented an Outreach and Tracking program through a private vendor to supervise selected juveniles upon their release from a residential facility. Caseloads are kept to around seven or eight youth, and face-to-face contacts exceed four times a week. Supervision by caseworkers is close and continuous; some programs include a clinical psychologist as part of the supervisory team. A recent study of Massachusetts DYS recidivism rates found that 49 percent of their releases had not been arrested one year after their release.

Ideally, planning for aftercare begins with the intake classification and treatment plan development at the correctional institution to ensure consistency of discipline and services. This process involves the early identification and continuous assessment of the particular service needs of the youth, and the coordination of existing community institutions and services that respond to those needs: Family, schools, social service agencies, or other community-based groups. In this way, appropriate supervision and service delivery can begin immediately at the onset of the critical three-to-six month period.

Many correctional programs are overcrowded due to increases in the average length of stay of juveniles. Furthermore, it is expensive to support juveniles in residential programs: Costs range from $25,000 to $50,000 for one youth per year in public facilities. Effective aftercare programs focused on serious offenders which provide intensive supervision to ensure public safety, and services designed to facilitate the reintegration process may allow some offenders to be released earlier, as well as reduce recidivism among offenders released from

residential facilities. This should relieve institutional overcrowding, reduce the costs of supervising juvenile offenders, and ultimately decrease the number of juveniles who develop lengthy delinquent careers and often become the core of the adult criminal population.

II. Program Goals and Objectives

A. Goals

1. To help and private justice agencies develop and implement effective intensive community-based aftercare programs for the chronic serious juvenile offenders who are released from residential correctional facilities;

2. To reduce recidivism among serious juvenile offenders who are released from residential correctional facilities; and,

3. To disseminate prototypical program designs of intensive community-based aftercare programs which will reduce recidivism among serious juvenile offenders who are released from residential correctional facilities.

B. Objectives

1. Assess existing information and programs, which focus on intensive community-based aftercare supervision for chronic serious juvenile offenders;

2. Develop prototypical programs based on the research and the assessment of selected operational programs;

3. Develop a dissemination strategy and related training and technical assistance materials to transfer the prototypes to selected juvenile corrections agencies; and,

4. Test the program prototypes. (Applicants are advised that this stage of the research and development initiative will not be funded during the initial budget period, however, testing of the prototypes at selected sites is one of the primary objectives of this initiative.)

III. Program Strategy

OJJDP planning and program development activities are guided by a framework which specifies four sequential phases: Research, development, demonstration and dissemination. The framework guides the decision-making process regarding the funding of future phases of the program.

This is a development initiative. The purpose of the development phase is to develop prototypes/models and to determine their effectiveness through a controlled testing process. The program will be conducted in four discrete incremental stages. The stages consist of: 1) An assessment of the issues surrounding aftercare supervision of adjudicated serious offenders and of selected operational programs; 2) a comprehensive description of the development, implementation and operation of prototypical approaches; 3) the development of a training and technical assistance package in order to provide intensive training to test sites which are implementing the prototypes; and, 4) testing of the prototypes.

All technical portions of the program will be guided by recommendations of an advisory committee established specifically for the program. The advisory committee will provide comments and recommendations regarding the strategies and activities of the intensive Community-Based Aftercare Supervision program. It may be necessary to change or supplement advisory committee members for different stages of the program; however, the objective will be to select technical and subject matter experts capable of addressing issues related to each of the program stages. The advisory committee members should have combined expertise in correctional research and evaluation, training and technical assistance development and delivery, juvenile institution and community-based corrections, and in other pertinent program areas.

Each stage of the incremental program development process detailed below is designed to result in a complete and publishable product (e.g., final assessment report) and a dissemination strategy to inform the field of the development of the program, and the results and products of each stage. A decision is made at the completion of each stage, based on availability of funds, and the quality and utility of the products, whether to invest additional funds to complete the current stage or terminate the program.

Stage 1—Assessment

The first stage of the program consists of an assessment of programs and information related to the implementation and operation of effective community-based aftercare programs for the chronic juvenile offenders who are released from residential correctional facilities. The purpose of the assessment is to develop recommendations for designing and evaluating intensive and effective community-based aftercare supervision programs. The results of the literature review will be applied to the development of criteria for defining "promising" programs and for reviewing those programs.

The grantee will conduct a review of research results and other information in order to identify the characteristics of youth released from residential correctional facilities (i.e., risk factors) that effective community-based aftercare programs must deal with to reduce recidivism. The review should cover both theoretical and empirical research on the demographic, social and offense characteristics of juvenile offenders in residential facilities, and the effects of different types of residential correctional programs. The review should also include an analysis of the evaluations of operational intensive community-based aftercare supervision programs.

The literature review will provide the basis for the development of a conceptual framework for assessing intensive community-based aftercare supervision programs. The conceptual framework should specify the criteria for defining "promising" programs, and the parameters of program development and design which must be examined in order to describe the basic structure, goals and operating procedures.

Based on the literature review, "promising" programs will be selected for intensive analysis in consultation with OJJDP. The design for program review will be prepared by the grantee and include the following information: The criteria for selecting promising programs, the name and location of programs to be reviewed, and the types of information that will be collected (e.g., the operating assumptions or theory that guide program organization and operations, a historical development of the program, number and type of youth served, program costs, sources of funding, evaluation findings if available, relationship to public and private agencies, staffing and organization, and management and administration).

Activities

The major activities of this stage are:

- Establishment of program advisory committee;
- Development of the assessment plan;
- Review of the literature;
- Development of criteria for identifying promising programs;
- Identification and description of operational promising programs;
- Development of preliminary testing design guidelines;
- Preparation of assessment report; and,
- Development and implementation of a dissemination strategy.

Products

The grantee will be expected to provide the following products:

1. Assessment plan-specifying each step of the assessment process in detail;
2. Draft and final report on the results of the assessment which includes:
   - Literature review;
   - Criteria for identifying promising programs;
   - Descriptions of operational promising programs and approaches;
   - Recommendations for refining the goals and objectives of the development programs;
   - Recommendations for developing prototypical/model approaches;
   - Preliminary testing design guidelines; and,
3. Dissemination strategy to inform the field of the development of the program, and the products and results of this stage.

Stage 2—Prototypes: Policies and Procedures

Upon successful completion of Stage 1, and with the approval of OJJDP, the grantee will develop prototype designs for the development, implementation and operation of intensive community-based aftercare supervision programs for juveniles released from secure confinement. The prototype designs will be accompanied by detailed policy and procedures manuals. The activities and products of this stage will be based on the information generated as a result of the assessment. Appropriate technical and subject matter expertise will be utilized to design the prototypes which will be based, in part, on the operational programs described in the preceding stage.

The prototype design and related policies and procedures will provide guidance regarding: Effective approaches to establishing and operating intensive community-based aftercare supervision programs; documentation of specific program components, including supervision and services, and program development; facility selection; evaluation; funding; monitoring; staffing; security; management and administration; program design; relationship to primary components of the juvenile justice system; evaluation of program effectiveness; and implementation schedule and procedures. This information will become part of a training and technical assistance package for dissemination to state and local juvenile correction agencies and policymakers involved in allocating funds to the various components of the juvenile justice system.

Activities

The major activities of this stage are:

- Preparation of a plan for developing the prototypes and related policies and procedures;
- Development of the prototypes and related policies and procedures;
- Participation and review by the advisory committee; and
- Development and implementation of a dissemination strategy.

Products

The products to be completed during this stage are:

1. Plan for prototype development, specifying in detail the approach and activities to be undertaken for each step of this stage, and the projected costs on a monthly basis;
2. Draft and final prototype design(s) and related policies and procedures manual(s); and
3. Dissemination strategy to inform the field of the development of the program, and the products and results of this stage.

Stage 3—Training and Technical Assistance Development

Upon successful completion of stage 2, and with the approval of the OJJDP, the grantee will transfer the prototype design(s), including policies and procedures, into a training and technical assistance package. A comprehensive training manual which outlines an effective approach to intensive community-based aftercare supervision and details the program prototype(s) must be developed to encourage and facilitate implementation of the prototype(s). It should address policymakers who allocate correctional resources and juvenile correctional officials who would direct the implementation of the prototypical program(s). The manual must be designed for a formal training setting, and for independent use in jurisdictions that do not participate in the formal training sessions. Therefore, each manual should include a complete description of the prototype and incorporate related policies and procedures. The manual should contain instructions and supplementary materials for trainers to facilitate presentation, and ensure understanding and successful adaptation and implementation of the prototypes. The training manual will then be submitted to OJJDP in draft for approval.

Upon approval of the draft training manual, the grantee will test the manuals with representatives from the juvenile corrections system and public and private not-for-profit organizations that provide community-based services for juvenile offenders. The grantee will incorporate recommendations from the workshop participants into the draft training manual and submit the manual in final to OJJDP for approval.

Activities

The major activities of this stage are:

- Preparation of a plan for developing the training and technical assistance package;
- Development of the training and technical assistance materials;
- Recruitment and preparation of the training and technical assistance personnel;
- Testing of the training curriculum manual;
- Participation and review by the advisory committee; and,
- Development and implementation of a dissemination strategy which may include workshops or seminars for correctional policymakers and practitioners.

Products

The products to be completed during this phase are:

1. Plan for the development of the training and technical assistance package;
2. Identification of training and technical assistance personnel;
3. Draft and final training and technical assistance package—including the training curriculum manual and information materials; and,
4. Dissemination strategy to inform the field of the development of the program, and the products and results of this phase.

Stage 4—Prototype Implementation and Testing

While a decision to test the prototype designs will be made during or following completion of the prototype development stage, the applicant is expected to explain the methods and approaches that would be employed to implement this stage. As noted, funds for this stage will be provided through noncompetitive continuation awards. In order to ensure the applicant's understanding of the entire development effort, the initial application must address and explain the implementation and coordination of all four stages of the initiative (i.e., assessment, prototype development, training and technical assistance development, and testing).

This stage of the program consists of a test, in selected jurisdictions, of the prototypes developed in stage two. The grantee will be required to assist the OJJDP in developing a solicitation to

make awards to test sites. It will also be required to provide intensive training and technical assistance to help the test sites implement the prototypes on an experimental basis. Finally, the grantee will be expected to work cooperatively with an independent evaluator to ensure the integrity of the data collection and feedback activities.

Activities

The major activities of this stage are:

- Development of recommendations for a program announcement to select test sites;
- Assistance to OJJDP in review and selection of test sites;
- Provision of intensive training and technical assistance to test sites regarding the implementation of prototypes on an experimental basis;
- Development of procedures for working cooperatively with the program evaluator, particularly in the areas of data collection and feedback; and,
- Development and implementation of a dissemination strategy.

Products

The major products for this stage are:

1. Recommendations for the program announcement for test sites;
2. Plan for providing training and technical assistance to test sites; and
3. Dissemination strategy to inform the field of the development of the program, and the products and results of this stage.

IV. Dollar Amount and Duration

Up to $350,000 has been allocated for the initial award. One cooperative agreement will be awarded competitively, with an initial budget period of 24 months. It is anticipated that this program will entail three years of program activities (i.e., a three year project period), and consist of four stages (assessment, prototype development: Policies and procedures, training and technical assistance, and testing). The initial award will provide support for stages one through three. Supplemental funds will be allocated for an additional budget period.

Funds for a noncompeting continuation award (i.e., an additional budget period within the approved three year project period) may be withheld for justifiable reasons. They include: 1) The results do not justify further program activity; 2) the grantee is delinquent in submitting required reports; 3) adequate grantor agency funds are not available to support the project; 4) the grantee has failed to show satisfactory progress in achieving the objectives of the project or otherwise failed to meet the terms and conditions of the award; 5) a grantee's management practices have failed to provide adequate stewardship of grantor agency funds; 6) outstanding audit exceptions have not been cleared; and 7) any other reason which would indicate that continued funding would not be in the best interest of the Government.

A separate agency will be selected competitively to perform the evaluation of the selected prototypes/models. Organizations which receive funds under this award will not be eligible to compete for the evaluation.

V. Eligibility Requirements

Applications are invited from public agencies and not-for-profit private organizations. Applicant organizations may choose to submit joint proposals with other eligible organizations as long as one organization is designated in the application as the applicant and any co-applicants are designated as such. Together co-applicants must meet the eligibility requirements specified in A. and B. below.

The applicant must demonstrate experience in the following areas in order to be eligible for consideration:

A. Applied research or evaluation of adult of juvenile corrections programs; and

B. The development and delivery of training or technical assistance related to adult or juvenile corrections programs.

Applicants must also demonstrate that they have the management and financial capability to effectively implement a project of this size and scope. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding considerations.

VI. Application Requirements

All applicants must submit a completed Standard Form 424, Application for Federal Assistance (SF 424), including a program narrative, a detailed budget, and a budget narrative. All applications must include the following information outlined in this section VII of the solicitation in Part IV, Program Narrative of the application. The Program Narrative of the application should not exceed 70 double-spaced pages in length.

In submitting applications which contain more than one organization, the relationships among the parties must be set forth in the application. As a general rule, organizations which describe their working relationship in the development of products and the delivery of services as primarily cooperative or collaborative in nature will be considered co-applicants. In the event of a co-applicant submission, one co-applicant must be designated as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other co-applicants. Under the arrangement, each organization would agree to be jointly and severally responsible for all project funds and services. Each co-applicant must sign the SF 424 and indicate their acceptance of the conditions of joint and several responsibility with the other co-applicants.

Applications which include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $10,000.

In addition to the requirements specified in the instructions for the preparation of Standard Form 424, the following information must be included in the application:

A. Organizational Capability–Applicants must demonstrate that they are eligible to compete for this cooperative agreement on the basis of eligibility criteria established in section V. of this solicitation.

1. Organizational Experience—Applicants must concisely describe their organizational experience with respect to the eligibility criteria specified in section V. above. Applicants must demonstrate how their organizational experience and capabilities will enable them to achieve the goals and objectives of this initiative. Applicants are invited to append one example of prior work products of similar nature to their application.

2. Financial Capability—In addition to the assurances provided in Part V, Assurances (SF–424), applicants must also demonstrate that their organization has or can establish fiscal controls and accounting procedures which assure that Federal funds available under this agreement are disbursed and accounted for properly. Applicants who have not previously received Federal funds will be asked to submit a copy of the Office of Justice Programs (OJP) Accounting System and Financial Capability Questionnaire (OJP Form 7120/1).

Copies of the form will be provided in the application kit and must be prepared and submitted along with the application. Other applicants may be requested to submit this form. All questions are to be answered regardless of instructions (section C.I.B. note). The CPA certification is required only of those applicants who have not previously received Federal funding.

B. Program Goals—A succinct statement of your understanding of the

goals and objectives of the program should be included. The application should also include a problem statement and a discussion of the potential contribution of this program to the field.

C. Program Strategy—Applicants should describe the proposed approach for achieving the goals and objectives of the program. A discussion of how each of the four stages of the program would be accomplished should be included.

D. Program Implementation Plan—Applicants should prepare a plan which outlines the major activities involved in implementing the program, describes how they will allocate available resources to implement the program, and how the program will be managed.

The plan must also include an annotated organizational chart depicting the roles and describing the responsibilities of key organizational/functional components; and a list of key personnel responsible for managing and implementing the four major elements of the program. Applicants must present detailed position descriptions, qualifications, and selection criteria for each position. Applicants should also provide recommendations for program advisory commitee members. This documentation and individuals' resumes may be submitted as appendices to the application.

E. Time-Task Plan—Applicants must develop a time-task plan for the 24-month project period, clearly identifying major milestones and products. This must include designation of organizational responsibility and a schedule for the completion of the tasks and products identified in Section III and indicate the anticipated cost schedule per month for the entire project period.

F. Products—Applicants must concisely describe the interim and final products of each stage of the program, and must address the purpose, audience, and usefulness to the field of each product.

G. Program Budget—Applicants shall provide a 24-month budget with a detailed justification for all costs, including the basis for computation of these costs. Applicants should include a budget estimate to complete the balance of the program. Applications submitted by co-applicants and/or those containing contract(s) must include detailed budgets for each organization's expenses. The budget should include funds for a four person advisory committee to meet four times during the first 24 month budget period.

VII. Procedures and Criteria for Selection

All applications will be evaluated and rated based on the extent to which they meet the following weighted criteria. In general, all applications received will be reviewed in terms of their responsiveness to the minimum program application requirements, organizational capability, technical soundness, and thoroughness and innovativeness in responding to strategic issues in project implementation. Applications will be evaluated by a peer review panel according to OJJDP Competition and Peer Review Policy, 28 CFR Part 34, Subpart B, published August 2, 1985 at 50 FR 31366–31367. The selection criteria and their point values (weights) are as follows:

A. Organizational Capability (20 Points)

1. The extent and quality of organizational experience in the development, delivery, and coordination of adult or juvenile correctional research, training, or technical assistance which has been national in scope. (10 points)

2. Adequate fiscal controls and accounting procedures to ensure that the applicant can effectively implement a project of this size and scope, and to ensure the proper disbursal and accounting of Federal funds. (10 points)

B. Proposed Strategy—(30 Points)

Understanding of the nature of the program area and the soundness of the approach to each stage of the program development process for meeting the goals and objectives; and the potential utility of proposed products.

C. Qualifications of Project Staff (20 Points)

1. The qualifications of staff identified to manage and implement the program including staff to be hired through contracts. (10 points)

2. The clarity and appropriateness of position descriptions, required qualifications and selection criteria relative to the specific functions set out in the Implementation Plan. (10 points)

D. Clarity and Appropriateness of the Program Implementation Plan (15 Points)

Adequacy and appropriateness of the activities, and the project management structure; and the feasibility of the time-task plan.

E. Budget (15 Points)

Completeness, reasonableness, appropriateness and cost-effectiveness of the proposed costs, in relationship to the proposed strategy and tasks to be accomplished.

Applications will be evaluated by a peer review panel. The result of the peer review will be a relative aggregate ranking of applications in the form of "Summary Rating." These will ordinarily be based on numerical values assigned by individual peer reviewers. Peer review recommendations, in conjunction with the results of internal review and any necessary supplementary review, will assist the Administrator in considering competing applications and in selection of the application for funding. The final award decision will be made by the OJJDP Administrator.

VIII. Submission of Applications

All applicants responding to this solicitation should be aware of the following requirements for submission:

1. Organizations which plan to respond to this announcement are requested to submit written notification of their intent to apply to OJJDP by July 30, 1987. Such notification should specify: The name of the applicant organization, mailing address, telephone number, and primary contact person. In the event that organizations intend to apply as co-applicants, each of the co-applicants are to provide the above information. The submission of this notification is optional. It is requested to assist OJJDP in estimating the workload associated with the review of applications and for notifying potential applicants of any supplemental information related to the preparation of their applications.

2. Applicants must submit the original signed application and three copies to OJJDP. The necessary forms for applications (Standard form 424) will be provided upon request.

Applicants must be received by mail or hand delivered to the OJJDP by 5:00 p.m. EST on August 20, 1987. Those applications sent by mail should be addressed to OJJDP, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, DC 20531. Hand delivered applications must be taken to the OJJDP, Room 742, 633 Indiana Avenue, NW., Washington, DC between the hours of 8:00 a.m. and 5:00 p.m. except Saturdays, Sundays or Federal holidays.

3. The OJJDP will notify applicants in writing of the receipt of their application. Subsequently, applicants will be notified by letter as to the decision made regarding whether or not their submission will be recommended for funding. It is anticipated that the grant may be awarded as early as September, 1987.

IX. Civil Rights Compliance

A. All recipients of OJJDP assistance including any contractors, must comply with the non-discrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended: Title VI of the Civil Rights act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations (28 CFR Part 42, Subparts C, D, E, and G).

B. In the event a Federal or State court of Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC) of the Office of Justice Programs.

C. Applicants shall maintain such records and submit to the OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in, benefits of, or denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipients as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under any award.

X. References

Crime in the United States, FBI Uniform Crime Report for 1984.

Tracy, Paul E., Wolfgang, M., and Figlio, R., *Delinquency in Two Birth Cohorts: Executive Summary*, (Government Printing Office, Washington, D.C. September 1985).

Blumstein, Alfred, et. al., *Criminal Careers and Career Criminals, Volume I: Report of the Panel on Research on Criminal Careers*, (National Academy Press, Washington, D.C., 1986).

Greenwood, Peter, *Supervision: Keeping Them Out of Trouble—Punishment or Teaching Them New Patterns of Behavior and Ensuring They Do What Needs to be Done*, an unpublished paper prepared for the Office of Juvenile Justice and Delinquency Prevention, December 1986.

Bureau of Justice Statistics, *Children in Custody: Public Juvenile Facilities, 1985* (Government Printing Office, Washington, D.C., October 1986).

Verne L. Speirs,

Acting Administrator Office of Juvenile Justice and Delinquency Prevention.

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Monday
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Part V

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Juvenile Corrections/Industries Venture; Notice of Issuance of Solicitation for Applications

DEPARTMENT OF JUSTICE

Juvenile Corrections/Industries Venture

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of issuance of a solicitation for applications to develop a program pertaining to the implementation of a joint venture between juvenile corrections and private businesses and industries.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to section 224(a)(5) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is sponsoring a development initiative to assess, develop, test and disseminate information on establishment of joint ventures between juvenile corrections and private businesses and industries in order to enhance the vocational training and treatment process for incarcerated juvenile offenders.

The purpose of this program is to assist juvenile corrections agencies in establishing joint ventures with private businesses and industries in order to provide new opportunities for the vocational training of juvenile offenders. OJJDP proposes to accomplish this task by sponsoring this development effort which will include:

- Identification and assessment of selected programmatic approaches;
- Prototype (model) development based on the existing assessment;
- Development of training and technical assistance materials to transfer the design and prototype;
- Implementation and testing of the prototype; and
- Dissemination of program products and results.

Eligibility: Public agencies and private not for profit organizations which can demonstrate the capability to conduct a national development program and deliver training and technical assistance in the area of corrections/industries venture program. OJJDP will select the applicant that presents the most effective approach, and best demonstrates the organizational capability, knowledge of and experience in the fields of corrections/industries, juvenile justice, program evaluation and training. The project period for this program is three (3) years. The first budget period is for 24 months and the second budget period will be contingent upon the availability of funds and the success of the program. OJJDP had allocated up to $500,000 for the initial budget period. Based on successful completion of the first budget period, a non-competing continuation award is anticipated. Applicants are encouraged to present cost-competitive proposals.

DATE: The deadline for receipt of applicants is August 20, 1987.

FOR FURTHER INFORMATION CONTACT: Frank O. Smith, Special Emphasis Division, OJJDP, 633 Indiana Avenue, NW., Washington, DC 20531, Telephone: 202/724-5914.

SUPPLEMENTARY INFORMATION:

Juvenile Corrections Industries Ventures

I. Introduction and Background

This solicitation is to secure the services of an eligible recipient(s) to implement a comprehensive program to promote and assist in the establishment of corrections/industries ventures in juvenile correctional institutions. This program is designed to enhance the overall treatment process for incarcerated juvenile offenders by providing the institutions with treatment alternatives which should encourage, motivate, and provide incarcerated offenders with more opportunities for vocational training, general education, paid employment experiences and the opportunity to become more accountable for their behavior by paying monetary victim restitution or payments to a victims fund, and contributing a portion of their earned wages to help cover the cost of care. Research has shown that some of the predictors of the probability of a juvenile or adult remaining crime free, once released or paroled from incarceration, is their level of training, education and employability. The successful implementation of this program should have a positive impact on reducing the incidence of crime committed by juveniles released from confinement in juvenile correctional institutions.

OJJDP is undertaking this initiative to promote juvenile corrections/industries ventures because of the increasing amount of interest in the concept as had been expressed to OJJDP by private business and juvenile correctional officials. OJJDP is also encouraged by the efforts of the California Youth Authority (CYA) which has implemented a Free Venture—Private Industry program for youth at two of CYA's correctional institutions. CYA's success has demonstrated that corrections/industries ventures can be developed specifically for youthful offenders which benefit the youth through increased accountability and training, the victims through monetary restitution, the businesses through profits, and the institutions through control and an enhanced treatment process. It should be understood that this program will address only juveniles, i.e., individuals subject to juvenile court jurisdiction based on age and offense limitations established by State law.

