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Presidential Documents

Title 3—

The President

Proclamation 5957 of April 19, 1989

National Recycling Month, 1989

By the President of the United States of America

A Proclamation

As we approach the last decade of the 20th century, the United States faces a growing problem in the management of solid waste. This Nation currently generates 160 million tons of solid waste per year. While that amount is increasing, the number of available landfills is shrinking dramatically. This situation underscores the importance of recycling.

The benefits of recycling solid waste are substantial. Recycling waste helps to preserve our limited landfill space. Recycling also reduces the need to extract resources from their natural environment and thus helps to prevent the pollution such removal efforts create. It also saves energy and provides a less expensive alternative to landfills and incineration. Finally, communities can use the materials recovered through recycling to generate revenue.

Some cities and States, recognizing the important role recycling can play in waste management, have enacted mandatory recycling laws. Numerous towns and counties across America now boast effective voluntary recycling programs. A well-developed system of recycling facilities has emerged in the United States for scrap metals, paper, and glass. Nonetheless, Americans still do not recycle enough municipal waste. Nearly 80 percent of the municipal solid waste in this country is deposited in landfills, while 10 percent is incinerated. Only 10 percent of our Nation's waste is recycled.

Every American household and community can play a major role in solving the problems associated with solid waste disposal by recycling—either through municipal programs or voluntary drives sponsored by local service organizations. The Environmental Protection Agency has set a national goal of 25 percent waste recycling by 1992. While the ability to meet this goal may vary from town to town, such efforts are useful steps toward eliminating America's solid waste problems.

In recognition of the importance of recycling, the Congress, by House Joint Resolution 102, has designated April 1989 as "National Recycling Month" and has authorized and requested the President to issue a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim April 1989 as National Recycling Month. I urge the people of the United States to observe this month by actively participating in community recycling efforts and teaching their children about the benefits of such efforts. I also encourage community leaders to consider the advantages of a comprehensive recycling program as a means of managing municipal solid waste.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.

George Bush

[FR Doc. 89-9908
Filed 4-20-89; 2:38 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 89–13 of April 12, 1989

Certification With Respect to Section 1307 of the National Defense Authorization Act, Fiscal Year 1989

Memorandum for the Secretary of State

Pursuant to Section 1307 of the National Defense Authorization Act, Fiscal Year 1989, I hereby certify that Saudi Arabia does not possess biological, chemical, or nuclear warheads for the intermediate-range ballistic missiles purchased from the People's Republic of China.

You are hereby authorized and directed to publish this certification in the **Federal Register.**

THE WHITE HOUSE,
Washington, April 12, 1989.

Doc. 89–9940
Filed 4–20–89; 4:27 pm]
Billing code 3195–01–M

Editorial note: For a justification, dated Apr. 13, regarding the continuation of arms sales to Saudi Arabia, see the *Weekly Compilation of Presidential Documents* (vol. 25, p. 541).

Presidential Documents

Executive Order 12675 of April 20, 1989

Establishing the National Space Council

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to provide a coordinated process for developing a national space policy and strategy and for monitoring its implementation, it is hereby ordered as follows:

Section 1. *Establishment and Composition of the National Space Council.*

(a) There is established the National Space Council ("the Council").

(b) The Council shall be composed of the following members:

(1) The Vice President, who shall be Chairman of the Council;

(2) The Secretary of State;

(3) The Secretary of the Treasury;

(4) The Secretary of Defense;

(5) The Secretary of Commerce;

(6) The Secretary of Transportation;

(7) The Director of the Office of Management and Budget;

(8) The Chief of Staff to the President;

(9) The Assistant to the President for National Security Affairs;

(10) The Assistant to the President for Science and Technology;

(11) The Director of Central Intelligence; and

(12) The Administrator of the National Aeronautics and Space Administration.

(c) The Chairman shall, from time to time, invite the following to participate in meetings of the Council:

(1) The Chairman of the Joint Chiefs of Staff; and

(2) The heads of other executive departments and agencies and other senior officials in the Executive Office of the President.

Sec. 2. *Functions of the Council.* (a) The Council shall advise and assist the President on national space policy and strategy, and perform such other duties as the President may from time to time prescribe.