OJJDP believes that business and industry are interested and willing, if the conditions are favorable, to participate in this effort. Many departments of corrections would be willing to provide economic incentives, such as rent-free space modified to business specifications, security for equipment and inventory, assumption of partial utility costs, and assurances of appropriate services such as preparatory education, counseling, and supervision to prepare and support the eligible work force. In return, the participant business would be expected to provide appropriate wages and benefits; on-the-job training, supervision, equipment and inventory, post-employment references; and placement opportunities in related businesses outside the correctional setting.

OJJDP is also encouraged by the variety of potential corrections/industries models and the role of the private sector. There are several models which are currently used in adult corrections that could possibly be adapted to juvenile corrections; however, the *employer model* is the approach OJJDP will address under this initiative. Even though this effort will focus on the employer model, an understanding of other program models is important. A few of the models are: 1) *The customer model*—the private sector purchases a significant portion of the output of an industry which is owned and operated by the state; 2) *The manager model*—the private sector manages an industry which is owned by the state, but has no other significant role in the business; 3) *The employer model*— the private sector owns and operates a business (located in or near a correctional complex) which employs inmates to produce goods and/or services. The private firm controls hiring, firing, and supervision of the work force; 4) *The controlling customer model*—the private sector is the dominant or sole customer of a state-owned and operated industry. The private sector may help to capitalize the shop, and often provides raw materials

and technical support; 5) *The joint-venture model*—the private sector manages or helps to manage an industry in which it has jointly invested with the state; 6) *The marketing representative model*—a private sector company is contracted by a correctional agency to market products or services produced by correctional inmates; 7) *The advisor model*—the private sector plays a significant advisory role in the operation of a correctional institution industry which is owned by the state; 8) *The investor model*—the private sector capitalizes or invests in an industry which is operated by the state, but has no other significant role in the business; and, 9) *The licensor model*—the private sector licenses a correctional agency to manufacture or assemble a product in which it holds production and/or design rights.

This initiative will focus on the *employer model* because OJJDP believes it offers the best strategy for achieving the goals of this program. As a result of this effort, one or more employer model programs will be developed which can be implemented and operated in juvenile correctional institutions and which may incorporate selected aspects of the aforementioned alternative models.

II. Program Goals and Objectives

A. Goals

1. To develop and test joint ventures between juvenile corrections and private businesses and industries.

2. To provide the capability to selected juvenile corrections agencies to implement joint ventures with private business and industry through intensive training and technical assistance.

3. To increase youthful offenders' accountability for their offenses by utilizing a portion of their earned wages to pay victim restitution or contribute to a victim's fund.

4. To reduce the costs of incarceration by utilizing a portion of participants' wages to contribute to the costs of care.

5. To establish a work ethic for incarcerated youthful offenders.

6. To help enhance the diagnostic/screening, classification and treatment plans for incarcerated youthful offenders.

7. To help corrections develop a more realistic release plan for incarcerated youthful offenders.

8. To increase the opportunities for youthful offenders to work in actual job settings comparable to those in their communities.

9. To disseminate prototypical program designs for joint ventures between juvenile correctional and private businesses and industries.

B. Objectives

1. Assess existing programs and information which focus on joint ventures between juvenile corrections and private businesses and industries.

2. Develop prototypical programs based on the research and the assessment of selected operational programs.

3. Develop a dissemination strategy and related training and technical assistance materials to transfer the prototypes to selected juvenile correction agencies.

4. Test the program prototypes. (Applicants are reminded that this stage of the development initiative will not be funded during the initial budget period; however, the testing and demonstration of the prototypes at the sites is one of the primary objectives of this initiative and a decision regarding site testing will be made later).

III. Program Strategy

OJJDP planning and program development activities are guided by a framework which specifies four sequential phases: Research, development, demonstration and dissemination. The framework guides the decision-making process regarding the funding of future phases of the program. This is a Development initiative. The purpose of the development phase is to determine the effectiveness of a program design through a controlled testing process. The program will be conducted in four discrete incremental stages. The stages consist of: 1) An assessment of the problem of juvenile involvement in institution based correctional education and vocational education programs and of selected joint public and private insitution based industry/business operational programs; 2) a comprehensive description of the development, implementaiton and operation of prototypical approaches; 3) the development of a training and technical assistance package in order to provide training to test sites which are implementing the prototypes, and 4) testing of the prototypes. All technical portions of the program will be guided by recommendations of an advisory committee established specifically for the program.

Each stage of the incremental program development process detailed below is designed to result in a complete and publishable product (e.g., final assessment report) and a dissemination strategy to inform the field of the development of the program and the results and products of each stage. A decision is made at the completion of each stage, based on availability of funds, and the quality and utility of the products, whether to invest additional funds to complete the current stage or terminate the program.

The grantee will convene an advisory committee approved by OJJDP to provide comments and recommendations regarding the strategy and activities of the Juvenile Corrections/Industries Venture program. It may be necessary to change or supplement advisory committee members from time to time; however, the objective will be to select technical and subject matter experts capable of addressing issues related to each of the program stages. The advisory committee members should represent appropriate public institutions as well as private business and industry. Members should have combined expertise in research and evaluation, training and technical assistance development and delivery, juvenile correcitons, education, management and administration, and in other pertinent program areas.

OJJDP will also require the grantee to coordinate with the National Juvenile Justice Public/Private Partnership regarding strategies for identifying potential representatives from business to participate in national or regional conferences. The National Juvenile Justice Public/Private Partnership is an organization sponsored by OJJDP to promote private sector involvement in juvenile justice related issues. The Partnerhisp is an effort to combine the skills, knowledge and resources of the private sector with appropriate public sector agencies to enhance the management and cost effectiveness of program services. The Partnership's primary role will be to promote private sector participation in the initiative. The Juvenile Justice Public Private Partnership may be requested to assume other supportive roles that will be defined and negotiated with the grantee as appropriate.

Stage 1—Assessment

The first stage of the program consists of an assessment of the state-of-the-art of programs and information related to the implementation of corrections industries in adult and juvenile correctional institutions. The analysis of adult corrections industries efforts will be performed to determine its adaptability to juvenile corrections.

The initial activity to be performed in this stage will be a literature review. It should examine relevant research and program evaluation findings regarding

corrections industries programs focusing on the types of programs which are most responsive to the goals and objectives of this initiative. The purpose of the literature review is to identify the most definitive theoretical and empirical research findings in order to apply them to the review of existing programs, and the development of prototype(s) models.

The grantee will be required to develop criteria for identifying "promising" corrections industry programs, and use the criteria to select programs for review and documentation. Information to be collected and assessed includes historical development of the program(s); the number and type of youth served; program budget and costs; evaluation design and findings; source of funding; staffing requirements; program organization and management information; security; average number of youth employed; union issues; child labor laws; average hourly wage paid employees; and information about victim restitution. The applicant is encouraged to recommend any other significant issues to assess that will enhance the overall knowledge and understanding of the subject matter. The assessment should provide the basis for refining the goals and objectives of the program. Specifically, it should identify the key questions that need to be answered regarding the feasibility and effectiveness of juvenile corrections industries in the treatment of incarcerated juvenile offenders.

During this stage the grantee will also be required to implement at least three regional conferences or symposiums for representatives from private business and juvenile corrections to discuss issues and conditions under which they would be willing to enter into an alliance to develop, implement and operate corrections industries and employ incarcerated juvenile offenders.

Activities

The major activities of this stage are:

- Establishment of program advisory committee
- Development of the assessment plan
- Review of the literature
- Development of criteria for identifying promising programs
- Identification and description of operational promising programs
- Development of preliminary testing design guidelines
- Preparation of assessment report
- Development and implementation of a dissemination strategy.

Products

The products to be completed during this stage are:

1. Assessment Plan—specify, in detail, the approach and activities to be undertaken for each step of the assessment stage
2. Draft and final report on the results of the assessment stage which includes:
   - The literature review
   - Criteria for identifying promising programs
   - Description of operational promising approaches
   - Recommendations for refining the goals and objectives of the development program
   - Recommendations for developing prototypical/model approaches
   - Preliminary testing design guidelines
   - Dissemination strategy to inform the field of the development of the program, and the products and results of this stage.

Stage 2—Prototype(s) Policies and Procedures Development

Upon successful completion of Stage 1, the assessment, the grantee will develop prototype designs for development, implementation and operation of juvenile corrections/industries ventures. The prototype designs will be accompanied by a detailed policy and procedures manual. The activities and products of this stage will be based on the information generated as a result of the assessment.

Appropriate technical and subject matter expertise will be utilized to design the prototypes based in part on the operational programs described in the preceding stage. The prototype design and related policies and procedures will provide guidance regarding: Preparation of economic incentive packages to solicit business participation and corresponding instructions to guide business response; facility selection and preparation; program monitoring and evaluation; funding; coordination with other program activities within the institution and the related juvenile justice agencies; staffing; security; management and administration; and implementation schedule and procedures. This information will become part of a training and technical assistance package for dissemination to businesses and industries and juvenile corrections agencies. Applicants are encouraged to identify methods and techniques for testing and validating the policies and procedure manual.

Activities

The major activities of this stage are:

- Preparation of a plan for developing the prototypes and related policies and procedures;
- Development of the prototypes and related policies and procedures;
- Review of prototypes by the program advisory committee and subsequent revision as necessary; and,
- Development and implementation of a dissemination strategy.

Products

The products to be completed during this stage are:

1. Plan for prototype development, specifying in detail, the approach and activities to be undertaken for each step of this stage, and the projected costs on a monthly basis;
2. Draft and final prototype design, and related policy and procedure manual(s); and
3. Dissemination strategy to inform the field of the development of the program and the products.

Stage 3—Training and Technical Assistance Development

Upon successful completion of stage 2 and with the approval of OJJDP, the grantee will transfer the prototype design(s), including policies and procedures into a training and technical assistance package. A comprehensive training manual that outlines an overall approach to juvenile corrections/industries ventures and details the program prototypes must be developed to encouraged and facilitate implementation of the prototype.

The training manual should be the focal point of the entire training and technical/assistance package. While the manual is intended to be presented in a formal training setting to representatives of private business and industry and juvenile corrections practitioners and policy makers, it should also be designed for independent study. Therefore, it should include a complete description of the prototype and incorporate the related policies and procedures. The manual should also contain instructions and supplementary materials for trainers to facilitate presentation and assure understanding, and successful adaptation and implementation of the prototypes.

Once the training manual has been completed in draft, it will be submitted to OJJDP for approval. Upon approval of the draft training manual, the grantee will be required to test the manual with representatives from business and juvenile corrections during a workshop sponsored by OJJDP and coordinated by

the grantee. The grantee will incorporate recommendations from the workshop participants into the draft training manual and submit the manual in final to OJJDP for approval.

Activities

The major activities of this stage are:

- Preparation of a plan for developing the training and technical assistance package;
- Development of the training and technical assistance materials;
- Recruitment and preparation of the training and technical assistance personnel;
- Testing of the training curriculum manual;
- Participation and review by the advisory committee; and,
- Development and implementation of a dissemination strategy.

Products

The products to be completed during this stage are:

1. Plan for the development of the training and technical assistance package;
2. Identification of training and technical assistance personnel;
3. Draft and final training and technical assistance package—including the training curriculum manual, and information materials; and,
4. Dissemination strategy to inform the field of the development of the program, and the products and results of this stage.

Stage 4—Prototype Implementation and Testing

While a decision to test the prototype designs will be made during or following completion of the prototype development stage, the applicant is expected to explain the methods and approaches that will be employed to implement this stage. As noted, funds for this stage will be provided under a second application for an additional 12 month period. In order to ensure the applicant's understanding of the entire research and development effort, the initial application must address and explain the implementation and coordination of all four stages of the initiative (i.e. assessment; prototype development; training and technical assistance development; and testing).

This stage of the program consists of a test, in selected jurisdictions, of the prototypes developed in stage two. The grantee will be required to assist the Office in developing a solicitation to make awards to test sites, and will also be required to provide intensive training and technical assistance to help the test sites implement the prototypes on an experimental basis. Finally, the grantee will be expected to work cooperatively with an independent evaluator to ensure the integrity of the data collection and feedback activities.

Activities

- Development recommendations for a program announcement to select test sites;
- Assist OJJDP in review and selection of test sites;
- Provide intensive training and technical assistance to test sites regarding the implementation of prototypes on an experimental basis;
- Develop procedures for working cooperatively with the program evaluator, particularly in the areas of data collection and feedback; and,
- Develop and implement a dissemination strategy.

Products

The major products for this stage are:

1. Recommendations for the program announcement for test sites.
2. Plan for providing training and technical assistance to test sites.
3. Development and implementation of a dissemination strategy to inform the field of the development of the program and of the products and the results of this stage.

IV. Dollar Amount and Duration

Up to $500,000 has been allocated for the initial award. One cooperative agreement will be awarded competitively, and the initial budget period will be for 24 months. It is anticipated that this Development program will entail three years of program activities (i.e., three year project period), and consist of four stages (assessment, prototype development: Policies and procedures, training and technical assistance, and testing). The initial award will provide support for stages one through three. Supplemental funds could be allocated for an additional budget period.

A noncompetitive continuation award, i.e., the second budget period, within the approved three year project may be withheld for justifiable reasons. They include: 1) The results do not justify further program activity; 2) the grantee is delinquent in submitting required reports; 3) adequate grantor agency funds are not available to support the project; 4) the grantee has failed to show satisfactory progress in achieving the objectives of the project or otherwise failed to meet the terms and conditions of the award; 5) a grantee's management practices have failed to provide adequate stewardship of grantor agency funds; 6) outstanding audit exceptions have not been cleared; and 7) any other reason which would indicate that continued funding would not be in the best interest of the Government.

A separate agency will be selected competitively to perform the evaluation of the selected prototypes/models.

V. Eligibility Requirements

Applications are invited from public agencies and private not-for-profit organizations. Applicant organizations may choose to submit joint proposals with other eligible organizations as long as one organization is designated in the application as the applicant and any co-applicants are designated as such. Together co-applicants must meet the eligibility requirements specified in A and B below.

The applicant must demonstrate experience in the following areas in order to be eligible for consideration:

A. Applied research of evaluation of adult or juvenile corrections programs.

B. The development of operations and procedures manuals, training curricula, and in the delivery of training and technical assistance to organizations addressing adult or juvenile corrections issues.

The applicant must also demonstrate that they have the management and financial capability to effectively implement a project of this size and scope. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding consideration.

VI. Application Requirements

All applicants must submit a completed Standard Form 424, Application for Federal Assistance (SF 424), including a program narrative, a detailed budget, and a budget narrative. All applications must include the following information outlined in this section VI of the solicitation in Part IV, program Narrative of the application. The Program Narrative of the application should not exceed 75 double-spaced pages in length.

In submitting applications which contain more than one organization, the relationships among the parties must be set forth in the application. As a general rule, organizations which describe their working relationship in the development of products and the delivery of services as primarily cooperative or collaborative in nature will be considered co-applicants. In the event of a co-applicant submission, one co-applicant must be designated as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the

activities of the other co-applicants. Under this arrangement each organization would agree to be jointly responsible for all project funds and services. Each co-applicant must sign the SF–424 and indicate their acceptance of the conditions of joint responsibility with the other co-applicants.

Applications which include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $10,000.

In addition to the requirements specified in the instructions for the preparation of Standard Form 424, the following information must be included in the application:

A. Organizational Capability

Applicants must demonstrate that they are eligible to compete for this cooperative agreement on the basis of eligibility criteria established in Section V of this solicitation.

1. Organizational Experience

Applicants must concisely describe their organizational experience with respect to the eligibility criteria specified in Section V. above. Applicants must demonstrate how their organizational experience and capabilities will enable them to achieve the goals and objectives of this initiative. Applicants are invited to append one example of prior work products of a similar nature to this application.

2. Financial Capability

In addition to the assurances provided in part V, Assurances (SF–424), applicants must also demonstrate that their organization has or can establish fiscal controls and accounting procedures which assure that Federal funds available under this agreement are disbursed and accounted for properly. Applicants who have not previously received federal funds will be asked to submit a copy of the Office of Justice Programs (OJP) Accounting System and Financial Capability Questionnaire (OJP) form 7120.1). Copies of the form will be provided in the application kit and must be prepared and submitted along with the application. Other applicants may be requested to submit this form. All questions are to be answered regardless of instructions (Section C.I.b. note). The CPA certification is required only of those applicants who have not previously received Federal funding.

B. Program Strategy and Goals

Applicants must describe their strategy and approach to meet the goals and objectives outlined for this program. The applicant should include a clear and concise discussion of how they will accomplish each of the distinct stages of the program. In addition, the applicant should also include a problem statement and a discussion of the potential contribution of this program to the field.

C. Program Implementation Plan

Applicants should prepare a plan which outlines the major activities involved in implementing the program describes how they will allocate available resources to implement the program, and how the program will be managed.

The plan must also include an annotated organizational chart depicting the roles and describing the responsibilities of key organizational/functional components; and a list of key personnel responsible for managing and implementing the four major elements of the program. Applicants must present detailed position descriptions, qualifications, and selection criteria for each position. Applicants should also provide recommendations for program advisory committee members. This documentation and individuals' resumes may be submitted as appendices to the application.

D. Program Budget

Applicants shall provide a 24-month budget with a detailed justification for all costs, including the basis for computation of these costs. Applicants should include a budget estimate to complete the balance of the program. Applications submitted by co-applicants and/or those containing contract(s) must include detailed budgets for each organization's expenses. The budget should include funds for a four person Program Advisory Committee to meet four times during the first 24 months budget period.

The applicant is to budget for the costs of convening three conferences/symposiums for representatives from business and juvenile corrections. The costs should cover travel and lodging for up to twenty persons attending each of the conferences for at least one and a half days. These conferences are planned to assist in the collection and dissemination of information pertaining to corrections industries. In addition, the applicant is to budget for the cost of convening a working group of at least fifteen representatives from business and juvenile corrections for the purpose of testing the draft training and technical/assistance package. The budget should cover costs for travel and lodging for fifteen participants for up to two days. It is anticipated that the conference sites and the site for testing the training curriculum will be centrally located to accommodate participants on a cost effective basis.

VII. Criteria for Selection

Applications will be evaluated and rated based on the extent to which they meet the following weighted criteria. In general, all applications received will be reviewed in terms of their responsiveness to the minimum program application requirements, organizational capability, and thoroughness and innovativeness in responding to strategic issues in project implementation. Applications will be evaluated by a peer review panel according to the OJJDP Competition and Peer Review Policy, 28 CFR Part 34, Subpart B, published August 2, 1985, at 50 FR 31366–31367. The selection criteria and their point value (weight) are as follows:

A. Organizational Capability (20 Points)

1. The extent and quality of organizational experience in the development, delivery, or coordination of adult or juvenile related research, training, or technical assistance which have been national in scope or impact. (10 points)

2. The presence and extent of adequate fiscal controls and accounting procedures to ensure that the applicant can effectively implement a project of this size and scope, and to ensure the proper disbursal and accounting of Federal funds. (10 points)

B. Proposed Strategy—(30 Points)

Understanding of the nature of the program area and the soundness of the approach to each stage of the program development process for meeting the goals and objectives; and the potential utility of proposed products.

C. Qualifications of Project Staff (20 Points)

1. The qualifications of staff identified to manage and implement the program including staff to be hired through contracts (10 points)

2. The clarity and appropriateness of position descriptions, required qualifications and selection criteria relative to the specific functions set out in the Implementation Plan (10 points)

D. Clarity and Appropriateness of the Program Implementation Plan (15 Points)

Adequacy and appropriateness of the activities, and the project management structure; and the feasibility of the time-task plan.

E. Budget (15 Points)

Completeness, reasonableness, appropriateness and cost effectiveness of the proposed strategy and tasks to be accomplished.

Applications will be evaluated by a peer review panel. The results of the peer review will be a relative aggregate ranking of applications in the form of "Summary Rating." These will ordinarily be based on numerical values assigned by individual peer reviewers. Peer review recommendations, in conjunction with the results of internal review and any necessary supplementary review, will assist the Administrator in considering competing applications and in selection of the application for funding. The final award decision will be made by the OJJDP Administrator.

VIII. Submission of Applications

All applicants responding to this solicitation should be aware of the following requirements for submission:

1. Organizations which plan to respond to this announcement are requested to submit written notification to their intent to apply to OJJDP by July 27, 1987. Such notification should specify: The name of the applicant organization, mailing address, telephone number, and primary contact person. In the event that organizations intend to apply as co-applicants, each of the co-applicants are to provide the above information. The submission of this notification is optional. It is requested to assist OJJDP in estimating the workload associated with the review of applications and for notifying potential applicants of any supplemental information related to the preparation of their applications.

2. Applicant must submit the original signed application and three copies to OJJDP. The necessary forms for applications (Standard Form 424) will be provided upon request.

Applications must be received by mail or hand delivered to the OJJDP by 5:00 p.m. EST on August 20, 1987. Those applications sent by mail should be addressed to Frank Smith, OJJDP, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, DC 20531. Hand delivered applications must be taken to the OJJDP, Room 742, 633 Indiana Avenue, NW., Washington, DC between the hours of 8:00 a.m. and 5:00 p.m. except Saturdays, Sundays or Federal holidays.

3. The OJJDP will notify applicants in writing of the receipt of their application. Subsequently, applicants will be notified by letter as to the decision made regarding whether or not their submission will be recommended for funding. It is anticipated that the grant may be awarded as early as September, 1987.

IX. Civil Rights Compliance

A. All recipients of OJJDP assistance, including any contractors, must comply with the non-discrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended: Title IV of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations (28 CFR Part 42, Subparts C, D, E, and G).

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC) of the Office of Justice Programs.

C. Applicants shall maintain such records and submit to the OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under any award.

Verne Speirs,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

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federal register

Monday
July 13, 1987

Part VI

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Juvenile Gang Suppression and Intervention Program; Notice of Issuance of Solicitation for Applications

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Juvenile Gang Suppression and Intervention Program

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of issuance of a solicitation for applications to develop a program pertaining to comprehensive community approaches to address the problem of established and emerging juvenile gangs.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to section 224(a)(5) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is sponsoring a development initiative to assess, develop, test and disseminate comprehensive community approaches to address established and emerging juvenile gang problems.

Youth gang violence continues to become a more serious problem. Where once the victims of gang violence were predominantly rival gang members, innocent bystanders are now becoming victims of stray bullets and brutal violence. Many gangs are well organized, drug-dealing, dangerously armed, profit motivated groups engaged in murder, rape, robbery, extortion, and kidnapping. There is increasing evidence that suggests not only the continued presence of chronic gang activity in major metropolitan jurisdictions, but an emerging pattern of gang activity in smaller sized jurisdictions as well.

Youth gangs and youth gang violence create high levels of community fear and are responsible for untold losses and disruption of family lives. Furthermore, some gangs are heavily involved in the sale and use of illegal drugs. Few programs exist which have been shown to effectively prevent, interdict, suppress and treat juvenile gang offenders. While Los Angeles County undoubtedly has one of the most sophisticated gang control systems in the country, little is known about other programs throughout the nation. Therefore, it is imperative that more be learned about both existing and emerging gang problems, and the effectiveness of comprehensive approaches or programs that are designed to suppress, control and treat gang criminality. OJJDP proposes to accomplish this task by sponsoring this program development effort which will include:

- Identification and assessment of selected programmatic approaches;
- Prototype (model) development based on the existing approaches;
- Development of training and technical assistance materials to transfer the prototype designs;
- Testing of the prototypes; and,
- Dissemination of prototypical program designs.

Eligibility: Public agencies or private not-for-profit organizations are invited to submit applications to enter into a cooperative agreement with OJJDP.

OJJDP will select the applicant which presents the most cost-effective approach and which best demonstrates the organizational capability, knowledge and experience to conduct a comprehensive program of this type. The project period for this program is three years. OJJDP has allocated up to $500,000 for the first 24 month budget period of the program. Based on successful completion of the first budget period, a non-competing continuation award is anticipated. Applicants are encouraged to submit cost-competitive proposals. The deadline for receipt of applications is August 20, 1987.

The competition will be conducted according to the OJJDP competition and Peer Review Policy, 28 CFR Part 34, Subpart A. published August 2, 1985 at 50 FR 31365–31367.

FOR FURTHER INFORMATION CONTACT: Benjamin Shapiro, Special Emphasis Division, OJJDP, 633 Indiana Avenue, NW., Washington, DC 20531, telephone (202) 724–8491 or Dick Sutton, Research and Program Development Division, OJJDP, 633 Indiana Avenue, NW., Washington, DC 20531, telephone (202) 724–5929.

SUPPLEMENTARY INFORMATION:

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I. Introduction and Background

Although youth gang activity subsided during the 1960's, it emerged again in the late 1970's and now may pose an even greater program than before. Recent studies show that the number of gangs operating in the United States is at a post-War high, with some researchers estimating there are more than 100,000 gangs, with over 1 million members nationwide. (1) In fact, in 1981, the U.S. Attorney General's Task Force on Violent Crime identified the most prevalent context of serious and violent juvenile criminality as "law-violating youth groups." The Task Force cited estimates that these disruptive youth groups, which include gangs, involve up to 20 percent of eligible boys in cities over 10,000 population, and that about 71 percent of all serious crimes by youth are the products of law-violating groups. (2) Later research sponsored by the National Institute for Juvenile Justice and Delinquency Prevention confirmed this Task Force conclusion and supported a finding that gang activity is not exclusive to large urban areas, but rather is a problem faced by many intermediate and small jurisdictions as well. (3)

In the 1970's, Harvard University Professor Walter Miller studied gangs in 900 U.S. cities with populations over 25,000. Miller estimated that in New York, Chicago, Los Angeles, Philadelphia, Detroit, and San Francisco "somewhere between 760 and 2,700 gangs might be operating . . . at any given time, with a collective membership of 28,000 to 81,000 youths." (4) Current law enforcement data for Los Angeles City and County indicate there are 600 active gangs with approximately 50,000–60,000 members. (5) There is, however, increasing evidence which suggests not only the continued presence of chronic gang activity in major metropolitan jurisdictions, but also an emerging pattern of gang activity in smaller sized jurisdictions. It is known, for example, that gangs have emerged in cities such as Denver, Colorado; Portland, Oregon; Oklahoma City, Oklahoma; Louisville, Kentucky; Minneapolis, Minnesota; and Milwaukee, Wisconsin. In fact, in 1983, 45 percent of U.S. cities with populations of 100,000 or more reported the existence of gangs (6)

Although the definition of what constitutes a youth gang varies from jurisdiction to jurisdiction, most definitions include four sets of characteristics: 1), The age of the gang members; 2), their ethnic and social background; 3), their neighborhood; and 4), the reasons that they banded together. It is estimated that about 90 percent of American gang members are males. Their age range is wide, with some groups known to have members as young as 8 and as old as 60. Most studies, however, place the principal age limits at a low of thirteen years and a high of twenty-four. (7) Studies also show that youth gangs are formed along very definite ethnic and socioeconomic lines, and that they are made up of youth who live in a common neighborhood. Even large gangs that have chapters in various parts of a city or state are made up of small neighborhood units. Finally, gang

activities may be grouped into four overlapping categories: Social; criminal; violent; and turf control. (8)

Gangs have become increasingly violent. Their weapons of choice now include not only traditional knives and homemade clubs, but also handguns, automatic rifles, and explosives. Members often use sophisticated tactics in committing crimes for profit, particularly in drug trafficking and extortion. In 1981, 351 homicides in the greater Los Angeles metropolitan area were attributable to gang warfare and violence, and law enforcement statistics for the city of Boston indicate that some 100 gangs were responsible for at least 20 percent of the city's major crimes. (9)(10) More current arrest statistics show that in 1986, 328 homicides in metropolitan Los Angeles were gang-related. (11) Youth gangs are also responsible for a disproportionate and growing share of the violence and vandalism in schools. The victims of these criminal offenses are not only gang members, but innocent bystanders and citizens alike.

Problems associated with prosecution and disposition exacerbate the difficulty in effectively combating the illegal activities of youth gangs. Victims and witnesses may be reluctant to participate in the criminal justice process due to fear of retaliation by the gang. Although youth commit violent gang-related crimes, their status as juveniles may protect them from appropriate intervention.

Few programs exist which have demonstrated a sufficient level of effectiveness in preventing, interdicting, or suppressing illegal gang activity, or rehabilitating juvenile gang offenders. Los Angeles has implemented, perhaps, the most sophisticated response to gang problems, involving systemwide information sharing and coordination as well as the operation of specialized gang units within the law enforcement, prosecution, probation and aftercare, and correctional agencies. Because youth gangs and youth gang violence create high levels of community fear and are responsible for untold losses and disruptions in families' lives, it is imperative that more be learned about both existing and emerging gang problems, and the effectiveness of approaches and programs to address them. Such an initiative must examine both the individual juvenile justice system components' responses and the coordinated systemwide response to the gang phenomena.

II. Program Goals and Objectives

A. Goals

1. To develop and test prototypical approaches for the intervention, suppression, and adjudication of illegal gang related activity among existing and emerging gangs whose members are primarily juvenile.

2. To provide the capability to selected localities to implement the prototypical approaches to reduce unlawful gang behavior through intensive training and technical assistance; and

3. To disseminate prototypical program designs for the intervention, suppression, and adjudication of illegal gang related activity among existing and emerging gangs whose members are primarily juveniles.

B. Objectives

1. Assess existing information on unlawful juvenile gang and gang related activity and the system response to apply it to the development of criteria for identifying promising approaches, and to the review and description of existing programs;

2. Develop prototypical approaches based on the research and the assessment of selected operational models, emphasizing those that are comprehensive and involve multiple system components;

3. Develop a dissemination strategy and related training and technical assistance materials to transfer the prototypes to the test sites; and,

4. Test the program prototypes. (Applicants are reminded that this stage of the development initiative will not be funded during the initial budget period; however, the testing of the prototypes at the sites is one of the primary objectives of this initiative and a decision regarding testing will be made later).

III. Program Strategy

OJJDP planning and program development activities are guided by a framework which specifies four sequential phases; Research, development, demonstration, and dissemination. The framework guides the decisionmaking process regarding the funding of future phases of the program. This is a Development initiative. The purpose of the development phase is to determine the effectiveness of a program design through a controlled testing process. The program will be conducted in four discrete incremental stages. The stages consist of: 1) An Assessment of the problem of juvenile gang activity and of selected operational programs; 2) a comprehensive description of the development, implementation and operation of prototypical approaches; 3) the development of a training and technical assistance package in order to provide intensive training to test sites which are implementing the prototypes; and, 4) testing of the prototypes.

An advisory committee established specifically for this program will provide comments and recommendations regarding the program strategy and activities. It may be necessary to change or supplement advisory committee members for different stages of the program; however, the objective will be to select technical and subject matter experts capable of addressing related to each of the program sites. The advisory committee members should have combined expertise in juvenile justice system research and evaluation, training and technical assistance development and delivery, knowledge of juvenile justice systems handling of existing and emerging problems and individual gang members.

Each stage of the incremental program development process detailed below is designed to result in a complete and publishable product (e.g., final assessment report) and a dissemination strategy to inform the field of the development of the program and the results and products of each stage. A decision is made at the completion of each stage, based on availability of funds, and the quality and utility of the products, whether to invest additional funds to complete the current stage or terminate the program.

Stage 1—Assessment

This first stage of the program consists of an assessment of programs and informaton related to existing and emerging juvenile gangs.

The grantee will conduct a review of theoretical and empirical research in order to determine the extent and location of the problem and to identify the types of youth involved in gang activities, the reasons youth become involved in gang activities, and the types of illegal gang-related activities, including illegal drug use or sale.

The literature review shall provide the basis for the development of a conceptual framework for assessing juvenile programs. The conceptual framework should specify the criteria for identifying "promising" programs, and parameters of program development and design which must be examined in order to describe the basic structure, goals and operating procedures of existing programs.

Based on the literature review, programs will be selected for intensive

review in consultation with OJJDP. The design for program review will be prepared by the grantee and include the following information: the criteria for selecting promising programs, the name and location of promising programs, the name and location of programs to be reviewed, and the types of information that will be collected (e.g., the operating assumptions or theory that guide program organization and operations, the historical development of the program, number and type of youth served, program costs, sources of funding, evaluation findings, relationship to public and private agencies, staffing, organization, and management and administration.

The grantee must address the issue of individual systems (i.e., courts, corrections, police, prosecutors) response to established and emerging juvenile gang problems and the coordination networks interplay that provides a total community response to this phenomena. An assessment of both individual and coordinated organizations is strongly encouraged. During this stage the grantee will also be required to implement a national or several regional OJJDP sponsored conferences or symposiums for policy makers practitioners to disseminate information developed under the assessment phase.

The grantee will prepare a detailed description of the proposed assessment process, and provide nominations for a four member project advisory committee to review the major products.

Activities

The major activities of this stage are:

1. Establishment of a program advisory committee;
2. Development of the assessment plan;
3. Review of the literature;
4. Development of criteria for identifying promising programs;
5. Identification and description of existing promising programs;
6. Development of preliminary testing design(s);
7. Preparation of an assessment report; and
8. Development and implementation of a dissemination strategy.

Products

The major projects for this stage are:

1. Assessment plan-specifying each step of the assessment process in detail;
2. Draft literature review, including criteria and recommendations for selection of promising operational programs;
3. Draft and final report that includes:
   - Literature review;
   - Descriptions of operational promising programs; and,
   - Recommendations for developing prototypical/model approaches; and
4. Dissemination strategy to inform the field of the development of the program and the products and results of this stage.

Stage 2-Prototype(s) and Related Policies and Procedures Development

Upon successful completion of Stage 1, and with the approval of OJJDP, the grantee will develop prototype designs with accompanying policies and procedures manual(s) for the development, implementation and operation of a program for chronic and emerging juvenile gangs. The program must address the issue of coordination among individual systems, individual system response and responsibility, and total community response to established and emerging juvenile gang problems. The activities and products of this stage will be based on the information generated as a result of the assessment. Appropriate technical and subject matter expertise will be utilized to design the prototypes based, in part, on the operational programs described in the preceding stage. The prototype design and related policies and procedures will provide guidance regarding: Program development; program evaluation; funding; relationship to primary components of the juvenile justice system; staffing; implementation process; and program design. This information will become part of a training and technical assistance package for dissemination to state and local justice agencies and policymakers involved in allocating funds to the various components of the juvenile justice system.

Activities

The major activities of this stage are:

1. Preparation of a plan for developing the prototypes and related policies and procedures;
2. Development of the prototypes and policies and procedures;
3. Participation and review of the advisory committee; and
4. Development and implementation of a dissemination strategy.

Products

The products to be completed during this stage are:

1. Plan for prototype development, specify in detail the approach and activities to be undertaken for each step of this stage and the projected costs on a monthly basis; and,
2. Draft and final prototype design and related policies and procedures manual(s); and
3. Dissemination strategy to inform the field of the development of the program and the products and results of this stage.

Stage 3-Training and Technical Assistance

Upon successful completion of Stage 2, and with the approval of OJJDP, the grantee will transfer the prototype designs, including policies and procedures, into a training and technical assistance package. Comprehensive training manuals that outline the major issues of ongoing and emerging juvenile gangs and detail the program prototypes, must be developed to encourage and facilitate implementation of the prototypes.

The training manual should be the focal point of the entire training and technical assistance package. The major audience will be policy makers and practitioners involved in resource allocation and program development related to juvenile gang control. The manual should be designed for presentation in a formal training session and for independent use in jurisdictions that do not participate in formal training sessions. Therefore it should include a complete description of the prototype/model and incorporate related policies and procedures. The manual should also contain instructions and supplementary materials for trainers to facilitate presentation, and assure understanding and successful adaptation and implementation of the prototypes.

Upon OJJDP approval of the draft training manual, the grantee will test the manuals with representatives from the justice system and community organizations involved in prevention and intelligence gathering activities. The grantee will incorporate recommendations from the workshop participants and finalize the training manual.

Activities

The major activities of this stage are:

1. Preparation of a plan for developing the training and technical assistance package;
2. Development of the training and technical assistance materials;
3. Recruitment and preparation of the training and technical assistance personnel;
4. Testing of the training manual;
5. Participation and review of the advisory committee; and

6. Development and implementation of a dissemination strategy which may include workshops or seminars for policy makers and practitioners.

Products

The products to be completed during this stage are:

1. Plan for the development of the training and technical assistance package;
2. Identification of training and technical assistance personnel;
3. Draft and final training and technical assistance package—including the training curriculum manual, and information materials; and
4. Dissemination strategy to inform the field of the development of the program and the products and results of this stage.

Stage 4–Prototype Implementation and Testing

While a decision to test the prototype designs will be made during or following completion of the prototype development stage, the applicant is expected to explain the methods and approaches that would be employed to implement this stage. As noted, funds for this stage will be provided through noncompetitive continuation awards. In order to ensure the applicant's understanding of the entire development effort, the initial application must address and explain the implementation and coordination of all four stages of the initiative (i.e., assessment, prototype development, training and technical assistance development, and testing).

This stage of the program consists of a test in selected jurisdictions of the prototypes developed in stage two. The grantee will be required to assist the OJJDP in developing a solicitation to make awards to test sites. It will also be required to provide intensive training and technical assistance to help the test sites implement the prototypes on an experimental basis. Finally, the grantee will be expected to work cooperatively with an independent evaluator to ensure the integrity of the data collection and feedback activities.

Activities

1. Develop recommendations for a program announcement to select test sites;
2. Assist OJJDP in review and selection of test sites;
3. Provide intensive training and technical assistance to test sites regarding the implementation of prototypes on an experimental basis;
4. Develop procedures for working cooperatively with the program evaluator, particularly in the areas of data collection and feedback; and
5. Develop and implement a dissemination strategy.

Products

The major products for this stage are:

1. Recommendations for the program announcement for test sites;
2. Plan for providing training and technical assistance to test sites; and
3. Dissemination strategy to inform the field of the development of the program and the products and results of this stage.

IV. Dollar Amount and Duration

Up to $500,000 has been allocated for the initial award. One cooperative agreement will be awarded competitively, and the initial budget period will be for 24 months. It is anticipated that this program will entail three years of program activities (i.e., a three year project period), and consist of four stages (assessment, prototype development: Policies and procedures training and technical assistance, and testing). The initial award will provide support for stages one through three. Supplemental funds will be allocated for an additional budget period.

A noncompeting continuation award, (i.e., an additional budget period within the approved three year project period) may be withheld for justifiable reasons. They include: 1) The results do not justify further program activity; 2) the grantee is delinquent in submitting required reports; 3) adequate grantor agency funds are not available to support the project; 4) the grantee has failed to show satisfactory progress in achieving the objectives of the project or otherwise failed to meet the terms and conditions of the award; 5) a grantee's management practices have failed to provide adequate stewardship of grantor agency funds; 6) outstanding audit exceptions have not been cleared; and 7) any other reason which would indicate that continued funding would not be in the best interest of the Government.

A separate agency will be selected competitively to perform the evaluation of the selected prototypes/models. Organizations which receive funds under this award will not be eligible to compete for the evaluation.

V. Eligibility Requirements

Applications are invited from public agencies and not-for-profit private organizations. Applicant organizations may choose to submit joint proposals with other eligible organizations as long as one organization is designated in the application as the applicant and any co-applicants are designated as such. Together co-applicants must meet the eligibility requirements specified in A. and B. below.

The applicant must demonstrate experience in the following areas in order to be eligible for consideration:

A. The development and delivery of training or technical assistance related to adult or juvenile gang programs; and,

B. Applied research or evaluation of adult or juvenile gang programs and policies.

The applicant must also demonstrate that they have the management and financial capability to effectively implement a project of this size and scope. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding consideration.

VI. Application Requirements

All applicants must submit a completed Standard Form 424, Application for Federal Assistance (SF 424), including a program narrative, a detailed budget, and a budget narrative. All applications must include the following information outlined in this section of the solicitation. The program narrative should not exceed 70 double-spaced pages in length. Applications which propose non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $10,000.

In submitting applications which contain more than one applicant organization, the relationships among the parties must be set forth in the application. As a general rule, organizations which describe their working relationship in the development of products and the delivery of services as primarily cooperative or collaborative in nature will be considered co-applicants. In the event of a co-applicant submission, one co-applicant must be designated as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other co-applicants. Under this arrangement each organization would agree to be jointly and severally responsible for all project funds and services. Each co-applicant must sign the SF–424 and indicate their acceptance of the conditions of joint and several responsibility with the other co-applicants.

In addition to the requirements specified in the instructions for the preparation of Standard Form 424, the following information must be included in the application:

A. Organizational Capability—Applicants must demonstrate that they

are eligible to compete for this cooperative agreement on the basis of eligibility criteria established in this solicitation.

1. Organizational Experience—Applicants must concisely describe their organizational experience with respect to the eligibility criteria specified above. Applicants must demonstrate how their organizational experience and capabilities will enable them to archive the goals and objectives of this initiative. Applicants are invited to append one example of prior work products of similar nature to their application.

2. Financial Capability—In addition to the assurances provided in Part V, Assurances (SF–424), applicants must also demonstrate that their organization has or can establish fiscal controls and accounting procedures which assure that Federal funds available under this agreement are disbursed and accounted for properly. Applicants who have not previously received federal funds will be asked to submit a copy of the Office of Justice Programs (OJP) Accounting System and Financial Capability Questionnaire (OJP Form 7120/1).

Copies of the form will be provided in the application kit and must be prepared and submitted along with the application. Other applicants may be requested to submit this form. All questions are to be answered regardless of instructions (section C.I.B. note). The CPA certification is required only of those applicants who have not previously received Federal funding.

B. Program Goals—A succinct statement of your understanding of the goals and objectives of the program should be included. The application should also a problem statement and a discussion of the potential contribution of this program to the field.

C. Program Strategy—Applicants should describe the proposed approach for achieving the goals and objectives of the Program. A discussion of how each of the four stages of the program would be accomplished should be included.

D. Program Implementation Plan—Applicants should prepare a plan which outlines the major activities involved in implementing the program and describes how they will allocate available resources to implement the program, and how the program will be managed.

The plan must also include an annotated organizational chart depicting the roles and describing the responsibilities of key organizational/functional components; and a list of key personnel responsible for managing and implementing the four major elements of the program. Applicants must present detailed position descriptions, qualifications, and selection criteria for each posititon. Applicants should also provide recommendations for program advisory committee members. This documentation and individuals' resumes may be submitted as appendices to the application.

E. Time-Task Plan—Applicants must develop a time-task plan for the 24-month project period, clearly identifying major milestones and products. This must include designation of organizational responsibility and a schedule for the completion of the tasks and products identified in Section III and indicate the anticipated cost schedule per month for the entire project period.

F. Products—Applicants must concisely describe the interim and final products of each stage of the program, and must address the purpose, audience, and usefulness to the field of each product.

G. Program Budget—Applicants shall provide a 24-month budget with a detailed justificiation for all costs, including the basis for computation of these costs. Applicants should include a budget estimate to complete the balance of the program. Applications submitted by co-applicants and/or those containing contract(s) must include detailed budgets for each organization's expenses. The budget should include funds for a four person advisory committee to meet four times during the first 24 month budget period.

VII. Procedures and Criteria for Selection

All applications will be evaluated and rated based on the extent to which they meet the following weighted criteria. In general, all applications received will be reviewed in terms of their responsiveness to the minimum program application requirements, organizational capability, technical soundness, and thoroughness and innovativeness in responding to strategic issues in project implementation. Applications will be evaluated by a peer review panel according to OJJDP Competition and Peer Review Policy, 28 CFR Part 34, Subpart B, published August 2, 1985 at 50 FR 31366–31367. The selection criteria and their point values (weights) are as follows:

A. Organizational Capability (20 Points)

1. The extent and quality of organizational experience in the development, delivery, and coordination of juvenile gang related research, training, or technical assistance which have been national in scope. (10 points)

2. Adequate fiscal controls and accounting procedures to ensure that the applicant can effectively implement a project of this size and scope, and to ensure the proper disbursal and accounting of Federal funds. (10 points)

B. Proposed Strategy (30 Points)

Understanding of the nature of the program area and the soundness of the approach to each stage of the program development process for meeting the goals and objectives; and the potential utility of proposed products.

C. Qualifications of Project Staff (20 Points)

1. The qualifications of staff identified to manage and implement the program including staff to be hired through contracts. (10 points)

2. The clarity and appropriateness of position descriptions, required qualifications and selection criteria relative to the specific functions set out in the Implementation Plan. (10 points)

D. Clarity and Appropriateness of the Program Implementation Plan (15 Points)

Adequacy and appropriateness of the activities, and the project management structure; and the feasibility of the time-task plan.

E. Budget (15 Points)

Completeness, reasonableness, appropriateness and cost-effectiveness of the proposed costs, in relationship to the proposed strategy and tasks to be accomplished.

Applications will be evaluated by a peer review panel. The results of peer review will be a relative aggregate ranking of applications in the form of "Summary of Ratings." These will ordinarily be based on numerical values assigned by individual peer reviewers. Peer review recommendations, in conjunction with the results of internal review and any necessary supplementary review, will assist the Administrator in considering competing applications and in selection of the application for funding. The final award decision will be made by the OJJDP Administrator.

VIII. Submission of Applications

All applicants responding to this solicitation should be aware of the following requirements for submission.

1. Organizations which plan to respond to this announcement are requested to submit written notification of their intent to apply to OJJDP by July 29, 1987. Such notification should specify: The name of the applicant organization, mailing address, telephone number, and primary contact person. In

the event that organizations intend to apply as co-applicants, each of the co-applicants are to provide the above information. The submission of this notification is optional. It is requested to assist OJJDP in estimating the workload associated with the review of applications and for notifying potential applicants of any supplemental information related to the preparation of their applications.

Applications must be received by mail or hand delivered to the OJJDP by 5:00 p.m. EST on August 20, 1987. Those applications sent by mail should be addressed to Richard Sutton or Banjamin Shapiro, OJJDP, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, DC 20531. Hand delivered applications must be taken to the OJJDP, Room 742, 633 Indiana Avenue, NW., Washington, DC, between the hours of 8:00 a.m. and 5:00 p.m., except Saturdays, Sundays or Federal holidays.

2. Applicants must submit the original signed application and three copies to OJJDP. The necessary forms for applications (Standard Form 424) will be provided upon request.

3. The OJJDP will notify applicants in writing of the receipt of their application. Subsequently, applicants will be notified by letter as to the decision made regarding whether or not their submission will be recommended for funding. It is anticipated that the grant may be awarded as early as September, 1987.

IX. Civil Rights Compliance

A. All recipients of OJJDP assistance must comply with nondiscrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations (28 CFR Part 42, Subparts C, D, E, and G).

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Offices of Civil Rights Compliance (CRC) of the Office of Justice Programs.

C. Applicants shall maintain such records and submit to the OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in, benefits of, or denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, relation, handicap or age. In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under any grant award.

X. Footnotes

1. Dolan, Edward Jr. and Shan Finney, *Youth Gangs* (New York, New York, Julian Messner Publishing, 1984) p. 35.
2. U.S. Department of Justice, Attorney General's Task Force on Violent Crime (1981) p. 81.
3. U.S. Department of Justice, National Institute for Juvenile Justice and Delinquency Prevention, *Reports of the National Juvenile Justice Assessment Centers: Police Handling of Youth Gangs* (Washington, D.C., Government Printing Office, 1983) p. xi.
4. Miller, Walter B., *Violence by Youth Gangs and Youth Groups in Major American Cities: Final Report* (U.S. Department of Justice, National Institute for Juvenile Justice and Delinquency Prevention, 1975) p. 51.
5. Statistics provided by Operation Safe Streets, Los Angeles County Sheriff's Department.
6. U.S. Department of Justice, National Institute for Juvenile Justice and Delinquency Prevention, *Controlling Youth Gangs* (1984) pp. II–4.
7. Dolan and Finney, *op. city.*, p. 49.
8. *Ibid.*, p. 51.
9. Statistics provided by Operation Safe Streets, Los Angeles County Sheriff's Department.
10. Dolan and Finney, *op. city.*, p. 40.
11. Statistics provided by Operation Safe Streets, Los Angeles County Sheriff's Department.