(b) In addition, the Council is directed to:

(1) review United States Government space policy, including long-range goals, and develop a strategy for national space activities;

(2) develop recommendations for the President on space policy and space-related issues;

(3) monitor and coordinate implementation of the objectives of the President's national space policy by executive departments and agencies; and

(4) foster close coordination, cooperation, and technology and information exchange among the civil, national security, and commercial space sectors, and facilitate resolution of differences concerning major space and space-related policy issues.

(c) The creation and operation of the Council shall not interfere with existing lines of authority and responsibilities in the departments and agencies.

Sec. 3. *Responsibilities of the Chairman.* (a) The Chairman shall serve as the President's principal advisor on national space policy and strategy.

(b) The Chairman shall, in consultation with the members of the Council, establish procedures for the Council and establish the agenda for Council activities.

(c) The Chairman shall report to the President on the activities and recommendations of the Council. The Chairman shall advise the Council as appropriate regarding the President's directions with respect to the Council's activities and national space policy generally.

(d) The Chairman shall authorize the establishment of such committees of the Council, including an executive committee, and of such working groups, composed of senior designees of the Council members and of other officials invited to participate in Council meetings, as he deems necessary or appropriate for the efficient conduct of Council functions.

Sec. 4. *National Space Policy Planning Process.* (a) The Council will establish a process for developing and monitoring the implementation of national space policy and strategy.

(b) To implement this process, each agency represented on the Council shall provide such information regarding its current and planned space activities as the Chairman shall request.

(c) The head of each executive department and agency shall ensure that its space-related activities conform to national space policy and strategy.

Sec. 5. *Establishment of Vice President's Space Policy Advisory Board.* (a) The Vice President shall establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), governing Presidential advisory committees, an advisory committee of private citizens to advise the Vice President on the space policy of the United States ("the Board").

(b) The Board shall be composed and function as follows:

(1) The Board shall be composed of members appointed by the Vice President.

(2) The Vice President shall designate a Chairman from among the members of the Board. The Executive Secretary of the National Space Council shall serve as the Secretary to the Board.

(3) Members of the Board shall serve without any compensation for their work on the Board. However, they shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by law, for persons serving intermittently in the Government service (5 U.S.C. 5701–5707), to the extent funds are available for that purpose.

(4) Necessary expenses of the Board shall be paid from funds available for the expenses of the National Space Council.

(5) Notwithstanding the provisions of any other Executive order, the responsibilities of the President under the Federal Advisory Committee Act, as amended, except that of reporting annually to the Congress, which are applicable to the Board established by this order, shall be performed on a reimbursable basis by the Director of the Office of Administration in the Executive Office of the President, in accordance with the guidelines and procedures established by the Administrator of General Services.

Sec. 6. *Microgravity Research Board.* Section 1(c) of Executive Order No. 12660 is amended by deleting "Economic Policy Council" and inserting in lieu thereof "National Space Council."

Sec. 7. *Administrative Provisions.* (a) The Office of Administration in the Executive Office of the President shall provide the Council with such adminis-

trative support on a reimbursable basis as may be necessary for the performance of the functions of the Council.

(b) The President shall appoint an Executive Secretary who shall appoint such staff as may be necessary to assist in the performance of the Council's functions.

(c) All Federal departments, agencies, and interagency councils and committees having an impact on space policy shall extend, as appropriate, such cooperation and assistance to the Council as is necessary to carry out its responsibilities under this order.

(d) The head of each agency serving on the Council or represented on any working group or committee of the Council shall provide such administrative support as may be necessary, in accordance with law and subject to the availability of appropriations, to enable the agency head or its representative to carry out his responsibilities.

Sec. 8. *Report.* The Council shall submit an annual report setting forth its assessment of and recommendations for the space policy and strategy of the United States Government.

George Bush

THE WHITE HOUSE,
April 20, 1989.

[FR Doc. 89-9941
Filed 4-20-89; 4:48 pm]
Billing code 3195-01-M

Editorial note: For a White House announcement, dated Mar. 1, on the appointment of the director of the staff of the National Space Council, and the President's remarks of April 20 on the establishment of the Council, see the *Weekly Compilation of Presidential Documents* (vol. 25, nos. 9 and 16).