Verne L. Speirs,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

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federal register

Monday
July 13, 1987

Part VII

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

National Juvenile Firesetter/Arson Control and Prevention Program; Notice of Issuance of Solicitation for Applications

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

National Juvenile Firesetter/Arson Control and Prevention Program

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of issuance of a solicitation for applications to develop a program to control and prevent juvenile firesetter and arson activity.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) pursuant to section 224(a)(5) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is jointly sponsoring with the U.S. Fire Administration, a comprehensive development initiative to assess, develop, test and disseminate information on promising approaches for the control and prevention of juvenile firesetting and arson.

The purpose of the program is to improve the capabilities of public/private institutions within state and local jurisdictions to control and prevent acts of juvenile arson through the identification and review of promising juvenile firesetter and arson control and prevention programs, the subsequent development and testing of program prototypes and the provision of training based on the prototype programs. The overall goal of the program is to provide communities with the necessary skills and information to develop and implement promising approaches to decrease juvenile arson.

OJJDP, with that assistance of the U.S. Fire Administration, proposes to accomplish this task by sponsoring this development effort which will include:

- Identification and assessment of selected programmatic approaches;
- Prototype (model) development based on the existing approaches;
- Development of training and technical assistance materials to transfer the prototype designs;
- Testing of the prototypes; and,
- Dissemination of prototypical program designs.

Eligibility: Public agencies and private not-for-profit organizations which can demonstrate the capability to conduct a development program and deliver training and technical assistance in the area of juvenile firesetter and arson are invited to submit applications to enter into a cooperative agreement with OJJDP/Fire Administration. OJJDP/Fire Administration will select the applicant which presents the most cost effective approach, and which best demonstrates the organizational capability, knowledge of and experience in the fields of juvenile firesetter/arson, juvenile justice, program evaluation and training. The project period for this program is three (3) years. The first budget period is for 24 months. OJJDP has allocated up to $350,000 for this period. Based on successful completion of the first budget period, several non-competitive continuation awards are anticipated. Applicants are encouraged to present cost-competitive proposals.

DATE: The deadline for receipt of applications is August 20, 1987.

FOR FURTHER INFORMATION CONTACT: Travis A. Cain, Special Emphasis Division, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531, (202) 724–5914.

SUPPLEMENTARY INFORMATION:

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I. Introduction and Background

In recent years, juvenile and adolescent firesetters have accounted for a substantial number of arson arrests throughout the nation. Additionally, the nature of the fires for which juveniles have been arrested have had an increasing impact on the social, psychological and economic aspects of rural, suburban and urban communities. According to statistics on arson arrests reported by the FBI in its 1985 annual Uniform Crime Report, during the year of 1984, there were an estimated total of 19,000 persons arrested for arson. Of these forty-three percent (43%) of the arrestees were juveniles under eighteen (18) years of age. The report indicates that arson showed a higher percentage of juvenile involvement than any other Index Crime during 1984.

Juveniles under eighteen (18) years of age accounted for thirty-five percent (35%) of arson arrests involving residential and/or commercial structures. This same age group of juveniles accounted for twenty percent (20%) of arson arrests involved with motor and other vehicles and fifty-six percent (56%) of other arson arrests involving crops, fences and other property.

By population grouping, juveniles were the offenders in thirty-seven percent (37%) of the city arson arrests, thirty-five percent (35%) of the suburban county arrests and twenty-one percent (21%) of the rural county arrests. From 1983 to 1984, arrests of juveniles under the age of eighteen (18) years for arson increased seven percent (7%), while adults arrested for arson during this period dropped nine percent (9%) nationwide. There has been an increase in numbers of juveniles arrested for arson, and more adolescent firesetters have been referred to the juvenile justice system. The motivational factors for juveniles which result in firesetting are not well understood. A number of studies have focused on the younger juvenile firesetter, who is generally motivated by intensive curioisity; however, there is much less data available on the adolescent juvenile firesetter who appears to fully understand the consequences of his acts and is determined to injure someone or destroy property. Although there are probably different motivations between the child and the adolescent firesetters, the problem of juvenile arson for both age groups often requires the attention and involvement of parents, teachers, mental health professionals, fire personnel, law enforcement, juvenile justice personnel and the private sector. Because the problems of control and prevention of juvenile firesetting/arson are muti-faceted and complex, the programs which are developed to control and prevent the problem must be comprehensive and include the involvement of the critical entities identified above.

II. Program Goals and Objectives

A. Goals

1. To develop and test promising approaches for the control and prevention of juvenile firesetting and arson;

2. To provide the capability to selected state agencies and localities to implement promising approaches for the control and prevention of juvenile firesetting and arson through intensive training and technical assistance; and

3. To disseminate prototypical program designs for the implementation of promising approaches for the control and prevention of juvenile firesetting and arson through intensive training and technical assistance.

B. Objectives

- Assess existing research on juvenile firesetter/arson activity and the system's response, to apply it to the development of criteria for identifying promising approaches and to the review and description of existing programs;

• Develop prototypical approaches based on the research and the assessment of selected operational programs;

• Develop a dissemination strategy and related training and technical assistance materials to transfer the prototypes to selected communities; and

• Test the program prototypes.

III. Program Strategy

OJJDP planning and program development activities are guided by a framework which specifies four sequential phases: Research, development, demonstration and dissemination. The framework guides the decision-making process regarding the funding of future phases of the program.

This is a Development initiative. The purpose of the development phase is to develop prototypes/models and to determine their effectiveness through a controlled testing process. The program will be conducted in four discrete incremental states. The stages consist of: 1) An assessment of the problem of juvenile firesetter/arson and of selected operational programs; 2) a comprehensive description of the development, implementation and operation of prototypical approaches; 3) the development of a training and technical assistance package in order to provide intensive training to test sites which are implementing the protoypes, and 4) testing of the prototypes. All technical portions and subject matters of the program will be guided by recommendations of National Juvenile Arson Public/Private Partnership established specifically for the program.

The partnership will be involved in: 1) Advocating for the juvenile arson program effort; 2) helping to draw resources from the private sector to support local arson programs; 3) serving as a vehicle to promote and develop other activities under this initiative; 4) serving as an advisory group to the grantee on all phases of this initiative; and 5) convening workshops/symposiums to review the information obtained during the assessment stage, the prototype development stage, and the training and technical assistance stage.

Each phase of the incremental program development process detailed below is designed to result in a complete and publishable product (e.g., final assessment report) and a dissemination strategy to inform the field of the development of the program and the results and products of each stage. A decision is made at the completion of each phase, based on availability of funds, and the quality and utility of the products, whether to invest additional funds to complete the current stage or terminate the program.

Stage 1–Assessment

The first stage of the program consists of an assessment of the programs and information related to the juvenile arson problem in the nation. The program and literature review of the juvenile arson problem in the nation should include: The incidence and prevalence of juvenile arson; related research on risk factors for involvement in arson; selected existing public and private institutional and community-based juvenile arson programs and, assessing their effectiveness in their respective communities. It should include the identification and assessment of screening and diagnostic procedures used to design and implement dispositional and treatment plans in community based projects and within correctional institutions.

The purpose of the literature review is to identify the most definitive theoretical and empirical research findings in order to apply them to the review of existing programs, and to further the development of prototype(s).

The grantee will be required to develop criteria for identifying "promising" approaches to the control and prevention of juvenile firesetter/arson problems, and use the criteria to select programs for review and documenation. Information to be collected and assessed includes the historical development of the program(s); conceptual framework/theoretical assumptions; number and type of youth served; program costs per unit of service and per client; evaluation findings; sources of funding; staffing requirements; and program organization and management information. The applicant is encouraged to recommend any other significant issues to assess that will enhance the overall knowledge and understanding of the subject matter.

The assessment should provide the basis for refining the goals and objectives of the Development program. Specifically, it should identify the key questions that need to be answered regarding the feasibility and effectiveness of juvenile firesetter/arson control and prevention programs for youth in the nation.

The grantee will also develop and staff a national juvenile arson public/private partnership to serve as an advisory committee for the development and implementation of all stages of this initiative.

Activities

The major activities of this stage are:

• Establishment of National Juvenile Arson Public/Private Partnership;

• Development of the assessment plan;

• Review of the literature;

• Development of criteria for identifying promising programs;

• Identification and description of operational promising programs;

• Development of preliminary testing design guideline(s);

• Preparation of an assessment report; and

• Development and implementation of a dissemination strategy.

Products

The products to be completed during this stage are:

1. Assessment Plan—specify, in detail, the approach and activities to be undertaken for each step of the assessment phase

2. Draft and final report on the results of the assessment phase which includes:

—The literature review
—Criteria for identifying promising programs
—Description of operational promising approaches
—Recommendations for refining the goals and objectives of the development program
—Recommendations for developing prototypical/model approaches
—Preliminary testing design guideline(s); and

3. Dissemination strategy to inform the field of the development of the program, and the products and results of this phase.

Stage 2—Prototype(s) and Related Policies and Procedures Development

Upon successful completion of stage I, the assessment, the grantee will develop prototype designs for the development, implementation and operation of juvenile firesetter/arson control and prevention programs for youth. The prototype designs will be accompanied by detailed policies and procedures manuals. The activities and products of this phase will be based on the information generated as a result of the assessment.

Appropriate technical and subject matter expertise will be utilized to design the prototypes which will be based in part on the operational programs described in the preceding stage. The prototype design and related policies and procedures will provide guidance regarding: Identification of the appropriate target population; relationship of the program to other public and private youth-serving agencies; funding program organization

and management; the philosophy and content of the intervention; resource development; program monitoring; and evaluation of program effectiveness. This information will become part of a training and technical assistance package for dissemination to the appropriate state and local agencies, depending on the nature and auspices of each prototype. Applicants are encouraged to identify methods and techniques for testing and validating the policies and procedures manual.

Activities

The major activities of this stage are:

- Preparation of a plan for developing the prototypes and related policies and procedures;
- Development of the prototypes and related policies and procedures;
- Review of prototypes by the National Juvenile Arson Public/Private Partnership and subsequent revision as necessary; and
- Development and implementation of a dissemination strategy.

Products

The products to be completed during this stage are:

1. Plan for prototype development, specifying in detail, the approach and activities to be undertaken for each step of this stage and the projected costs on a monthly basis;
2. Draft and final prototype design and related policy and procedure manual(s); and,
3. Dissemination strategy to inform the field of the development of the program and the products and results of this stage.

Stage 3—Training/Technical Assistance

Upon successful completion of stage 2, and with the approval of OJJDP/Fire Administration, the grantee will transfer the prototype designs, including policies and procedures into a training and technical assistance package. The training material will be tested in a minimum of three (3) pilot sites, in which the problems of juvenile arson can be documented by fire marshals, law enforcement and juvenile justice personnel, the insurance industry, and other local policymakers. The localities selected as pre-test sites will be equally representative of urban, suburban, and rural areas of the nation.

Following the testing of the training and technical assistance package, final comprehensive training manuals that outline the major issues in the control and prevention of juveniles firesetter/arson problems and detail the program prototypes, must be developed to encourage and facilitate implementation of the prototypes.

The training manual should be the focal point of the entire training and technical assistance package. The major audience will be parents, fire department personnel, juvenile and law enforcement personnel, teachers, mental health professionals and state and local communities interested in planning for and/or resolving juvenile firesetter/arson problems. The manual must be designed for presentation in a formal training setting and for independent use in jurisdictions that do not participate in formal training sessions. Therefore, the manual should include a complete description of the prototype/model and incorporate related policies and procedures. The manual should contain instructions and supplementary materials for trainers to facilitate presentation, and assure understanding and successful adaptation and implementation of the prototypes.

Once the training manual has been completed in draft, it will be submitted to OJJDP/U.S. Fire Administration for approval. Upon approval of the draft training manual, the grantee will be required to test the manual with representatives listed above during a workshop sponsored by OJJDP/U.S. Fire Administration and coordinated by the grantee. The grantee will incorporate recommendations from the workshop participants into the draft training manual and submit the manual in final to OJJDP/U.S. Fire Administration.

Activities

The major activities of this stage are:

- Preparation of a plan for developing the training and technical assistance package;
- Development of the training and technical assistance materials;
- Recruitment and preparation of the training and technical assistance personnel;
- Testing of the training curriculum manual;
- Participation and review by the National Juvenile Arson Public/Private Partnership; and
- Development and implementation of a dissemination strategy which may include workshops or seminars for policymakers and practitioners.

Products

The products to be completed during this stage are:

1. Plan for the development of the training and technical assistance package;
2. Identification of training and technical assistance personnel;
3. Preliminary draft and final training and technical assistance package—including the training curriculum manual, and information materials; and
4. Dissemination strategy to inform the field of the development of the program and the products and results of this phase.

Stage 4–Prototype Implementation and Testing

While a decision to test the prototype designs will be made during or following completion of the prototype development stage, the applicant is expected to explain the methods and approaches of the prototype development stage that will be employed to implement this stage. As noted, funds for this stage will be provided under a second application for an additional 12 month period. In order to ensure the applicant's understanding of the entire development effort, the initial application must address and explain the implementation and coordination of all four stages of the initiative (i.e. assessment; prototype dvelopment; training and technical assistance development; and testing).

This stage of the program consists of a test, in selected jurisdictions, of the prototypes developed in stage 2. The grantee will be required to assist OJJDP/Fire Administrator in developing a separate solicitation to select and make awards to test sites. It will also be required to provide intensive training and technical assistance to help the test sites implement the prototypes on an experimental basis. During this stage the grantee will also be required to coordinate one National Juvenile Firesetter/Arson conference for representatives from the insurance industry and public/private sector agencies to discuss issues and developments, including promising approaches for the control and prevention of juvenile firesetter/arson nationally. Finally, the grantee will be expected to work cooperatively with an independent evaluator to ensure the integrity of the data collection and feedback activities.

Activities

The major activities of this stage are:

- Develop recommendations for a program announcement to select test sites;
- Assist OJJDP/Fire Administration in review and selection of test sites;
- Provide intensive training and technical assistance to test sites regarding the implementation of prototypes on an experimental basis;

• Develop procedures for working cooperatively with the program evaluator, particularly in the areas of data collection and feedback; and,

• Develop and implement a dissemination strategy.

Products

The major products for this stage are:

1. Recommendations for the program announcement for test sites;

2. Plan for providing training and technical assistance to test sites;

3. A National Juvenile Arson Conference; and,

4. Development and implementation of dissemination strategy to inform the field of the development of the program and the products and the results of this stage.

IV. Dollar Amount and Duration

Up to $350,000 has been allocated for the initial award. One cooperative agreement will be awarded competitively, and the initial budget period will be for 24 months. It is anticipated that this program period will entail three years of program activities (i.e., a three year project period), and consist of four stages (assessment, prototype development; policies and procedures; training and technical assistance; and testing). The initial award will provide support for stages one through three. Supplemental funds will be allocated for an additional budget period.

A noncompetitive continuation award (i.e. an additional budget period, within the approved three year project period), may be withheld for justifiable reasons. They include: 1) The results do not justify further program activity; 2) the grantee is delinquent in submitting required reports; 3) adequate grantor agency funds are not available to support the project; 4) the grantee has failed to show satisfactory progress in achieving the objectives of the project or otherwise failed to meet the terms and conditions of the award; 5) a grantee's management practices have failed to provide adequate stewardship of grantor agency funds; 6) outstanding audit exceptions have not been cleared; and 7) any other reason which would indicate that continued funding would not be in the best interest of the Government.

A separate grantee will be selected competitively to perform the evaluation of the selected prototypes/models.

V. Eligibility Requirements

Applications are invited from public agencies and/or private not-for-profit organizations. Applicant organizations may choose to submit joint proposals with other eligible organizations as long as one organization is designated in the application as the applicant and any co-applicants must meet the eligibility requirements specified in A and B below. The applicant must demonstrate experience in the following areas in order to be eligible for consideration:

A. Applied research or evaluation on adult or juvenile arson programs.

B. The development of operations and procedures manuals, training curricula, and in the delivery of training and technical assistance to organizations addressing adult or juvenile arson issues.

The applicant must also demonstrate that they have the management and financial capability to effectively implement a project of this size and scope. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding consideration.

VI Application Requirements

All applicants must submit a completed Standard Form 424, Application for Federal Assistance (SF 424), including a program narrative, a detailed budget, and a budget narrative. All applications must include the following information outlined in Section VII of this solicitation and Part IV, Program Narrative of the application. The Program Narrative of the application shall not exceed 75 double-spaced pages in length.

In submiting applications which contain more than one organization, the relationships among the parties must be set forth in the application. As a general rule, organizations which describe their working relationship in the development of products and the delivery of services as primarily cooperative or collaborative in nature will be considered co-applicants. In the event of a co-applicant submission, one co-applicant must be designated as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other co-applicants. Under this arrangement each organization would agree to be jointly responsible for all project funds and services. Each co-applicant must sign the SF 424 and indicate their acceptance of the conditions of joint responsibility with the other co-applicants.

Applications which include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $10,000.

In addition to the requirements specified in the instructions for the preparation of Standard Form 424, the following information must be included in the application:

A. Organizational Capability—Applicants must demonstrate that they are eligible to compete for this cooperative agreement on the basis of eligibility criteria established in Section V of this solicitation.

1. Organizational Experience—Applicants must concisely describe their organizational experience with respect to the eligibility criteria specified in section V above. Applications must demonstrate how their organizational experience and capabilities will enable them to achieve the goals and objectives of this initiative. Applicants are invited to submit one prior work product of a similar nature to their application.

2. Financial Capability—In addition to the assurances provided in Part V, Assurances (SF–424), applicants must also demonstrate their organization has or can establish fiscal controls and accounting procedures which assure that Federal funds available under this agreement are disbursed and accounted for properly. Applicants who have not previously received federal funds will be asked to submit a copy of the Office of Justice Assistance, Research and Statistics (OJARS) Accounting System and Financial Capability Questionnaire (OJARS Form 7120/1). Copies of the form will be provided in the application kit and must be prepared and submitted along with the application. Other applicants may be requested to submit this form. All questions are to be answered regardless of instructions (section C.I.B. note). The CPA certification is required only of those applicants who have not previously received Federal funding.

B. Program Strategy and Goals—Applicants must describe their strategy and approach to meet the goals and objectives outlined for this program. The applicant should include a clear and concise discussion of how they will accomplish each of the distinct stages of the program. The application should also include a problem statement and a discussion of the potential contribution of this program to the field.

C. Program Implementation Plan—Applicants should prepare a plan which outlines the major activities involved in implementing the program; describes how they will allocate available resources to implement the program, and how the program will be managed.

The plan must also include an annotated organizational chart depicting the roles and describing the responsibilities of key organizational/functional components; and a list of key personnel responsible for managing and

implementing the four major elements of the program. Applicants must present detailed position descriptions, qualifications, and selection criteria for each position. Applicants should also provide recommendations for the National Juvenile Arson Public/Partnership. This documentation and individuals' resumes may be submitted as appendices to the application.

D. Program Budget—Applicants shall provide a 24-month budget with a detailed justification for all costs, including the basis for computation of these costs. Applicants should include a budget estimate to complete the balance of the program. Applications submitted by co-applicants and/or those containing contract(s) must include detailed budgets for each organization's expenses. Applicants shall budget for the costs of convening national public/private partnership meetings, workshops and/or symposiums quarterly for the purpose of reviewing the data and information obtained during all stages of the initiative. It is anticipated that the site for the national partnership meetings, workshops and/or symposiums will be centrally located to accommodate participants on a cost effective basis. The national public/private partnership members are expected to pay their own travel and lodging cost for attending all partnership meetings.

E. Time-task plan—Applicants must develop a time-task plan for the 24-month project period, clearly identifying major milestones and products. This must include designation of organizational responsibility and a schedule for the completion of the tasks and products identified in Section III and indicate the anticipated cost schedule per month for the entire project period.

F. Products—Applicants must concisely describe the interim and final products of each stage of the program and must address the purpose, audience and usefulness to the field of each product.

VII. Procedures and Criteria for Selection

Applications will be evalauted and rated based on the extent to which they meet the following weighted criteria. In general, all applications received will be reviewed in terms of their responsiveness to the minimum program application requirements, organizational capability, and thoroughness and innovativeness in responding to strategic issues in project implementation. Applications will be evaluated by a peer review panel according to the OJJDP Competition and Peer Review Policy, 29 CFR Part 34, Subpart B, published August 2, 1985, at 50 FR 31366–31367. The selection criteria and their point values (weights) are as follows:

A. Organizational Capability (20 Points)

1. The extent and quality of organizational experience in the development, delivery, or coordination of adult or juvenile firesetter/arson related research, training, or technical assistance which have been national in scope or impact. (10 points).

2. The presence and extent of adequate fiscal controls and accounting procedures to ensure that the applicant can effectively implement a project of this size and scope, and to ensure the proper disbursal and accounting of Federal funds. (10 points)

B. Proposed Strategy—(30 points)

Understanding of the nature of the program area and the soundness of the approach to each phase of the program development process for meeting the goals and objectives; and the potential utility of proposed products.

C. Qualifications of Project Staff (20 points)

1. The qualifications of staff identified to manage and implement the program including staff to be hired through contracts. (10 points)

2. The clarity and appropriateness of position descriptions, required qualifications and selection criteria relative to the specific functions set out in the Implementation Plan. (10 points)

D. Clarity and Appropriateness of the Program Implementation Plan (15 points)

Adequacy and appropriateness of the activities, and the project management structure; and the feasibility of the time-task plan.

E. Budget (15 points)

Completeness, reasonableness, appropriateness and cost effectiveness of the proposed costs, in relationship to the proposed strategy and tasks to be accomplished.

Applications will be evaluated by a peer review panel. The results of peer review will be a relative aggregate ranking of applications in the form of "Summary of Ratings." These will ordinarily be based on numerical values assigned by individual peer reviewers. Peer review recommendations, in conjunction with the results of internal review and any necessary supplementary review, will assist the Administrators in considering competing applications and in selection of the application for funding. The final award decision will be made jointly by the OJJDP Administrator, and the Administrator of the U.S. Fire Administration.

VIII. Submission of Applications

All applicants responding to this solicitation should be aware of the following requirements for submission.

1. Organizations which plan to respond to this announcement are requested to submit written notification of their intent to apply to OJJDP by July 28, 1987. Such notification should specify: The name of the applicant organization, mailing address, telephone number, and primary contact person. In the event that organizations intend to apply as co-applicants, each of the co-applicants are to provide the above information. The submission of this notification is optional. It is requested to assist OJJDP/Fire Administrator in estimating the workload associated with the review of applications and for notifying potential applicants of any supplemental information related to the preparation of their applications.

2. Applicants must submit the original signed application and three copies to OJJDP. The necessary forms for applications (Standard Form 424) will be provided upon request.

Applications must be received by mail or hand delivered to the OJJDP by 5:00 p.m. EST on August 20, 1987. Those applications sent by mail should be addressed OJJDP, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, DC 20531. Hand delivered applications must be taken to the OJJDP, Room 742, 633 Indiana Avenue, NW., Washington, DC between the hours of 8:00 a.m. and 5:00 p.m. except Saturdays, Sundays or Federal holidays.

3. The OJJDP/Fire Administration will notify applicants in writing of the receipt of their application. Subsequently, applicants will be notified by letter as to the decision made regarding whether or not their submission will be recommended for funding. It is anticipated that the grant may be awarded as early as September, 1987.

IX. Civil Rights Compliance

A. The Office of Juvenile Justice and Delinquency Prevention will be responsible for the Administration and management of this program. Therefore, all recipients of OJJDP/U.S. Fire Administration assistance including any contractors, must comply with the non-discrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended:

Title IV of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations (28 CFR Part 42, Subparts C, D, E, and G.)

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC) of the Office of Justice programs.

C. Applicants shall maintain such records and submit to the OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under any award.

Verne Speirs,

Acting Administration, Office of Juvenile Justice and Delinquency Prevention.

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Federal Register

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July 13, 1987

Part VIII

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Victims and Witnesses in the Juvenile Justice System Development Program; Notice of Issuance of Solicitation for Applications

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Victims and Witnesses in the Juvenile Justice System Development Program

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of issuance of a solicitation for applications to develop a program on victims and witnesses in the juvenile justice system.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to section 224(b)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is sponsoring a development initiative to assess, develop, test and disseminate information on prototypical approaches for handling victims and witnesses in the juvenile justice system.

The purpose of this development is to assist juvenile justice and related human agencies to establish specialized programs and services for victims and witnesses in order to ensure appropriate asssistance is available to: Improve juvenile court processing of offenders; enhance dispositional development and decision-making; to ensure that opportunities for victims' participation in the adjudicatory process are fully utilized; and to increase overall victim satisfaction with the juvenile justice system. OJJDP proposes to accomplish this task by sponsoring a development effort which will include:

- Assessment of existing information on the handling of victims and witnesses in the juvenile justice system and assessment of promising operational programs and approaches;
- Prototype (model) development based on the assessment;
- Development of training and technical assistance materials to transfer the prototype design;
- Testing of the prototypes; and,
- Dissemination of program products and results.

Eligibility: Public agencies and private not-for-profit organizations which can demonstrate the capability to conduct a development program and deliver training and technical assistance in the areas of victims and witnesses of juvenile crime are invited to submit applications to enter into a cooperative agreement with OJJDP. OJJDP will select the applicant which presents the most cost-effective approach, and which best demonstrates the organizational capability, knowledge of issues associated with juvenile justice system handling of victims and witness as related to juvenile crime, research and evaluation on the juvenile justice system and experience in the development and delivery of training or technical assistance. The project period for this program is three (3) years. The first budget period is for 18 months not to exceed $250,000. Based on successful completion of the first budget period, a non-competitive continuation award is anticipated. Applicants are encouraged to present cost-competitive proposals.

DATE: The deadline for receipt of applications is August 20, 1987.

FOR FURTHER INFORMATION CONTACT: Deborah Wysinger, Research and Program Development Division (202)/724–7560, or Benjamin Shapiro, Special Emphasis Division (202/724–8491), OJJDP, 633 Indiana Avenue, NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The criminal justice system's inadequate treatment of victims of crime was formally recognized by the President's Task Force on Victims of Crime in 1982. Among the many problems faced by victims and witnesses alike are: Police or prosecutor attitudes suggesting that the victim contributed to his or her victimization; inability to learn what is happening with the case and, later, the outcome of the case; delays in return of property kept as evidence, or failure to regain the property at all; fear of reprisal by the defendant; and frustration and inconvenience related to waiting for court appearances or appearing in court only to have the case continued or dismissed. (1) A 1980 study of victims of juvenile crime in Pennsylvania concluded that these victims not only endure all of the preceding problems, but also suffer additional frustrations due to the nature of the juvenile justice system. (2) For example, during each year between 1975 and 1983, more than one-half of all cases disposed of by juvenile courts were either handled informally without the filing of a petition or were diverted before any hearings were conducted. (3) Because of this informality, program components for victims of adult offenders, such as victim impact statements or the right to allocation at sentencing hearings, may not be allowed or appropriate in the juvenile justice system.

According to the Uniform Crime Report, in 1985 juveniles accounted for approximately 30 percent of all arrests for property and personal offenses combined. The FBI reported that in that year juveniles accounted for 17 percent of violent crime and 34 percent of property index crime, while the National Crime Survey reported that youth under the age of 21 were accountable for 28 percent of all violent crime.

Thus, the Office of Juvenile Justice and Delinquency Prevention is initiating this development program to assist juvenile justice and human service agencies to establish specialized programs and services for victims and witnesses in order to ensure appropriate assistance is available to improve juvenile court processing of juvenile offenders; enhance dispositional development for juvenile offenders; provide opportunities for victims' participation in the justice process; and increase victim satisfaction with the juvenile justice system. One such program is the Victim-Witness Service of the Milwaukee County Children's Court in Milwaukee, Wisconsin. Located in the District Attorney's Office, this program handled 795 cases to date in 1987. Services provided include crisis counseling, referral for longterm therapy, day care, and transportation. Other project examples include local restitution programs and school based programs that track on-campus incidents and encourage victims to report crime.

The benefits to victims and witnesses from pursuing a case are frequently small or nonexistent, as few offenders are apprehended and fewer still are convicted. Yet, the impact of their nonparticipation on the justice system's performance is significant. Law enforcement success is partially dependent on citizen reporting of crime and on obtaining a clear description of offenses and suspects. Effective prosecution of juvenile offenders is based, in part, on victim cooperation.

A high percentage of the most serious offenses are committed by a small proportion of juvenile offenders. Many of these juveniles become the core of the adult criminal population due, at least in part, to a lack of effective response by the juvenile justice system. Increasing victim participation is one way of increasing the efficiency and effectiveness of the juvenile justice process.

II. Program Goals and Objectives

A. Goals

1. To increase the knowledge of and responses to victims and witnesses of juvenile crime in order to assure effective administration of justice and to increase victim satisfaction with the juvenile justice system;

2. To develop and test prototypical approaches to juvenile justice system handling of victims and witnesses of juvenile crime;

3. To assist juvenile justice and related human service agencies in selected localities to establish specialized programs and services for victims and witnesses; to improve juvenile court processing of offenders; to enhance dispositional decision-making for individual cases and to formulate more effective dispositional options for juvenile offenders that also increase victim satisfaction with the juvenile justice system; and

4. To disseminate prototypical programs designed for the improved handling of victims and witnesses of juvenile crime.

B. Objectives

1. Assess existing information regarding victim and witness participation in the juvenile justice system, and victim and witness programs that address their needs; develop critieria for identifying promising approaches; and review and describe operational promising programs;

2. Develop prototypical programs based on the research and the assessment of selected operational programs;

3. Develop a dissemination strategy and related training and technical assistance materials to transfer the prototypes to selected sites; (Applicants are advised that this stage of the program development initiative will not be funded during the initial budget period, however, the testing of the prototypes at selected sites is one of the primary objectives of this initiative); and

4. Test program prototypes.

III. Programs Strategy

OJJDP planning and program development activities are guided by a framework which specifies four sequential phases: Research, development, demonstration, and dissemination. The framework guides the decisionmaking process regarding the funding of future phases of the program.

This is a Development initiative. The purpose of the development phase is to develop prototype/modes and to determine their effectiveness through a controlled testing process. The program will be conducted in four discrete incremental stages over the course of the four year project period. During the first 18-month budget period it is expected that stages one and two will be completed. The four include: 1) An assessment of relevant research and programs regarding victim and witness activities; and selected victim witness programs; 2) a comprehensive description of the development, implementation and operation of prototypical approaches; 3) the development of a training and technical assistance package in order to provide intensive training to test sites which are implementing the prototype; and 4) testing the prototypes.

All technical and subject matter portions of the program will be guided by the recommendations of an advisory committee established specifically for the program. The advisory committee will provide comments and recommendations regarding the strategies and activities of the Victims and Witnesses in the Juvenile Justice System program. It may be necessary to change or supplement advisory committee members for different stages of the program; however, the objective will be to select technical and subject matter experts capable of addressing issues related to each of the program stages. The advisory committee members should have combined expertise in juvenile justice system research and evaluation, training and technical assistance development and delivery, knowledge of the juvenile justice system handling of victim and witness needs, and juvenile justice system operations.

Each stage of the incremental program development process detailed below is designed to result in a complete and publishable product (e.g. final assessment report) and a dissemination strategy to inform the field of the development of the program and the results and products of each stage. A decision is made at the completion of each stage, based on availability of funds, and the quality and utility of the products, whether to invest additional funds to complete the current stage or to terminate the program.

Stage 1–Assessment

The first stage of the program consists of an assessment that will include: 1) A comprehensive literature review to identify significant issues and problems in the juvenile justice system's handling of victims and witnesses of juvenile crime; 2) a summary of the juvenile justice system response to victims and witnesses of juvenile offenders across the country; and 3) identification of the essential components of an effective approach to handling victims and witnesses and; 4) preliminary testing design guidelines for use in the testing phase.

The grantee will apply the results of the literature review to the development of criteria for identifying promising programs for victims and witnesses. The assessment of selected promising operational programs should include, at a minimum: Definition of the target populations and subsequent system services for victims and witnesses; the historical development of the programs; identification of services and treatment modalities; number and type of clients served; program cost; sources of funding; evaluation findings; relationship to public and private agencies; staffing requirements; and management and administrative practices.

The assessment should provide the basis for refining the goals and objectives of the program. Specifically, it should identify the key issues that need to be considered regarding the role and the needs of victims and witnesses in juvenile justice proceedings and the appropriate mechanisms, programs or services that would promote that role and effectively respond to their needs. Therefore, based on the literature review and the results of the program assessment, the grantee will recommend specific programs or components of programs to be used as a basis for program prototype development.

Activities

The major activities of this stage are:

- Establishment of a program advisory committee;
- Development of the assessment plan;
- Review of the literature;
- Development of criteria for identifying promising programs;
- Identification and description of operational promising programs;
- Development of preliminary testing design guidelines;
- Preparation of assessment report; and,
- Development and implementation of a dissemination strategy.

Products

The products to be completed during this stage are:

1. Assessment Plan—specify, in detail, the approach and activities to be undertaken for each step of the assessment stage;

2. Draft and final report on the results of the assessment which includes:

—Literature review;
—Criteria for identifying promising programs;
—Description of operational promising programs and approaches;
—Recommendations for refining the goals and objective of the development program;
—Recommendations for developing prototypical/model approaches;
—Preliminary testing design guidelines; and,

3. Dissemination strategy to inform the field of the development of the program, and the products and results of this stage.

Stage 2—Prototypes: Policies and Procedures

Upon successful completion of Stage 1, and with the approval of OJJDP, the grantee will develop prototype designs for the development, implementation and operation of specialized programs and services for victims and witness of juvenile crime. The prototype designs will be accompanied by detailed policy and procedure manuals. The activities and products of this stage will be based on the information generated as a result of the assessment. Appropriate technical and subject matter expertise will be utilized to design the prototypes which will be based, in part, on the operational programs described in the preceding stage.

The prototype design and related policies and procedures will provide guidance regarding: Identification of the appropriate target population; relationship of the program to other public and private youth-serving agencies; organizational design; management procedures; facility considerations; staffing cost; source of funding and implementation procedures; and monitoring; and evaluation of program effectiveness. The prototype designs and accompanying policies and procedure manuals will be used as the basis for the development of a training and technical assistance package to be funded under Part 2 of this initiative.

Activities

The major activities of this stage are:

- Preparation of a plan for developing the prototypes and related policies and procedures;
- Development of the prototypes and related policies and procedures;
- Participation and review by the program advisory committee; and,
- Development and implementation of a dissemination strategy.

Products

The products to be completed during this stage are:

1. Plan for prototype development, specifying in detail the approach and activities to be undertaken for each step of this stage, and the projected costs on a monthly basis;

2. Draft and final prototype design(s) and related policies and procedures manual(s); and,

3. Dissemination strategy to inform the field of the development of the program and the products and results of this stage.

Stage 3—Training and Technical Assistance

While a decision to develop training and technical assistance materials and to test the prototype design(s) will be made during or following completion of the prototype development stage, the applicant is expected to explain the methods and approaches that would be employed to implement these stages. As noted, funds for this stage and the testing stage will be provided through non-competitive continuation awards. In order to ensure the applicant's understanding of the entire development effort, the initial application must address and explain the implementation and coordination of all four stages of the initiative (i.e., assessment, prototype development, training and technical assistance development, and testing).

Upon successful completion of stage 2, and with the approval of OJJDP, the grantee will transfer the prototype design(s), including policies and procedures, into a training and technical assistance package. A comprehensive training manual which outlines the major issues that need to be addressed in developing programs for victims and witnesses of juvenile crime, and detail program prototypes, must be developed to encourage and facilitate implementation of the prototypes. The training manual should be the focal point of the entire training and technical assistance package. The major audience will be policymakers and practitioners involved in resource allocation and program development related to victims and witnesses of juvenile crime. The manual must be designed for a formal training setting, and for independent use in jurisdictions that do not participate in formal training sessions. Therefore, the manual should include a complete description of the prototype and incorporate related policies and procedures. The manual should contain instructions and supplementary materials for trainers to facilitate presentation, and ensure understanding and successful adapation and implementation of the prototypes.

Activities

The major activities of this stage are:

- Preparation of a plan for developing the training and technical assistance package;
- Development of the training and technical assistance materials;
- Recruitment and preparation of the training and technical assistance personnel;
- Testing of the training curriculum manual;
- Participation and review by the advisory committee; and,
- Development and implementation of a dissemination strategy which may include workshops or seminars for juvenile court personnel.

Products

The products to be completed during this stage are:

1. Plan for the development of the training and technical assistance package;

2. Identification of training and technical assistance personnel;

3. Draft and final training and technical assistance package—including the training curriculum manual and information materials; and,

4. Dissemination strategy to inform the field of the development of the program, and the products and results of this stage.

Stage 4—Prototype Implementation and Testing

This stage of the program consists of a test, in selected jurisdictions, of the prototypes developed in stage 2. The grantee will be required to assist the OJJDP in developing a solicitation to make awards to test sites. It will also be required to provide intensive training and technical assitance to help the test sites implement the prototypes on an experimental basis. Finally, the grantee will be expected to work cooperatively with an independent evaluator to ensure the integrity of the data collection and feedback activities.

Activities

The major activities of this stage are:

- Develop recommendations for a program announcement to select test sites;
- Assist OJJDP in review and selection of test sites;
- Provide intensive training and technical assistance to test sites regarding the implementation of prototypes on an experimental basis;
- Develop procedures for working cooperatively with the program evaluator, particularly in the areas of data collection and feedback; and,

• Develop and implement a dissemination strategy.

Products

The major products for this stage are:

1. Recommendations for the program announcement for test sites;

2. Plan for providing training and technical assistance to test sites; and,

3. Dissemination strategy to inform the field of the development of the program, and the products and results of this stage.

IV. Dollar Amount and Duration

Up to $250,000 has been allocated for the initial award. One cooperative agreement will be awarded competitively, with an initial budget period of 18 months. It is anticipated that this program will entail three years of program activities (i.e., a three year project period), and consist of four stages (assessment, prototype development; policies and procedures, training, technical assistance, and testing). The initial award will provide support for stages 1 and 2. Supplemental funds will be allocated for an additional budget period.

The noncompetitive continuation award, (i.e., additional budget period, within the approved three year project period) may be withheld for justifiable reasons. They include: 1) The results do not justify further program activity; 2) the grantee is delinquent in submitting required reports; 3) adequate grantor agency funds are not available to support the project; 4) the grantee has failed to show satisfactory progress in achieving the objectives of the project or otherwise failed to meet the terms and conditions of the award; 5) a grantee's management practices have failed to provide adequate stewardship of grantor agency funds; 6) outstanding audit exceptions have not been cleared; and 7) any other reason which would indicate that continued funding would not be in the best interest of the Government.

A separate competition will be held to select an organization to perform an independent evaluation of the selected prototypes/models. The organization selected for this award will be ineligible to complete for the evaluation.

V. Eligibility Requirements

Applications are invited from public agencies and not-for-profit private organizations. Applicant organizations may choose to submit joint proposals with other eligible organizations as long as one organization is designated in the application as the applicant and any co-applicants are designated as such. Together co-applicants must meet the eligibility requirements specified in A. and B. below.

The applicant must demonstrate experience in the following areas in order to be eligible for considerations:

A. Prior experience in the design and implementation of a multisite research and development program;

B. Research and evaluation of juvenile justice system;

C. Demonstrated knowledge of the issues associated with juvenile justice system handling of victims and witnesses related to juvenile crime; and

D. Prior experience in the development and delivery of training or technical assistance.

The applicant must also demonstrate that they have the management and financial capability to effectively implement a project of this size and scope. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding consideration.

VI. Application Requirements

All applicants must submit a completed Standard Form 424, Application for Federal Assistance (SF 424), including a program narrative, a detailed budget, and a budget narrative. All applications must include the following information outlined in this section VII of the solicitation in Part IV, Program Narrative of the application. The Program Narrative of the application should not exceed 70 double-spaced pages in length.

In submitting applications which contain more than one organization, the relationships among the parties must be set forth in the application. As a general rule, organizations which describe their working relationship in the development of products and delivery of services as primarily cooperative or collaborative in nature will be considered co-applicants. In the event of a co-applicant submission, one co-applicant must be designated as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other co-applicants. Under this arrangement each organization would agree to be jointly and severally responsible for all project funds and services. Each co-applicant must sign the SF-424 and indicate their acceptance of the conditions of joint and several responsibility with the other co-applicants.

Applications which include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $10,000.

In addition to the requirements specified in the instructions for the preparation of Standard Form 424, the following information must be included in the applications:

A. Organizational Capability—Applicants must demonstrate that they are eligible to compete for this cooperative agreement on the basis of eligibility criteria established in section V. of this solicitation.

1. Organizational Experience—Applicants must concisely describe their organizational experience with respect to the eligibility criteria specified in section V. above. Applicants must demonstrate how their organizational experience and capabilities will enable them to achieve the goals and objectives of this initiative. Applicants are invited to append one example of prior work products of a similar nature to their application.

2. Financial Capability—In addition to the assurances provided in Part V, Assurances (SF-424), applicants must also demonstrate that their organization has or can establish fiscal controls and accounting procedures which assure that Federal funds available under this agreement are disbursed and accounted for properly. Applicants who have not previously received Federal funds will be asked to submit a copy of the Office of Justice Assistance, Research and Statistics (OJARS) Accounting System and Financial Capability Questionnaire (OJARS Form 7120/1). Copies of the form will be provided in the application kit and must be prepared and submitted along with the application. Other applications may be requested to submit this form. All questions are to be answered regardless of instructions (section C.I.B. note). The CPA certification is required only of those applicants who have not previously received Federal funding.

B. Program Goals—A succinct statement of your understanding of the goals and objectives of the program should be included. The application should also include a problem statement and a discussion of the potential contribution of this program to the field.

C. Program Strategy—Applicants should describe the proposed approach for achieving the goals and objectives of the program. A discussion of how each of the four stages of the program would be accomplished should be included.

D. Program Implementation Plan—Applicants should prepare a plan which outlines the major activities involved in implementing the program, describes how they will allocate available resources to implement the program, and how the program will be managed.

The plan must also include an annotated organizational chart depicting the roles and describing the responsibilities of key organizational/functional components; and a list of key personnel responsible for managing and implementing the four major elements of the program. Applicants must present detailed position descriptions, qualifications, and selection criteria for each position. Applicant should also provide recommendations for program advisory committee members. This documentation and individuals' résumés may be submitted as appendices to the application.

E. Time-task plan—Applicants must develop a time-task plan for the 18-month project period, clearly identifying major milestones and products. This must include designation of organizational responsibility and a schedule for the completion of the tasks and products identified in Section III and indicate the anticipated cost schedule per month for the entire project period.

F. Products—Applicants must concisely describe the interim and final products of each stage of the program; and must address the purpose, audience and usefulness to the field of each product.

G. Program Budget—Applicants shall provide an 18-month budget with a detailed justification for all costs, including the basis for computation of these costs. Applicants should include a budget estimate to complete the balance of the program. Applications submitted by co-applicants and/or those containing contract(s) must include detailed budgets for each organization's expenses. The budget should include funds for a four person program advisory committee to meet three times during the first 18-month budget period.

VII. Procedures and Criteria for Selection

All applications will be evaluated and rated based on the extent to which they meet the following weighted criteria. In general, all applications received will be reviewed in terms of their responsiveness to the minimum program application requirements, organizational capability, and thoroughness and innovativeness in responding to strategic issues in project implementation. Applications will be evaluated by a peer review panel according to the OJJDP Competition and Peer Review Policy, 28 CFR Part 34, Subpart B, published August 2, 1985, at 50 FR 31366–31367. The selection criteria and their point values (weight) are as follows:

A. Organizational Capability (20 Points)

1. The extent and quality of organizational experience in the development, delivery, and coordination of juvenile justice research, training or technical assistance which have been national in scope or impact. (10 points)

2. Adequate fiscal controls and accounting procedures to ensure that the applicant can effectively implement a project of this size and scope, and to ensure the proper disbursal and accounting of Federal funds. (10 points)

B. Proposed Strategy—(30 points)

Understanding of the nature of the program area and the soundness of the approach to each stage of the program development process for meeting the goals and objectives; and the potential utility of proposed products.

C. Qualifications of Project Staff (20 Points)

1. The qualifications of staff identified to manage and implement the program including staff to be hired through contracts. (10 points)

2. The clarity and appropriateness of position descriptions, required qualifications and selection criteria relative to the specific functions set out in the Implementation Plan (10 points).

D. Clarity and Appropriateness of Program Implementation Plan (15 Points)

Adequacy and appropriateness of the activities, and the project management structure; and the feasibility of the time task plan.

E. Budget (15 points)

Completeness, reasonableness, appropriateness and cost effectiveness of the proposed costs, in relationship to the proposed strategy and tasks to be accomplished.

Applications will be evaluated by a peer review panel. The results of the peer review will be a relative aggregate ranking of applications in the form of "Summary Rating." These will ordinarily be based on numerical values assigned by individual peer reviewers. Peer review recommendations, in conjunction with the results of internal review and any necessary supplementary review, will assist the Administrator in considering competing applications and in selection of the application for funding. The final award decision will be made by the OJJDP Administrator.

VIII. Submission of Applications

All applicants responding to this solicitation should be aware of the following requirements for submission:

1. Organizations which plan to respond to this announcement are requested to submit written notification of their intent to apply to OJJDP by July 29, 1987. Such notification should specify: the name of the applicant organization, mailing address, telephone number, and primary contact person. In the event that organizations intend to apply as co-applicants, each of the co-applicants are to provide the above information. The submission of this notification is optional. It is requested to assist OJJDP in estimating the workload associated with the review of applications and for notifying potential applicants of any supplemental information related to the preparation of their applications.

2. Applicants must submit the original signed application and three copies to OJJDP. The necessary forms for applications (Standard Form 424) will be provided upon request. Applications must be received by mail or hand delivered to the OJJDP by 5:00 p.m. EST on August 20, 1987. Those applications sent by mail should be addressed to Research and Development Program: Victims in the Juvenile Justice System, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, DC 20531. Hand delivered applications must be taken to the OJJDP, Room 742, 633 Indiana Avenue NW., Washington, DC between the hours of 8:00 a.m. and 5:00 p.m. except Saturdays, Sundays or Federal holidays.

IX. Civil Rights Compliance

A. All recipients of OJJDP assistance, including any contractors, must comply with the non-discrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations (28 CFR Part 42, Subparts C, D, E, and G).

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC) of the Office of Justice Programs.

C. Applicants shall maintain such records and submit to the OJJDP upon

request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in benefits of, or denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under the award.

X. References

Peter Finn and Beverly Lee, *Serving Crime Victims and Witnesses* (Government Printing Office, Washington, DC, June 1987), p. 1.

Donald W. Hinrichs, "Victims of Juvenile Crime in the Commonwealth of Pennsylvania," in the *PAPPC Journal*, Vol. I, No. 2, Spring 1982.

Howard Snyder, *Delinquency in the United States*, an unpublished paper.

Verne L. Speirs,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 87–15780 Filed 7–10–87; 8:45 am]

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federal register

Monday
July 13, 1987

Part IX

Department of Transportation

Federal Highway Administration

49 CFR Part 390 et al.

Motor Carrier Safety Regulations; General Provisions and Request for Comments on Use of On-Board Recording Devices; Proposed Rules

Driver's Record of Duty Status Exemptions; Notice

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 390, 391, 392, 393, 394, 395, 396, 397

[OMCS Docket No. MC-114; Notice No. 87-09]

Federal Motor Carrier Safety; General Regulations

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is requesting comments on proposed changes to Part 390 of the Federal Motor Carrier Safety Regulations (FMCSR). The revision seeks to assist the various segments of the truck and bus industries in their efforts to comply with the FMCSR by: (1) Incorporating definitions from the Motor Carrier Safety Act of 1984; (2) clarifying and updating the regulations; (3) eliminating redundancy; (4) combining and locating in a single place the definitions of many general items presently located throughout the FMCSR; and (5) addressing comments concerning the elimination of certain regulatory exemptions. Many of the revisions have been proposed in response to section 206 of the Motor Carrier Safety Act of 1984 and to comments received to an advance notice of proposed rulemaking (ANPRM) published in the **Federal Register** on January 23, 1985 (50 FR 2998). Also proposed are conforming amendments to Parts 391–397.

DATE: Comments must be received on or before September 11, 1987.

ADDRESS: All comments should refer to the docket number that appears at the top of this document and must be submitted (preferably in triplicate) to Room 4205, Office of Motor Carrier Standards, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m. ET, Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366–2999, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366–1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Motor Carrier Safety Act of 1984 (the Act), 49 U.S.C. app. 2501–2520 (Supp. II 1984), was signed into law by the President on October 30, 1984.

On January 23, 1985, the FHWA published an ANPRM in the **Federal Register** (50 FR 2998) seeking public comment concerning possible revisions to the FMCSR. Approximately 25 comments were received concerning changes to Part 390 of the FMCSR; most of these addressed application of the regulations to school bus operations, lightweight vehicles, and exempt intracity operations.

Background

Section 206 of the Act directs the Secretary of Transportation to issue regulations pertaining to commercial motor vehicle safety. Due to the complexity of reissuing the FMCSR, a separate rulemaking action is being established for each part that is being addressed. The purpose of this rulemaking action is to propose revisions to sections in Part 390 that were included in the ANPRM and on which comments were received. In addition, this revision seeks to clarify and update the regulations, eliminate redundancy, combine and place the definitions of many general terms located throughout the FMCSR in a single place, and require identification of motor vehicles being operated by motor private carriers and motor carriers of migrant workers. The goals of the Act are to promote the safe operation of commerical motor vehicles, minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety, and assure increased compliance with the rules issued pursuant to the Act. The FHWA's motor carrier safety program goals are to reduce commercial motor vehicle accidents and thereby decrease fatalities, injuries, and property losses.

The Surface Transportation Assistance Act of 1982 (STAA), codified in relevant part at 49 U.S.C. app. 2301–2304 (1982 and Supp. II 1984), was signed by the President on January 6, 1983. This Act authorized the Secretary of Transportation to provide grants to all eligible States for the development of programs for the enforcement of Federal or compatible State motor carrier safety regulations. The Motor Carrier Safety Assistance Program (MCSAP), which was established under section 402 of the STAA, is an ongoing cooperative endeavor between the Federal Government and the States to enforce uniform Federal and State safety and hazardous materials transportation regulations applicable to commercial motor vehicles and their operators. One criterion a State must meet in order to qualify for a Federal grant is to adopt and enforce the FMCSR or similar State rules that are compatible with the FMCSR. As a result of the MCSAP, many States are currently exercising jurisdiction over truck and bus safety. Thus, the FHWA and the States are endeavoring to uniformly carry out the intent of Congress, which was to promote the safe operation of commercial motor vehicles.

The motor carrier industry is constantly in a state of change because of new products and new methods of operation. Any set of regulations, to be effective, must be current with these changes. Section 206 of the Act specifically authorizes the Secretary to waive application of the regulations to any person or class of persons if the Secretary determines that such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles. It is not the intention of the FHWA to enter into a large scale program of exemptions. Safety on the public highways is an area that should not and must not be compromised. As previously stated, many States are currently exercising jurisdiction over many types of operations that were once exempt from safety regulation. We have historically exempted some segments of transportation and to some extent plan to continue unless empirical evidence is shown that supports a change in policy.

The comments received regarding application of the regulations to school bus operations, lightweight vehicles, and exempt intracity operations will be individually discussed. Additional proposed changes include restructuring existing regulations and the addition of new material. It is anticipated that these changes will clarify and update the regulations, eliminate redundancy, and provide a single location for the definition of terms used throughout the FMCSR. Also, the general application of the FMCSR will be discussed.

School Bus Operations

Section 206(f) of the Act expressly directs the Secretary to waive application of the regulations issued under section 206 with respect to school buses unless the Secretary determines that making such regulations applicable to school buses is necessary for public safety, taking into account all Federal and State laws applicable to school buses. The Act references school buses as defined in section 102(14) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391(14)).

The vast majority of school bus operations are categorized by one or more of the following types of operations: The motor carrier is an agency of the Federal, State, or local Government; the motor carrier is a private carrier of persons; or the operations are not in interstate commerce. Nevertheless, a number of school bus operations are subject to the FMCSR; for example, when a nongovernment for-hire carrier transports school children.

The overwhelming majority of commenters to the ANPRM concurred with the congressional intent to continue to waive application of the FMCSR to school bus operations. The States responding to this issue were unanimously in favor of exempting all school bus operations. Comments were requested on the necessity of applying the FMCSR to school bus operations.

The State of Wisconsin stated:

Wisconsin has specific statutes and adminstrative regulations which govern school bus operations and the transportation of school children. Sec. 343.12, Wis. Stats., requires school bus operators to obtain special licenses, and limits licensing to persons who meet the specific requirements of sec. 343.12(2), Wis. Stats. (enclosure). TRANS 110 *Wis. Admin. Code* is the administrative regulation promulgated in Wisconsin relating to issuance of school bus operators licenses. TRANS 300, *Wis. Admin. Code* is the administrative regulation promulgated in Wisconsin for the purpose of assuring the safe transportation of pupils and other authorized persons in school buses. The rule provides specific operating requirements, equipment standards, inspection procedures, and penalties (enclosure). School bus operation in Wisconsin is presently subject to more stringent regulation than that provided under FMCSR. Continued exemption is appropriate.

The State of New Hampshire Department of Safety stated:

We feel there is no need to include school buses in the proposed rules. State statutes and adminstration rules are very specific governing these vehicles, which typically are subjected to more frequent periodic motor vehicle safety inspections than other vehicles. Groups such as the National Association of State Directors of Public Transportation devote a great deal of time and expertise to this task, and provide invaluable aid and assistance to the states.

These comments typify the responses received. It is clear that many States feel strongly about the waiver of the FMCSR to school buses. We recognize that school bus operations are separate and distinct from other types of commercial motor vehicle operations because of their highly restricted types of service. Currently, most States have some type of periodic mandatory school bus inspection program as well as special driver qualification requirements for school bus operators.

In consideration of congressional intent, public comments, existing Federal standards, and State laws governing school bus operations, the FHWA proposes to exempt all school bus operations when a school bus is used to transport only school children and school personnel from home to school and from school to home. Any for-hire transportation of school children or school personnel to other geographical points in interstate commerce would be covered by the regulations. However, school bus operations conducted wholly in intrastate commerce would not be subject to the safety jurisdiction of the FHWA.

Lightweight Vehicle Exemption

Currently, the FMCSR in § 390.17 defines a "lightweight vehicle" as one whose manufacturer's gross vehicle weight rating (GVWR) or manufacturer's gross combination weight rating (GCWR) is 10,000 pounds or less. The term "lightweight vehicle" does not include a vehicle that is used to transport passengers for hire or vehicles being used to transport hazardous materials that require the vehicle to be placarded. The Act in section 204 defines a "commercial motor vehicle" as one having a gross vehicle weight rating of 10,001 pounds or more; one designed to transport more than 15 passengers, including the driver; or vehicles transporting hazardous materials in quantities requiring the vehicle to be placarded. The Federal Motor Carrier Safety Program is, in large measure, founded on the hypothesis that the long-distance operation of medium or heavy, articulated, motor vehicles deserves special governmental attention because, owing to their greater mass and complexity, those vehicles present unique public safety problems. Rules developed for application to large vehicles are not always suitable when applied to lightweight vehicles. The application of the regulations to "commercial motor vehicles" will focus enforcement efforts because small vans and pickup trucks are more akin, in operating aspects, to automobiles than to medium and heavy commercial vehicles, and can best be regulated under State automobile licensing, inspection, and traffic surveillance procedures. However, all vehicles designed to transport more than 15 passengers including the driver, except school buses when transporting school children and school personnel from home to school and from school to home would be covered to ensure the highest levels of safety in this particularly important transportation area. Further, vehicles transporting hazardous materials requiring placarding would also be covered because of the potentially greater hazards associated with this type of transportation.

The Congress was quite clear as to its desire to establish Federal safety standards for *commercial motor vehicles*. The term "commercial motor vehicle" is clearly defined in section 204 of the Act. Specifically, the Senate Committee on Commerce, Science and Transportation, in Report 98–424 which accompanied the Motor Carrier Safety Act of 1984, stated: "The 10,000-pound limit, which is the current BMCS regulations, is proposed to focus enforcement efforts and because small vans and pickup trucks are more analogous to automobiles than to medium and heavy commercial vehicles, and can best be regulated under State automobile licensing, inspection, and traffic surveillance procedures." Comments to the ANPRM generally favored continuation of the exemptions afforded to vehicles under 10,001 pounds GVWR.

The International Brotherhood of Teamsters (IBT) stated, "We suggest that the exemption for lightweight vehicles be maintained at this time in order to keep the focus of the Bureau's safety regulations and enforcement efforts clearly on the vehicles in excess of 10,000 pounds where it is most needed." A total of eight comments were received regarding the lightweight vehicle exemption. All but one argued that the FHWA should eliminate the exemption because the Act does not cover these vehicles. However, the FHWA retains the authority to regulate lightweight vehicles under 49 U.S.C. 3102. The one dissenting comment was received from United Parcel Service (UPS). The UPS stated "BMCS should not give any motor vehicle any exemption that would permit unsafe vehicles or unqualified drivers to operate on public highways."

The FHWA believes that, based on the Congressional direction expressed in the Act, and its review of the comments received, vehicles not meeting the definition of a "commercial motor vehicle" in section 204 of the Act, should be exempt from the FMCSR. Accordingly, FHWA proposes to exempt from the FMCSR those vehicles not meeting the definition of a commercial motor vehicle. In the Act a commercial motor vehicle means any self-propelled or towed vehicle used on highways in

interstate commerce to transport passengers or property—

(A) If such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

(B) If such vehicle is designed to transport more than 15 passengers, including the driver; or

(C) If such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801–1812 (1982 and Supp. II 1984)) and are transported in a quantity requiring placarding under regulations issued by the Secretary under such Act.

The FHWA proposes to eliminate any reference to the term "lightweight vehicle" and any exemptions as they may relate to those types of vehicles. We propose to apply the FMCSR generally to those vehicles meeting the definition of "commercial motor vehicle." The effect of this would be to apply the regulations to operators of vehicles with a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds.

Exempt Intracity Operation

"Exempt Intracity Operation" is currently defined in the FMCSR (49 CFR 390.16) as "a vehicle or driver used wholly within a municipality, or the commercial zone thereof, as defined by the Interstate Commerce Commission in Part 1048 of 49 CFR Parts 1000 to 1199, revised as of October 1, 1975." However, the transportation of certain hazardous materials excludes the driver/vehicle from this exemption. A motor carrier which is conducting an exempt intracity operation is, with respect to that operation, exempt from all duties imposed by the FMSCR, except the duty to report accidents which occur during that operation and the duty to comply with the hours-of-service rules.

This exemption has been in the FMSCR since 1938. The Interstate Commerce Commission (ICC), in 10 M.C.C. 533—Motor Carrier Safety Regulations—Exemptions, briefly explained the reasons for creating this exemption. "Intracity transportation," the ICC found, "is adequately regulated from the standpoint of safety by municipal ordinances and traffic codes and there is no need to prescribe additional regulations." However, the ICC also stated that "motor vehicles engaged in exempt transportation are as susceptible to accidents as motor vehicles engaged in transporting general commodities or all types of passengers."

A total of 17 comments to our ANPRM were received concerning exempt intracity operations. The commenters were divided in their opinions toward retaining or rescinding the exemption, with the majority favoring the rescission of the exemption.

Comments Favoring Rescission of the Intracity Exemption

L&L Transportation Services of Neenah, Wisconsin, stated: "Present commercial zone traffic exposure makes the intracity exemption a potential detriment to highway safety, and it therefore, should be eliminated." The Minnesota State Patrol was opposed to the exemption of intracity commercial vehicle operations. It strongly supported the view that intracity commercial vehicle exposure has been increased so drastically in recent years that the original justification for the intracity exemption is no longer valid. It stated: "The results of the State Patrol Motor Vehicle Inspection Program and Motor Carrier Safety Assistance Program clearly indicate that the safety [sic] mechanical condition of the vehicles and the operator's qualifications characteristic of intercity [sic] operations are some of the poorest in the State. These intracity vehicles are no longer limited to operation on city streets, which by nature, are characterized by slow speed and traffic congestion. The intracity freeway speeds today and the volumes of traffic involved require the best in both drivers and equipment if disaster is to be avoided."

In support of this position, the Maryland State Police stated:

We agree this exemption should be removed. It creates an administrative problem for our State program. We do not wish to exempt intrastate carriers; however, if our State regulations leave out this exemption, intrastate carriers involved in intracity operations will come under our regulations. Interstate operations will be exempt under Federal regulations and even though the State regulations offer no exemption, there is a question if we can pre-empt the Federal regulations. Recommend removing the exemption from Federal regulations.

The International Brotherhood of Teamsters (IBT) stated:

In our view, elimination of the intracity exemption would improve commercial motor carrier safety overall since it would bring these carriers under the safety regulations. Yet our support for elimination of this exemption has one stipulation. That stipulation is that all drivers under the exemption at the time it is lifted would be 'grandfathered' in terms of qualification requirements. Such a provision would protect 'exempt' drivers from becoming 'disqualified' when the intracity exemption is eliminated.

United Parcel Service of Greenwich, Connecticut, stated:

There should be no exempt intracity operations. Fifty years ago it might have been a good idea. Today, commercial zones contain high speed, multi-lane highways. No motor carrier should be permitted to put an unsafe vehicle or unqualified driver on any street or highway.

The Private Truck Council of America, Inc. (PTCA), in its original filing, favored retention of the exempt intracity zone. Subsequently, by letter dated April 28, 1987, the PTCA notified us of a change in the official policy of the PTCA. The Council stated:

Although PTCA filed comments on March 12, 1985 in Docket No. MC–114 supporting continuation of the commercial zone exemption, our Board of Directors reconsidered this policy at a meeting held April 8, 1987. By a unanimous vote, the PTCA Board agreed to support a repeal of the exemption, either by rulemaking or statute. The vote on reconsideration reflects changed circumstances in the area of motor carrier safety, most notably a heightened awareness of the need for stringent safety rules uniformly applied to all motor carriers. As presently interpreted, the commercial zone exemption is vague and leads to confusion among carriers who honestly cannot ascertain which regulations are applicable to their operations. The element of certainty from rescinding the exemption will to some extent offset the additional burden of compliance.

Comments Favoring Retention of the Intracity Exemption

The Petroleum Marketers Association of America stated:

The motor vehicle laws of the various states are more than sufficient to assure safe intra-city [sic] operations without imposing another set of rules on industry and commerce in these commercial zones.

Washington Gas Light Company (WGL) of Washington, D.C. stated:

WGL opposes elimination of the exemption provided for vehicles and/or drivers used wholly within a municipality or the commerical zone thereof. Installation, maintenance and repair of gas service and transmission lines as well as consumer appliances require the deployment of several hundred WGL vehicles on daily a basis. These vehicles make numerous stops a day and operate within a concentrated intracity and interstate areas. Elimination of the exemption would impose unnecessary and burdensome reporting requirements on drivers of WGL vehicles and materially impede WGL installation, maintenance and repair operations.

Frito-Lay, Inc., of Dallas, Texas, stated:

Frito-Lay, Inc., further believes that removal of the Intra-city exemption would create a burden not only on Frito-Lay, Inc. but on the enforcement agencies as well. The benefits to be derived from such rulemaking are vague at best. We have in the past and

will continue in the future to support safety legislation at all levels of government.

Discussion

"Accidents of Motor Carriers of Property 1984," a publication issued by the Federal Highway Administration in May of 1986, showed that local pick-up and delivery type trips accounted for 20 percent of the total reportable accidents. Further, a 1984 study by the University of Michigan Transportation Research Institute found that 4,718 medium and heavy trucks were involved in fatal accidents in 1982, with 30 percent of these accidents occurring in urban areas. A 1983 "Safety Program Effectiveness Evaluation Methodologies" study by the TMA Corporation of Washington, DC., found that the linkage of accident frequency with causal factors is especially strong for driver qualifications, driving hours, and for vehicle condition. The report stated that high accident rates are primarily attributable to behavioral factors representing operating patterns, policies, and practices of the companies. These factors, as cited by the study, include the selection, training, and control of drivers, as well as compliance with the FMCSR relating to drivers and vehicles. The importance of safety controls contrasts sharply with the insignificant role of adverse environmental factors in accident performance. Further, the study confirmed that there is a strong relationship between noncompliance with specific regulations and accident rates. It recommended that particular importance should be given to the enforcement of Parts 391, 395, and 396 of the FMCSR. Thus, safety may be enhanced by greater compliance with the regulations. The results of these studies and comments to the docket have drawn into focus the question of continuing the exemption at the expense of the safety of the general public.

Originally, intracity traffic was characterized by slow speeds and traffic congestion and may have been safer than interstate traffic. However, since the inception of the exemption in 1938, commercial zones have expanded in many areas and the extent and nature of this traffic has changed markedly. Remarks recently made by Thomas J. Donohue, President and Chief Executive Officer, American Trucking Associations, point to the prevailing belief held by many when he called for an end to—

* * * the unconscionable use of the so-called commercial safety zone exemption which allows drivers who are not physically fit to operate trucks. This flagrant loop-hole in truck safety regulation applies to all drivers operating exclusively in certain urban areas—whether they are operating tractor-trailers, dump trucks, or construction vehicles. Trucks making local deliveries or performing local services need not meet Federal safety requirements and can operate with drivers not properly qualified according to Federal laws.

The FHWA believes that minimum safety standards ought to apply to interstate operations, even if in a limited geographic area. However, the FHWA also believes that States also have an interest in regulating in these areas as evidenced by the fact that, notwithstanding the intracity zone exemption to the FMCSR, 12 States have regulated these operations. The FHWA does not believe there is a need for Federal intrusion when a State regulates in these areas. Therefore, in order to enhance the safety of interstate motor carrier operations while minimizing Federal intrusion, the FHWA is proposing to exempt from the FMCSR those interstate operations in intracity zones in which State motor carrier laws and regulations, compatible with the FMCSR, are applicable. If a State subsequently adopts compatible motor carrier safety regulations for interstate operations within the commercial zone, those operations would be subject to the State regulations and the FMCSR exemption would apply.

Comments are specifically requested, and in particular from the 12 States with regulations, on the advantages and disadvantages of Federal, State or combined Federal/State regulations within the exempt intracity zones. Comments are also requested on how the proposed approach would enhance the ability of the States to regulate interstate carriers, and what effect on safety this would have. What effect would Federal, State, or Federal/State regulations have on the burdens imposed on the industry and on safety? How would enforcement against interstate carriers be effected under a State, Federal or combined Federal/State regulatory scheme?

The FHWA believes that this proposal is consistent with section 402 of the Surface Transportation Assistance Act of 1982 which directed the Secretary to "make grants to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards, and orders." By requiring compatible rules from the States, we ensure some minimum safety standard will be met. Thus, today's proposal is compatible with the grant program because in multiple jurisdiction zones (e.g., Washington, DC, New York City, Kansas City), it will ensure some degree of uniformity, thereby minimizing the burden for motor carriers operating in those zones.

The FHWA recognizes that a number of drivers currently operating in these zones would be adversely affected by this proposed change. In order to minimize the effect of this change on those individuals, we propose to extend limited "grandfather exceptions" to those drivers operating wholly within the exempt intracity zone as of January 1, 1988, who would otherwise not be qualified to operate in interstate commerce. The exceptions are the provisions currently found at § 391.11(b)(1) (relating to minimum age); § 391.41(b)(3)—(relating to diabetes mellitus currently requiring insulin for control); § 391.41(b)(8)—(relating to the clincial diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle); and § 391.41(b) (10) and (11) (regarding vision and hearing standards).

In order for a driver to take advantage of these limited exceptions being proposed, he/she must: (1) Have been a regularly employed driver (as defined in § 390.5) for a particular motor carrier as of January 1, 1988; (2) continue to be a regularly employed driver for that motor carrier; (3) be used wholly within the exempt intracity zone (as defined in § 390.5); and (4) not operate a vehicle used in the transportation of hazardous materials in a quantity requiring placarding. We also propose to phase out this limited exception 2 years after the publication of the final rule in the **Federal Register.** After that date, drivers engaged in interstate or foreign commerce within the intracity zones would then be subject to all the provisions of the FMCSR. Comments are requested on the length of time the limited exceptions will be in force. Should this time be longer, shorter, or tied to some factor such as the individual's safety record (i.e. traffic violations and/or accident experience)? We believe these conditions are necessary to afford the public a higher degree of safety and to limit the number of drivers not otherwise qualified under the FMCSR.

Comments are requested on this proposal and the limited exceptions and conditions being proposed for those drivers operating wholly within the exempt intracity zone as of January 1, 1988. Comments are especially requested on the proposed requirement that an exempt intracity zone driver must continue to work for the same

employer. Is this requirement justified to limit the number of drivers who are eligible to drive under this exemption? Would this requirement pose an undue burden on or be unfair to drivers?

With the proposed change to the "exempt intra-city zone" we anticipate that no additional motor carriers, drivers, or vehicles will be subject to the FMCSR. To the contrary, only those entities now generally subject to the FMCSR will be affected. Interstate motor carriers and their drivers, and vehicles used wholly within the "exempt intra-city zone" are now exempted from certain parts of the FMCSR. The proposed change to this exemption will simply require those entities operating in interstate commerce to comply with all the requirements wherever they operate. Therefore, we anticipate no significant increase in industry or societal costs as a result of this proposed action. We seek information concerning this issue. Will the proposed change have any effect thus far not envisioned? If commenters believe such an effect would occur, we seek estimates of the number of additional vehicles, drivers, and/or carriers involved and an estimate of the costs of compliance with the additional requirements.

General Applicability

It is proposed that a section entitled "General Applicability" be added to Part 390. This section would be given the designation of § 390.3. This proposed section would assist the general public and the motor carrier industry in determining when, and in which circumstances, the FMCSR apply. If not otherwise excepted, a vehicle meeting the definition of a "commercial motor vehicle" and transporting property or passengers in interstate commerce would be subject to the FMCSR. Private citizens transporting personal effects would not be subject to the FMCSR. This group has neither the regularity of operation nor an established record of presenting a safety hazard while operating on the public highway as compared to other operating entities.

Motor vehicles operated by agencies of the Federal or the various State governments and/or their political subdivisions have in the past been administratively excluded from the safety regulations, and under this proposal the exemption would continue in effect. These governmental entities have historically engaged in intrastate transportation activities and occasional interstate trips. Further, these governmental entities do not have a history of unsafe operations. It is expected that governmental entities will comply with the FMCSR to the greatest extent possible. It is also believed that sufficient incentives (i.e., civic leadership) exists for governmental entities to operate motor vehicles in a safe manner.

While the FHWA has considered Federal, State, and local governments to be administratively exempt from the application of the safety regulations when those governments are conducting motor vehicle operations in furtherance of their governmental or civic duties, the FHWA has encouraged their compliance with the FMCSR. The FHWA plans to continue to foster such compliance, notwithstanding the proposal to exclude governments from the application of the FMCSR.

The various parts of the FMCSR can be generally considered to fall into one of three general categories: Driver qualification rules, operating rules, and vehicle requirements. Under the Commercial Motor Vehicle Safety Act of 1986, Pub. L. 99–570, Oct. 27, 1986, all drivers of commercial motor vehicles, including drivers employed by governments, will be required to obtain a single, classified license issued by a State in accordance with certain standards established by the Secretary of Transportation. These standards will ensure that such drivers are qualified to operate these motor vehicles. Drivers of government motor vehicles are also currently required to comply with all State and local traffic laws which typically govern the safe operation of motor vehicles. Finally, with respect to vehicle equipment, inspection, and maintenance, the FHWA believes that governments which operate such vehicles comply with Federal, State, or local regulations which are comparable to the requirements of the FMCSR. This has become even more true with the adoption of the FMCSR or compatible State rules by the States pursuant to the FHWA's Motor Carrier Safety Assistance Program.

Accordingly, the FHWA is proposing to continue the administrative exemption for Federal, State, and local governments. Comments are requested on this proposal, as well as on what additional steps the FHWA might take to foster compliance with the regulations by governments.

Definitions and Rules of Construction

It is proposed that a section entitled "Definitions" be added to Part 390. This section would include all terms used generally throughout the FMCSR. This section will also assist various elements of industry in their efforts to comply with the FMCSR. Comments are sought concerning the clarity and application of the definitions contained in the proposed § 390.5. Added to the revision of Part 390 is a proposed § 390.7, entitled "Rules of construction." This section would remove ambiguities concerning word usage. It is anticipated that, with these several rules of construction, the intent of the word usage contained in the FMCSR will be more readily understood by the motor carrier industry and the public and that there will be less need for interpretations.

Other Proposed Modifications

The following sections of the proposed revision are either new or involve the restructuring of existing regulations: Sections 390.13, Aiding or abetting violations; 390.21, Marking of motor vehicles; 390.23, Relief from hours-of-service regulations—disasters; 390.27, Locations of regional motor carrier safety offices; 390.35, Certificates, reports, and records: falsification, reproduction, or alteration; and 390.37, Violation and penalty.

Section 208 of the Act requires the Safety Panel, which was established under section 207 of the Act, to analyze the laws and regulations of each State and determine which of such laws and regulations pertain to commercial motor vehicle safety. Further, this section calls for a 5-year period for review of the State regulations pertaining to commercial motor vehicle safety and preemption of such regulations if called for under the Act. Under the law, the Safety Panel will recommend and the Secretary will determine if State regulations pertaining to commercial motor vehicle safety have the same effect as, are less stringent than, or are additional to or more stringent than regulations issued by the Secretary under section 206. This section was written to respond to the call for uniformity by the trucking industry. If it is found that the State law or regulation has the same effect as a federal regulation, it may remain in effect after the initial 5-year period. If it is found that the State law or regulation is less stringent than a Federal regulation, then the State law or regulation is preempted and shall not be enforced with respect to commercial motor vehicles (in interstate commerce) after the 5-year period. If it is found that the State law or regulation is additional to or more stringent than a Federal regulation, it may remain in effect after the 5-year period, unless it is found that there is no safety benefit associated with the State law or regulation, the State law or regulation is incompatible with a Federal regulation, or enforcement of the

State law or regulation would be an undue burden on interstate commerce.

The FHWA recognizes the potential conflict between the current § 390.30, State and local laws, effect on; and the mandated duties of the Safety Panel. However, the FHWA will retain the current section until the expiration of the 5-year period (Oct. 30, 1989) provided for in section 208. Under this proposal, § 390.30 will be redesignated as § 390.9.

The current FMCSR § 391.7 states: "No person shall aid, abet, encourage, or require a motor carrier or a driver to violate the rules in this part." It is proposed to remove section 391.7 and specifically state in a new § 390.13, Aiding or abetting violations, that this rule applies to all parts of the FMCSR.

The FMCSR are minimum safety standards. It is not the intent of the FMCSR to preclude a motor carrier from establishing and enforcing more stringent rules and regulations for that motor carrier's operations. As evidence of this intent, § 391.1(b) presently states that the rules in part 391 ". . . do not prevent a motor carrier from imposing more stringent or additional qualifications, requirements, examinations, or certificates that are imposed by those rules." We propose to state in § 390.3(d), Additional requirements, that this intent applies to all parts of the FMCSR.

The FMCSR contains requirements concerning knowledge and compliance with the regulations. These requirements are set forth in a variety of locations throughout the FMCSR. In order to consolidate these general compliance requirements, it is proposed that § 390.3(e), Knowledge of and compliance with the regulations, be included in this revision. It is anticipated that, by consolidating these general requirements in one section, the motor carriers, drivers, and the general public will be able to not only more readily locate these requirements, but will also have an improved understanding of motor carrier and driver responsibilities within the scope of the FMCSR. Additionally, motor carriers would better understand their responsibility for the proper maintenance of motor vehicles used in operations subject to the FMCSR.

When Title 49 of the United States Code was recodified, it took into account the transfer of certain functions from the ICC to the Department of Transportation. The ICC retained authority under 49 U.S.C. 11106 to require identification of vehicles subject to its jurisdiction. This has been implemented at 49 CFR Part 1058. Under 49 U.S.C. 3104, the Department of Transportation was authorized to require identification of motor vehicles used in transportation provided by a motor private carrier and a motor carrier of migrant workers. This requirement would assist Federal and State enforcement personnel in properly identifying motor carriers during roadside vehicle inspections, thus assuring the submission of accurate inspection results and other data into a management information system. Also, the general public will be able to identify and report to the motor carrier or an enforcement agency any operations being conducted in a reckless manner by the operator of a commercial motor vehicle. Recognizing the need for the proper identification of motor carriers, the FHWA is also proposing to require the motor carrier's census number to be marked on every self-propelled commercial motor vehicle operated by an interstate motor carrier of migrant workers and a motor private carrier which transports property or passengers in interstate commerce. Currently, when the FHWA discovers and positively identifies a motor carrier operation subject to Federal regulation, that entity is immediately entered in a computerized Management Information System. The entity is assigned a carrier census identification number (ID) or identifier. The ID number serves to provide positive unique identification of the entity and distinguishes among entities having the same or similar names or trade names. This would be especially beneficial in coordinating violation data generated by State and local government officials. It would serve to authenticate the offender and prevent the violations from being recorded against an innocent carrier. This number has heretofore been used only for internal recordkeeping for the FHWA. The FHWA is proposing using the carrier census number as an industry-wide number for all Federal and State motor carrier enforcement and monitoring. The marking would consist of the letters "DOT" followed by the assigned carrier census number. The FHWA will develop procedures whereby each carrier will be notified of its census number. The comments we receive to Part 385, Safety Fitness Determination, relative to this issue will be combined with those we receive to this notice. Comments are requested on this proposal.

It is proposed that this identification requirement be included in Part 390 and be identified by section designation 390.21, Marking of motor vehicles.

At the present time, § 395.12 provides that relief may be granted from the hours of service regulations if the motor carrier has been requested to transport passengers or property to or from any section of the country with the object of providing relief, such as in the case of earthquake, flood, fire, famine, drought, epidemic, pestilence, or other calamitous visitations or disasters. It is proposed that this relief provision be brought to Part 390 and be designated as § 390.23, Relief from hours-of-service regulations—disasters. In addition to the transfer of the relief-from-regulations provisions in Part 395 to Part 390, a specific procedure is proposed whereby a motor carrier may obtain relief from § 395.3(b) of the FMCSR, Maximum driving and on-duty time. It is anticipated that this proposed section will assist potential users in locating the relief provision in the FMCSR and provide information as to what conditions must exist and the procedures which must be followed prior to the issuance of the temporary relief. Any relief granted shall be limited to § 395.3(b).

In Part 394, *Notification and Reporting of Accidents*, § 394.9, *Reporting of accidents*, states where and when motor carriers shall file required reports. It is proposed that the provision in Part 390 relative to reporting of accidents be removed, as it is redundant of the requirement in Part 394.

The FMCSR contains provisions concerning certifications made by individuals, drivers, or motor carriers that some duty or requirement has been carried out in accordance with an existing regulation. It is proposed that, by stipulating in Part 390 that it is a violation to make false statements on any record, make false entries, or make reproductions for fraudulent purposes, compliance with the FMCSR will improve as it will alert individuals, drivers, and motor carriers of their responsibility for the submission and retention of accurate information. The FHWA also proposes to add a new section designated § 390.37, Violation and penalty. We believe this will alleviate many of the questions now asked regarding consequences for failing to comply with the FMCSR.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. It is anticipated that the economic impact of this rule to all individuals will be minimal. Accordingly, a draft regulatory evaluation has been prepared and is available for review in the public docket.

For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that, if promulgated, this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Parts 390, 391, 392, 393, 394, 395, 396, and 397

Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements, Motor vehicle safety.

(Catalog of Federal Domestic Assistance Program Number 20.217, motor carrier safety.)

Issued on: July 8, 1987.

R.A. Barnhart,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend Title 49, Code of Federal Regulations, Subtitle B, Chapter III, as follows:

1. Part 390 is revised to read as follows:

PART 390—GENERAL

Subpart A—General Applicability and Definitions

Subpart B—General Requirements and Information

Authority: 49 U.S.C. app. 2503 and 2505; 49 U.S.C. 3102; 49 CFR 1.48.

Subpart A—General Applicability and Definitions

§ 390.1 Purpose.

This part establishes general applicability, definitions, general requirements and information as they pertain to persons subject to subchapter B of this chapter.

§ 390.3 General applicability.

(a)(1) The rules in subchapter B of this chapter are applicable to motor carriers, including their employees and commercial motor vehicles, which transport property or passengers in interstate commerce.

(2) *Exception.* The rules in subchapter B of this chapter do not apply to any "exempt intracity zone" operation, as defined in § 390.5, if a State has adopted and enforces State laws or regulations, compatible with the rules in subchapter B, applicable to such intracity zone operation.

(b) The rules in Part 387, Minimum levels of financial responsibility for motor carriers, are applicable to certain motor carriers transporting hazardous materials, hazardous substances, or hazardous wastes in intrastate commerce, as provided in § 387.3 of this subchapter.

(c) *Additional requirements.* Nothing in subchapter B of this chapter shall be construed to prohibit a motor carrier from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.

(d) *Knowledge of and compliance with the regulations.* (1) Every motor carrier shall be knowledgeable of and comply with all regulations contained in this subchapter which are applicable to that motor carrier's operations.

(2) Every driver and employee shall be instructed in and comply with all applicable regulations contained in this subchapter.

(3) All motor vehicle equipment and accessories required by this subchapter shall be maintained in compliance with all applicable performance and design criteria set forth in this subchapter.

(e) *Exceptions.* Unless otherwise specifically provided, the rules in this subchapter do not apply to—

(1) All school bus operations as defined in § 390.5;

(2) Transportation performed by the Federal Government, a State, or any political subdivision of a State;

(3) The private transportation of passengers;

(4) The occasional transportation of personal property by individuals not for compensation or in the furtherance of a commercial enterprise;

(5) The transportation of corpses or sick and injured persons; or

(f) *Limited exceptions.* The provisions of § 391.11(b)(1) (relating to minimum age), and the provisions of §§ 391.41(b)(3), (8), (10), and (11) (relating to physical qualifications for drivers), do not apply to a person who:

(1) Was a regularly employed driver (as defined in § 390.5) for a particular motor carrier as of January 1, 1988;

(2) Continues to be a regularly employed driver for that motor carrier;

(3) Is used wholly within the exempt intracity zone (as defined in § 390.5; and

(4) Does not operate a vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Materials Transportation Act (49 U.S.C. App. 1801–1812).

(5) The limited exceptions provided for in this subparagraph shall not be effective after (*2 years from the date of final rule publication in the* **Federal Register**).

§ 390.5 Definitions.

In this subchapter:

"*Bus*" means any motor vehicle designed, constructed, and or used for the transportation of more than 15 passengers including the driver.

"*Business district*" means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

"*Commercial motor vehicle*" means any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when:

(a) The vehicle has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds; or

(b) The vehicle is designed to transport more than 15 passengers including the driver; or

(c) The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Materials Transportation Act (49 U.S.C. App. 1801–1812).

"*Driveaway-towaway operation*" means any operation in which a motor vehicle constitutes the commodity being transported and one or more set of wheels of the vehicle being transported are on the surface of the roadway during transportation.

"*Driver*" means any persons who operates any commercial motor vehicle.

"*Employee*" means an operator of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor

vehicle); a mechanic; a freight handler; and any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or any political subdivision of a State who is acting within the course of such employment. The term operator shall be construed to mean driver.

"*Employer*" means any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any State, or any political subdivision of a State. The term includes all motor carriers engaged in interstate commerce.

"*Exempt motor carrier*" means a person engaged in transportation exempt from regulation by the Interstate Commerce Commission (ICC) under 49 U.S.C. 10526. These exempt motor carriers are subject to the safety regulations set forth in this subchapter.

"*Exempt intracity zone*" means a municipality or the commercial zone of that municipality as defined by the ICC in 49 CFR Part 1048, revised as of October 1, 1975. The term exempt intracity zone does not include any municipality or commercial zone in the State of Hawaii.

"*Farm-to-market agricultural transportation*" means the operation of a motor vehicle controlled and operated by a farmer who:

(a) Is a motor private carrier as defined in 49 U.S.C. 10102(15);

(b) Is using the vehicle to transport agricultural products from a farm owned by the farmer, or to transport farm machinery or farm supplies to or from a farm owned by the farmer; and

(c) Is not using the vehicle to transport hazardous materials of a type or quantity that requires the vehicle to be placarded in accordance with § 177.823 of this subtitle.

"*Farmer*" means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which—

(a) Are owned by that person; or

(b) Are under the direct control of that person.

"*Farm vehicle driver*" means a person who drives only a motor vehicle that is—

(a) Controlled and operated by a farmer as a motor private carrier;

(b) Being used to transport either—

(1) Agricultural products, or

(2) Farm machinery, farm supplies, or both, to or from a farm;

(c) Not being used in the operations of a for-hire motor carrier;

(d) Not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with § 177.823 of this subtitle; and

(e) Being used within 150 miles of the farmer's farm.

"*Federal Highway Administrator*" means the chief executive of the Federal Highway Administration, an agency within the Department of Transportation.

"*For-hire motor carrier*" means a person engaged in the transportation of goods or passengers for compensation.

"*Gross combination weight rating (GCWR)*" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

"*Gross vehicle weight rating (GVWR)*" means the value specified by the manufacturer as the loaded weight of a single vehicle.

"*Hazardous material*" means a substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

"*Hazardous substance*" means a material, and its mixtures or solutions, that is identified by the letter "E" in Column 1 of the Table to § 172.101 of this title when offered for transportation in one package, or in one transport vehicle if not packaged, and when the quality of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in 171.8 If this title, based on the reportable quantity (RQ) specified for the materials in Column 2 of the Table to § 172.101.

"*Hazardous waste*" means any material that is subject to the hazardous waste manifest requirements of the EPA specified in 40 CFR Part 262 or would be subject to these requirements absent an interim authorization to a State under 40 CFR Part 123, Subpart F.

"*Intermittent, casual, or occasional driver*" means a driver who in any period of 7 consecutive days is employed or used as a driver by more than a single motor carrier. A driver meeting this definition may be qualified, as would a regularly employed driver.

"*Interstate commerce*" means trade, traffic, or transportation in the United States which is between a place in a State and a place outside of such State (including a place outside of the United States) or is between two places in a State through another State or a place outside of the United States.

"*Intrastate commerce*" means any trade, traffic, or transportation in any State which is not described in the term "interstate commerce."

"*Motor carrier*" means a for-hire motor carrier or a motor private carrier of property. The term "motor carrier" includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B, the definition of "*motor carrier*" includes the terms "*employer*" and "*exempt motor carrier.*"

"*Motor vehicle*" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Highway Administration, but does not include any vehicle, locomotove, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

"*Operator*"—See driver.

"*Other terms*"—Any other term used in this subchapter is used in its commonly accepted meaning, except where such other term has been defined elsewhere in this subchapter, in which event the definition therein given shall apply.

"*Person*" means any individual, partnership, association, corporation, business trust, or any other organized group of individuals.

"*Principal place of business*" means a single location designated by the motor carriers, normally the headquarters, where records required by Parts 387, 391, 394, 395, and 396 of this subchapter will be maintained. Provisions in this subchapter are made for maintaining certain records at locations other than the principal place of business.

"*Private motor carrier of passengers*" means the person who is engaged in an enterprise other than transportation, and

provides transportation of passengers, by motor vehicle, that is within the scope of, and in the furtherance of that enterprise.

"Private motor carrier of property" means a person who transports, by motor vehicle, property of which that person is the owner, lessee or bailee; such transportion being for the purpose of sale, lease, rent, bailment, or in the furtherance of any commercial enterprise other than transportation.

"Regional Director" means the Regional Director, Office of Motor Carrier Safety, for a given geographical region of the United States.

"Regularly employed driver" means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier.

"Residential district" means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences.

"School bus" means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likey to be significantly used for the purpose of transporting primary, preprimary, or secondary school students to or from such schools or events related to such schools.

"School bus operation" means the use of a school bus to transport only school children and school personnel from home to school and from school to home.

"Secretary" means the Secretary of Transportation.

"Special agent"—See appendix B to subchapter B—Special agents.

"State" means a State of the United States and the District of Columbia and includes a political subdivision of a State.

"Trailer" includes:

(a) Full trailer—means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing unit. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer.

(b) Pole trailer—means any motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing vehicle by means of a "reach" or "pole", or by being "boomed", or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections.

(c) Semitrailer—means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing vehicle.

"Truck" means any self-propelled motor vehicle except a truck tractor, designed and/or used for the transportation of property.

"Truck tractor" means a self-propelled motor vehicle designed and/or used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"United States" means the 50 States, and the District of Columbia.

§ 390.7 Rules of construction.

(a) In Part 325 of subchapter A and in this subchapter, unless the context requires otherwise:

(1) Words imparting the singular include the plural;

(2) Words imparting the plural include the singular;

(3) Words imparting the masculine gender include the feminine; and

(4) Words imparting the present tense include the future tense.

(b) In this subchapter the word—

(1) *"Officer"* includes any person authorized by law to perform the duties of the office;

(2) *"Writing"* includes printing and typewriting;

(3) *"Shall"* is used in an imperative sense;

(4) *"Must"* is used in an imperative sense;

(5) *"Should"* is used in a recommendatory sense;

(6) *"May"* is used in a permissive sense; and

(7) *"Includes"* is used as a word of inclusion, not limitation.

Subpart B—General Requirements and Information

§ 390.9 State and local laws, effect on.

Except as otherwise specifically indicated, subchapter B of this chapter is not intended to preclude States or subdivisions thereof from establishing or enforcing State or local laws relating to safety, the compliance with which would not prevent full compliance with these regulations by the person subject thereto.

§ 390.11 Motor carrier to require observance of driver regulations.

Whenever in Part 325 of subchapter A or in this subchapter a duty is prescribed for a driver or a prohibition is imposed upon the driver, it shall be the duty of the motor carrier to require observance of such duty or prohibition. If the motor carrier is a driver, the driver shall likewise be bound.

§ 390.13 Aiding or abetting violations.

No person shall aid, abet, encourage, require, or cause a motor carrier or any other person to violate the rules of this subchapter.

§ 390.15 [Reserved]

§ 390.17 [Reserved]

§ 390.19 Additional equipment and accessories.

Nothing in this subchapter shall be construed to prohibit the use of additional equipment and accessories, not inconsistent with or prohibited by this subchapter, provided such equipment and accessories do not decrease the safety of operation of the motor vehicles on which they are used.

§ 390.21 Marking of motor vehicles.

(a) *General.* Every self-propelled commercial motor vehicle operated by a motor private carrier which transports property in interstate commerce, and every motor vehicle operated by an interstate motor carrier of migrant workers, must be marked as specified in paragraphs (b) and (c) of this section.

(b) *Nature of marking.* The marking must display the following information—

(1) The name or trade name of the motor carrier operating the self-propelled motor vehicle.

(2) The city or community and State (name abbreviated), in which the carrier maintains its principal place of business.

(3) The motor carrier census identification number preceded by the letters "DOT".

(4) If the name of any person other than the operating carrier appears on the motor vehicle operated under its own power, either alone or in combination, the name of the operating carrier shall be followed by the information required by paragraphs (b) (1) and (2) of this section, and be preceded by the words "*operated by.*" Other identifying information may be displayed on the vehicle if it is consistent with the information required by this paragraph.

(c) *Size, shape, location, and color of marking.* The marking must—

(1) Appear on both sides of the self-propelled vehicle;

(2) Be in letters that contrast sharply in color with the background on which the letters are placed;

(3) Be readily legible during daylight hours from a distance of 50 feet while the vehicle is stationary; and

(4) Be kept and maintained in a manner that retains the legibility required by paragraph (c)(3) of this section.

(d) *Construction and durability.* The marking may be painted on the motor vehicle with a permanent-type paint or may consist of a removable device if that device meets the identification and legibility requirements of this section and is made of a material that will withstand the elements without degradation.

§ 390.23 Relief from hours-of-service regulations—disasters.

(a) Any motor carrier which has been requested to provide relief services due to disasters such as floods, earthquakes, or pestilence, or governmentally declared emergencies, may request relief from § 395.3(b) of Part 395 regarding maximum driving and on-duty time. The relief shall apply only to those situations where a motor carrier is directly engaged in or supporting relief operations.

(b) Any motor carrier seeking relief from § 395.3(b) shall contact the Regional Director for Motor Carrier Safety in the region in which the motor carrier's principal place of business is located, by telephone, giving full details of the disaster or emergency situation. If it is determined that relief from § 395.3(b) is necessary to enhance the motor carrier's ability to provide vital service to the public, relief shall be granted along with any restrictions which may be considered necessary.

(c) Within 24 hours after any relief form § 395.3(b) has been granted by telephone communication, a formal written request shall be submitted to the Regional Director. The request shall give full details of the relief operation, the regulatory relief sought, and the period of time for which the relief is requested. All approvals for relief may be subject to special conditions.

§ 390.25 [Reserved]

§ 390.27 Locations of regional motor carrier safety offices.

Region No.	Territory Included	Location of Regional Office
1	Connecticut, Maine, Massachusetts, New Jersey, New Hampshire, New York, Rhode Island, Vermont, Puerto Rico, and the Virgin Islands. That part of Canada east of Highways 19 and 8 from Port Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury, and thence due north to the Canadian border.	Leo W. O'Brien, Federal Office Building, Room 729, Albany, NY 12207.
3	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia	31 Hopkins Plaza, Federal Building, Room 1643, Baltimore, MD 21201.
4	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee	1720 Peachtree Rd., NW., Suite 200, Atlanta, GA 30309.
5	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. That part of Canada west of Highways 19 and 8 from Port Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury, and thence due north to the Canadian border, and east of the boundary between the Provinces of Ontario and Manitoba to Hudson Bay and thence a straight line north to the Canadian border.	18209 Dixie Highway, Homewood, IL 60430.
6	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. All of Mexico, except the States of Baja California and Sonora and the Territory of Baja California Sur. All nations south of Mexico.	Room 8A00, Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.
7	Iowa, Kansas, Missouri, and Nebraska	6301 Rockhill Rd., P.O. Box 19715, Kansas City, MO 64141.
8	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming. That part of Canada west of the boundary between the Provinces of Ontario and Manitoba to Hudson Bay and thence a straight line due north to the Canadian border, and east of Highway 95 from Kingsgate to Blaeberry and thence a straight line due north to the Canadian border.	555 Zang Street, Room 400, Lakewood, CO 80228.
9	Arizona, California, Hawaii, Nevada, Guam, American Samoa, and Mariana Islands. The States of Baja California and Sonora, Mexico, and the Territory of Baja California Sur, Mexico.	211 Main Street, Room 1108, San Francisco, CA 94105.
10	Alaska, Idaho, Oregon, and Washington. That part of Canada west of Highway 95 from Kingsgate to Blaeberry and thence a straight line due north to the Canadian border, and all the Province of British Columbia.	Mohawk Building, Room 414, 708 SW., Third Ave., Portland, OR 97204.

§ 390.29 [Reserved]

§ 390.31 Copies of records or documents.

(a) All records and documents required to be maintained under this subchapter must be preserved in their original form for the periods specified, unless the records and documents are suitably photographed and the microfilm is retained in lieu of the original record for the required retention period.

(b) To be acceptable in lieu of original records, photographic copies of records must meet the following minimum requirements:

(1) Photographic copies shall be no less readily accessible than the original record or document as normally filed or preserved would be and suitable means or facilities shall be available to locate, identify, read, and reproduce such photographic copies.

(2) Any significant characteristic, feature or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made.

(3) The reverse side of printed forms need not be copied if nothing has been added to the printed matter common to all such forms, but an identified specimen of each form shall be on the film for reference.

(4) Film used for photographing copies shall be of permanent record-type meeting in all respects the minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer shall be observed to protect it from deterioration or accidental destruction.

(5) Each roll of film shall include a microfilm of a certficate or certificates stating that the photographs are direct or facsimile reproductions of the original records. Such certificate(s) shall be executed by a person or persons having personal knowledge of the material covered thereby.

(c) All records and documents required to be maintained under this subchapter may be destroyed after they have been suitably photographed for preservation.

(d) *Exception.* All records except those requiring a signature may be maintained through the use of computer technology provided the motor carrier can produce a computer printout of the required data.

§ 390.33 Vehicles used for purposes other than defined.

Whenever a motor vehicle of one type is used to perform the functions normally performed by a motor vehicle of another type, the requirements of Part 325 of subchapter A and this subchapter shall apply to the motor vehicle and to its operation in the same manner as though the motor vehicle were actually a motor vehicle of the latter type.

Example: If a motor vehicle other than a bus is used to perform the functions normally

performed by a bus, the regulations pertaining to buses and to the transportation of passengers shall apply to that motor vehicle.

§ 390.35 Certificates, reports, and records: falsification, reproduction, or alteration.

No motor carrier, its agents, officers, representatives, or employees shall make or cause to make—

(a) Any fraudulent or intentionally false statement on any applications, certificates, reports, or records required under Part 325 of subchapter A or this subchapter;

(b) Any fraudulent or intentionally false entry on any applications, certificates, reports, or records that are required to be kept, made, or used, to show compliance with any requirement under Part 325 of subchapter A or this subchapter; or

(c) Any reproduction, for fraudulent purposes, of any application, certificate, report, or record required under Part 325 of subchapter A or this subchapter.

§ 390.37 Violation and penalty.

Any person who violates the rules in Parts 390 through 399 may be subject to civil or criminal penalties as provided for in Chapter 5 of Title 49 U.S.C.

Technical Amendments

Due to the revision of 49 CFR Part 390, the following technical amendments are necessary to correct citations found in other parts of title 49 CFR and are set forth below.

PART 391—[AMENDED]

2. The authority citation for Part 391 continues to read as follows:

Authority: 49 U.S.C. 3102; 49 CFR 1.48 and 301.60.

§ 391.1 [Amended]

3. In § 391.1, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

§ 391.2 [Amended]

4. In § 391.2, paragraphs (a), (b), (c), and (f) are removed; paragraph (d) is redesignated as paragraph (a); and paragraph (e) is redesignated as paragraph (b).

§§ 391.3, 391.5, and 391.7 [Removed]

5. Sections 391.3, 391.5, and 391.7 are removed.

§ 391.15 [Amended]

6. In § 391.15, paragraph (c)(2)(i), the reference to § 390.40 in footnote 1 is revised to read § 390.27, and the reference to Bureau of Motor Carrier Safety in footnote 1 is revised to read Office of Motor Carrier Standards.

§ 391.35 [Amended]

7. In § 391.35, paragraph (e), the reference to § 390.40 in footnote 1 is revised to read § 390.27 and the reference to Bureau of Motor Carrier Safety in footnote 1 is revised to read Office of Motor Carrier Standards.

§ 391.41 [Amended]

8. In § 391.41, paragraph (b)(12), the reference to § 390.40 in footnote 1 is revised to read § 390.27, and the reference to Bureau of Motor Carrier Safety in footnote 1 is revised to read Office of Motor Carrier Standards.

§ 391.51 [Amended]

9. In § 391.51, paragraph (g), the reference to § 390.40 is revised to read § 390.27.

§ 391.61 [Amended]

10. In § 391.61, the reference to § 395.2(f) is revised to read § 390.5.

§ 391.62 [Removed and reserved]

11. Section 391.62 is removed and reserved.

§ 391.63 [Amended]

12. In § 391.63, paragraph (a), the reference to § 395.2(f) is revised to read § 390.5.

13. In § 391.65, paragraph (a)(2)(iii) is revised to read as follows:

§ 391.65 Drivers furnished by other motor carriers.

(a) * * *

(2) * * *

(iii) Certifies that the driver has been regularly employed as defined in § 390.5;

* * * * *

§ 391.67 [Amended]

14. In § 391.67, the reference to § 391.3(d) is revised to read § 390.5

§ 391.69 [Amended]

15. In § 391.69, paragraph (b), the reference to § 395.2(f) is revised to read § 390.5.

§ 391.71 [Amended]

16. In § 391.71, paragraphs (a) and (b), the references to § 395.2(f) are revised to read § 390.5; in paragraph (b)(1) the reference to § 390.4 is revised to read § 390.5.

PART 392—[AMENDED]

17. The authority citation for Part 392 continues to read as follows:

Authority: Sec. 204, 49 Stat. 546, as amended (49 U.S.C. 304).

§ 392.1 [Amended]

18. In § 392.1, paragraphs (b), (c), and (d) are removed and the paragraph designation (a) is removed.

§ 392.4 [Amended]

19. In § 392.4, paragraph (a)(1), the reference in footnote 1 to § 390.40 is revised to read § 390.27.

PART 393—[AMENDED]

20. The authority citation for Part 393 continues to read as follows:

Authority: 49 U.S.C. App. 2509; Pub. L. 99-570, section 12015; 49 U.S.C. 3102; 49 CFR 1.48 and 301.60.

§ 393.1 [Amended]

21. In § 393.1, paragraphs (b) and (c) are removed and the paragraph designation (a) is removed.

§ 393.2 [Removed and reserved]

22. Section 393.2 is removed and reserved.

23. In § 393.51, paragraph (g) is revised to read as follows:

§ 393.51 Warning devices and gauges.

* * * * *

(g) *Exceptions.* The rules in paragraphs (c), (d), and (e) of this section do not apply to property-carrying vehicles which have fewer than three axles and which were manufactured before July 1, 1973.

24. In § 393.75, paragraph (f)(1)(i) is revised to read as follows:

§ 393.75 Tires.

(f) * * *

(1) * * *

(i) Single-unit property-carrying vehicles.

§ 393.75 [Amended]

25. In § 393.75, paragraph (f)(1)(ii) is removed.

PART 394—[AMENDED]

26. The authority citation for Part 394 continues to read as follows:

Authority: 49 U.S.C. 104, 504, and 3102; 49 CFR 1.48.

27. In § 394.1, paragraph (c) is revised to read as follows:

§ 394.1 Scope of the rules in this part.

* * * * *

(c) *Exemptions.* The rules in this part do not apply to private carriers engaged wholly in farm-to-market agricultural transportation as defined in § 390.5.

* * * * *

§ 394.3 [Amended]

28. In § 394.3, paragraph (b)(3), the reference to § 394.5 is revised to read § 390.5.

§ 394.5 [Removed and reserved]

29. Section 394.5 is removed and reserved.

§ 394.7 [Amended]

30. In § 394.7, paragraph (a), the reference to § 390.40 is revised to read § 390.27.

§ 394.9 [Amended]

31. In § 394.9, paragraphs (a) and (d), the references to § 390.40 are revised to read § 390.27 and the reference to the Regional Director for Motor Carrier Safety in paragraph (d) is revised to read Regional Director, Office of Motor Carrier Safety.

PART 395—[AMENDED]

32. The authority citation for Part 395 continues to read as follows:

Authority: 49 U.S.C. 104, 504, and 3102; 49 CFR 1.48.

§ 395.1 [Removed and reserved]

33. Part 395 is amended by removing and reserving § 395.1.

§ 395.2 [Amended]

34. In § 395.2, paragraphs (f) and (j) are removed, and paragraphs (g), (h), and (i) are redesignated as paragraphs (f), (g) and (h), respectively.

§ 395.3 [Amended]

35. In § 395.3, paragraph (a)(3), the reference to § 395.2(g) is revised to read § 395.2(f).

36. In § 395.3, paragraph (c) is revised to read as follows:

* * * * *

(c) The provisions of paragraph (a) of this section shall not apply to drivers of motor vehicles engaged solely in making local deliveries from retail stores and/or retail catalog businesses to the ultimate consumer, when driving solely within a 100-air mile radius of the driver's work-reporting location, during the period from December 10 to December 25, both inclusive, of each year.

§ 395.8 [Amended]

37. In § 395.8, in paragraphs (f)(11) and (h)(2), the references to § 395.2(g) are revised to read § 395.2(f); paragraph (k)(2), the references to the Regional Director for Motor Carrier Safety is revised to read Regional Director, Office of Motor Carrier Safety, and the reference to § 390.40 is revised to read § 390.27; paragraph (l)(2) is removed; and paragraph (l)(3) is redesignated as (l)(2).

§ 395.13 [Amended]

38. In § 395.13, paragraph (c)(2), the reference to the Regional Director for Motor Carrier Safety is revised to read Regional Director, Office of Motor Carrier Safety.

PART 396—[AMENDED]

39. The authority citation for Part 396 continues to read as follows:

Authority: Sec. 204, 49 Stat. 546, as amended, (49 U.S.C. 304), sec. 6, Pub. L. 89-670, 80 Stat. 937 (49 U.S.C. 1655); 49 CFR 1.48, 301.60).

§ 396.1 [Amended]

40. In § 396.1, paragraph (b) is removed and the paragraph designation (a) is removed.

§ 396.3 [Amended]

41. In § 396.3, paragraph (c) is removed and paragraph (d) is redesignated as (c).

42. In § 396.11, paragraph (d) is revised to read as follows:

§ 396.11 Driver vehicle inspection report(s).

* * * * *

(d) *Exemption.* The rules in this section shall not apply to driveaway-towaway operations as specified in § 396.15, or to any motor carrier operating only one (1) motor vehicle.

PART 397—[AMENDED]

43. The authority citation for Part 397 continues to read as follows:

Authority: 18 U.S.C. 834, sec. 204 of the Interstate Commerce Act, as amended (49 U.S.C. 304), sec. 6 of the Department of Transportation Act (49 U.S.C. 1655), and the delegation of authority by the Secretary of Transportation in 49 CFR 1.4(c).

§ 397.1 [Amended]

44. In § 397.1, paragraph (c) is removed.

§ 397.19 [Amended]

45. In § 397.19, paragraph (b), the reference to § 390.40 is revised to read § 390.27.

§ 397.21 [Removed]

46. Section 397.21 is removed.

[FR Doc. 87-15838 Filed 7-10-87; 8:45 am]
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49 CFR Part 395

[OMCS Docket No. MC-130; Notice No. 87-08]

Driver's Record of Duty Status; On-Board Recording Devices; Request for Comments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The FHWA is requesting comments about the use of on-board recording devices in motor vehicles operating in interstate commerce. This action is being taken in response to the February 25, 1987, petition for reconsideration filed by the Insurance Institute for Highway Safety (IIHS). The original IIHS petition (filed in October 1986) requested the FHWA to require motor carriers to use on-board recording devices for recording the driver's hours of service.

DATE: Written comments must be received on or before October 13, 1987.

ADDRESS: All written comments should refer to the docket number that appears at the top of this doucment and must be submitted (preferably in triplicate) to the Office of Chief Counsel, Room 4205, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., ET, Monday through Friday, except on legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366-2999, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366-1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washingon, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except on legal holidays.

SUPPLEMENTARY INFORMATION: Section 395.8, Driver's record of duty status, of the Federal Motor Carrier Safety Regulations (FMCSR) requires drivers to record their duty status, in duplicate, on a specified grid, for each 24-hour period. Drivers must record time spent driving, time on-duty not driving, sleeper berth time, and off-duty time. Drivers must record the information in their own handwriting, including date; total miles driving today; truck or tractor and trailer number; name of carrier; driver's signature/certification; 24-hour period starting time (e.g., midnight, 9:00 a.m., noon, 3:00 p.m.); main office address; remarks; total mileage today; name of co-driver; home terminal address; total hours (far right edge of grid); shipping document number(s) or name of shipper and commodity; origin; and destination or turnaround points. Exceptions to these requirements are contained in 49 CFR 395.8(k) regarding retention of driver's record of duty status and 49 CFR 395.8(l) regarding operation within the 100 air-mile radius of the normal work reporting location.

The Interstate Commerce Commission (ICC) established the requirements for the driver's record of duty status in November 1940, as the Driver's Daily Log. In 1952, the ICC changed the format of the Daily Log to the simplified format familiar to the trucking industry today. The driver's record of duty status and the ancillary information are now recorded on the Driver's Record of Duty Status.

Since 1982, the FHWA has also allowed drivers to use a graph grid to record duty status, 49 CFR 395.8(g). The grid may be incorporated into any motor carrier form. Drivers must record their duty status as follows:

1. "Off duty" or "OFF";
2. "Sleeper berth" or "SB" (only if sleeper berth used);
3. "Driving" or "D"; and 4. "On-duty not driving" or "ON".

Background

The FHWA received a petition on October 1, 1986, from the IIHS requesting mandatory use of automatic on-board recording devices in heavy trucks. The FHWA denied the petition on December 22, 1986, based on previous research conducted by the FHWA [1] and information furnished by the American Trucking Associations, Inc. (ATA).

The research conducted in 1978 by the FHWA showed that the tachograph, an electro/mechanical on-board recording device, was unable to provide a driver's record of duty status sufficient to enforce the FMCSR in a number of motor carrier operations. For example, in a "trip lease" operation, the single tachograph chart left the driver and the lessee motor carrier without the required hours-of-service documentation. The tachographs studied were very accurate mechanical instruments, but were unable to produce multiple copies of the tachograph chart and were not deemed to be tamperproof. In addition to the research findings, the FHWA determined that the tachographs were not sufficiently driver interactive.

The ATA collected data on the use of tachographs. The ATA statistics suggested that factors other than the use of on-board recording devices can result in a good safety record.

The FHWA is currently monitoring field tests of on-board computers being used by a large private motor carrier fleet operated by Frito-Lay, Inc. The FHWA granted a waiver on April 10, 1985, permitting Frito-Lay's drivers to use on-board computers for recording hours of service in lieu of the handwritten driver's record. Two years ago, the on-board computer industry was in its infancy. One company, Cadec Systems, Inc., of Londonderry, New Hampshire, marketed the only on-board computer that could be used for this purpose. Earlier this year, Rockwell International of Troy, Michigan, entered the market and offered a similar system. Stemco Instruments of Longwiew, Texas, has also developed a similar system which it plans to market in the near future.

Elsewhere in today's **Federal Register**, the FHWA announces that it is granting exemptions to six additional fleets to operate their vehicles with on-board computers for recording drivers' hours of service in lieu of the handwritten driver's record.

These on-board computers record the driver's duty status as well as information about the vehicle's operation such as speed, time, and other data. These electronic systems may also prove to be tamperproof. Tampering can cause the on-board computer system to shut down. Tampering can also result in costly repairs to the system.

Field testing is necessary to determine the reliability and accuracy of the system, the driver's adaptability to these devices, and if such a system is viable for the enforcement of the hours-of-service regulations. Information received from the first fleet equipped with the on-board recorders indicates there is no degradation in any of these areas.

In light of the favorable results thus far from Frito-Lay's use of on-board computers and in response to the IIHS petition for reconsideration, the FHWA is issuing this ANPRM. The FHWA is requesting information to assist it in assessing the feasibility of using automatic on-board recording devices in meeting the Federal requirements for the driver's record of duty status. The FHWA also requests information on any other "instruments" for recording a driver's record of duty status available to the motor carrier industry.

Information Requested

The FHWA requests commenters to provide information on the available technology for driver-interactive, on-board recording devices and other data demonstrating the extent to which the devices are feasible for recording a driver's record of duty status. The FHWA is especially interested in receiving comments, information, and data on the following questions:

1. If your company has purchased and used on-board recording devices to enhance the operations of its fleet, please provide information on the types of devices, dates of use in your operations, number of vehicles equipped, cost of installation per vehicle, maintenance problems and costs, driver acceptance problems and successes.

a. Does your "system" include an alternative method of recording a driver's hours of service?

b. Is the "system" more effective in complying with the driver record-of-duty-status requirements than the handwritten driver log? Please explain.

c. How does the device or system identify the driver for the record of duty status or other purposes?

d. What are the capital costs (including installation) and operating costs (including maintenance) per unit for 10 units? Less than ten units? A single unit?

e. Is the device battery operated, if so, does it use the vehicle's battery or its own?

f. Is the device mechanically operated or electronically operated?

g. Will the device print out a copy of the driver's record of duty status? Can it print a copy on demand, for example, during a roadside inspection?

h. Is the system controlled by the driver, the vehicle, or both?

2. If your company has purchased or is considering the purchase of automatic on-board recording devices, what cost savings have been obtained (or do you anticipate obtaining) in fulfilling the hours-of-service requirements area? Please break down the costs, if possible.

3. Will the use of automatic on-board recording devices enhance the highway and driving safety of commercial motor vehicles? Provide statistics to substantiate your position.

4. How should equipment performance be guaranteed? How frequently do the devices break down or fail? What performance standards are appropriate; can they be met over long periods of time in heavy over-the-road vehicle operations?

5. How often should certifications of equipment accuracy be required to ensure compliance with the driver's record-of-duty status requirements? Who should conduct certification programs, if any? What would be the individual certification cost per truck or device?

6. Would a proliferation of different types of recording devices cause or become a burden for enforcement officials?

[1] "Validation and Analysis of House of Service Data, April 1979," U.S. Department of Transportation, Federal Highway Administration, The Bureau of Motor Carrier Safety, Contract Number DOT-FH-11-9550, Washington, DC 20590. Copy available for viewing in the docket.

7. The driver required signature/certification of the driver's record of duty status may be a problem if electronic equipment is used in lieu of the driver's handwritten record of duty status. What would be a simple way for drivers to electronically sign or certify a driver's record of duty status which accurately reflects his/her duty status and related entries?

8. How could a driver, on a multiday trip, comply with Federal safety requirements for carrying copies of the driver's record of duty status for the prior 7 days when using an automatic on-board recording device?

In addition to the technical, cost, and operational considerations affecting the feasibility and use of driver-interactive on-board computers, the FHWA also requests comments on its approach to allowing their use. Should the FHWA allow their use on a case-by-case basis as it does now? Should the FHWA initiate rulemaking to make the devices mandatory for complying with requirements for the driver's record of duty status? Should the FHWA initiate rulemaking to allow use of the devices for complying with requirements for the driver's record of duty status?

The FHWA has determined that this document contains neither a major rule under Executive Order 12292 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. A draft regulatory evaluation will be prepared based upon the data received in response to this notice.

Based on the information available to the FHWA at this time, the action taken in this rulemaking will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 395

Highways and roads, Highway safety, Motor Carriers, Driver's hours of service, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 3102; 49 CFR 1.48.

Issued on: July 7, 1987.

R.A. Barnhart,

Federal Highway Administrator.

[FR Doc. 87-15837 Filed 7-10-87; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[OMCS Notice No. 87-07]

Driver's Record of Duty Status

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of the granting of exemptions.

SUMMARY: Notice is hereby given that the FHWA has granted an exemption to each of the following motor carriers operating in interstate or foreign commerce, from certain requirements of §395.8, Driver's record of duty status, of the Federal Motor Carrier Safety Regulations (FMCSR), conditioned upon the use of an automatic recording system. The motor carriers are ABT, Inc., Maxwell, California, Anchor Motor Freight Inc., Birmingham, Michigan, Golden State Foods Corporation, Greensboro, North Carolina, Leaseway Motor Car Transport Company, Birmingham, Michigan, Marathon Petroleum Company, Robinson, Illinois, and Martin-Brower Company, Des Plaines, Illinois.

EFFECTIVE DATE: June 25, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366-2999, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366-1355, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Anchor Motor Freight, Inc., and Leaseway Motor Car Transport Company requested an exemption to permit the use of a Rockwell System Tripmaster on-board computer. ABT, Inc., Golden State Foods Corporation, Martin-Brower Company, and Marathon Petroleum Company requested an exemption to permit the use of a Cadec Systems, Inc., on-board computer. The applicants requested an exemption from certain DOT regulations found at 49 CFR 395.8 to permit the use of an on-board computer system that electronically records and monitors driver and equipment performance in lieu of recording the required hours-of-service information in the driver's own handwriting. Notice of these requests for exemption was published in the **Federal Register** on April 2, 1987 (52 FR 10664).

Four comments were received. Three of the commenters supported granting the exemption to the above named motor carriers. One commenter, the International Brotherhood of Teamsters, opposed these requests because it believes that the granting of an exemption would relieve the motor carriers of their responsibility to monitor the driver's hours of service. The FHWA believes that the on-board computer, which will be used in lieu of handwritten records of duty status, will provide an equally accurate record of a driver's hours of service. Moreover, the FHWA's granting of these exemptions is part of its review of the existing recordkeeping requirements associated with the hours of service regulations. Elsewhere in today's **Federal Register**, the FHWA is requesting comments on the use of on-board recording devices. After receipt of comments to the advance notice of proposed rulemaking and review of the experience of the motor carriers granted waivers, the FHWA will determine if further rulemaking is warranted and these exemptions will continue.

Exemptions have been issued to Anchor Motor Freight, Inc., and Leaseway Motor Car Transport Company permitting the use of the Rockwell System Tripmaster, an on-board computer system. ABT, Inc., Golden State foods Corporation, Martin-Brower Company, and Marathon Petroleum Company have been granted exemptions to use the Cadec Systems, Inc., on-board computer. Both systems display the information pertaining to hours of service and the driver's record of duty status required by the FMCSR on demand.

Deviation from the following provisions of 49 CFR 395.8 has been authorized:

(1) That portion of paragraph (a) which requires the driver to prepare a record of duty status while on duty or driving;

(2) That portion of paragraph (a) which requires the driver's record of duty status to be prepared in duplicate;

(3) That portion of paragraph (f)(2) which requires all entries relating to the driver's duty status to be made in the driver's own handwriting; and

(4) The precise grid form found in paragraph (g) is waived to permit the use of an electronically produced grid.

In addition, ABT, Inc., Golden State Foods Corporation, Martin-Brower Company, and Marathon Petroleum Company are permitted to deviate from those parts of paragraphs (c) and (h)(5) requiring a highway mile post or intersection designation where change of duty status does not occur at a city, town or village only during the current trip. This information must be shown by the use of a code and a code description of the electronically produced grid.

These exemptions only apply to drivers operating company controlled truck-tractors in interstate or foreign commerce that are equipped with an on-board computer system capable of creating hours of service documentation.

These exemptions are being granted in a continuing effort to test alternative methods of reducing the paperwork burden of drivers and motor carriers. Through the collection of test data, the FHWA is attempting to establish feasible alternative methods of controlling a driver's hours of service. These exemptions are in addition to the exemption granted to Frito-Lay of Dallas, Texas, 2 years ago, to test the on-board computer system to record a driver's record of duty status.

A copy of each Exemption identified herein, a description of each onboard computer system, and each request for a waiver of certain portions of 49 CFR Part 395 are available for inspection in Room 4205, Office of the Chief Counsel, 400 Seventh Street, SW., Washington, DC 20590.

(49 U.S.C. App. 2505; 49 U.S.C. 3102; 49 CFR 1.48.)

Issued on: June 25, 1987.

R.A. Barnhart,

Federal Highway Administrator.

[FR Doc. 87-15836 Filed 7-10-87; 8:45 am]

BILLING CODE 4910-22-M

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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