Presidential Documents

Proclamation 5958 of April 20, 1989

National Organ and Tissue Donor Awareness Week, 1989 and 1990

By the President of the United States of America

A Proclamation

Few advances in medicine inspire more awe than successful organ and tissue transplants. In recent years, we have witnessed the restoration of sight to the blind through new corneas; we have watched cancer patients regain their health through bone marrow transplants; and we have seen gravely ill men and women get another chance at life with a new heart, lung, or kidney. These wonderful success stories would not have been possible without the generosity of those Americans who were willing to donate their organs and tissues to others.

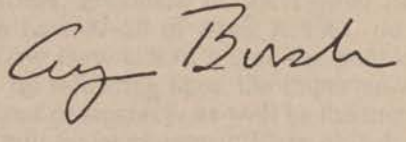
Much has been done in recent years to encourage public support of organ and tissue donation. Through the American Council or Transplantation, regional donor programs, community leadership, and media support, millions of Americans have learned about donation and have signed donor cards. Unfortunately, despite these efforts and the success of transplant programs around the world, many seriously ill persons still await organ transplants. That is why I encourage each and every American to give careful thought to becoming an organ and tissue donor.

I encourage every American to learn the facts about organ and tissue transplants and to discuss any moral or ethical concerns about donation with your family and doctor. Organ and tissue transplants give us cause to reflect upon the precious gift of human life, as well as our responsibility to treat it with care and reverence. Just as we give thanks for the life and health with which God has blessed us, so, too, must we solemnly consider the profound act of sharing life with others through organ and tissue donation.

The Congress, by House Joint Resolution 112, has designated the weeks of April 23 through 29, 1989, and April 23 through 29, 1990, as "National Organ and Tissue Donor Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the weeks of April 23 through 29, 1989, and April 23 through 29, 1990, as National Organ and Tissue Donor Awareness Week. I ask health care professionals, public and private service organizations, and all Americans to join in supporting this humanitarian cause.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.



[FR Doc. 89-10017]
Filed 4-21-89; 2:51 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5959 of April 21, 1989

Law Day, U.S.A., 1989

By the President of the United States of America

A Proclamation

For more than 30 years, our Nation has paused each May 1 to observe Law Day, U.S.A. On this day, we celebrate America's legacy of liberty and self-government, guaranteed under law and preserved with the aid of our legal system.

The American legal system plays a vital role in maintaining the balance between individual freedom and civil order. Our Nation's leaders, past and present, have supplemented our rich common law heritage with statutes, rules, and regulations at every level of government. This body of laws not only provides protection for the freedoms guaranteed by our Constitution, it also provides a framework for peacefully resolving disputes, vindicating the rights of individuals, and punishing criminal conduct.

Our Nation has long been committed to ensuring that this system serves all who seek redress of their grievances. That commitment is reflected in the solemn oath taken by all Federal judges before they assume office: the vow to "administer justice without respect to persons, and do equal right to the poor and to the rich." Under that oath, judges must decide every citizen's claim on its merits, not on the basis of the claimant's status.

Despite its many accomplishments, however, our legal system still exhibits a number of imperfections. There remain members of our society for whom the promise of redress for their grievances has not yet been fully realized. Delay in court proceedings and the cost of pursuing legal remedies make it difficult for many Americans to have their claims adjudicated, regardless of their economic means. Others face large hurdles and tremendous frustration—even if they ultimately obtain vindication—because of the frivolous use of legal processes. These problems are particularly distressing to the poor. Many indigent persons are simply precluded from pursuing legal remedies to their grievances. All too often, this exclusion invites disrespect for our judicial system and subsequently undermines the strength of our democracy.

On this Law Day, which is dedicated to the theme of "Access to Justice," we remind ourselves that it is everyone's responsibility to ensure the effectiveness and accessibility of the American justice system. Our Founders asserted that the second goal of the U.S. Constitution was "to establish justice." Because of the central role of the rule of law in preserving our freedom in this constitutional democracy, all Americans should concern themselves with improving the Nation's justice system. All of us can participate in this process by developing a better understanding of its purpose and operations. We can encourage the organizations to which we belong to initiate educational programs aimed at the general public, and we can give of our own time to help those with valid claims to obtain redress.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, in accordance with Public Law 87–20 of April 7, 1961, do hereby proclaim Monday, May 1, 1989, as Law Day, U.S.A. I urge the people of the United States to mark this occasion by reflecting upon the importance of the justice system to the preservation of our democracy, as well as the importance of access to that system for all who will make responsible use of it. I urge the

legal profession, schools, libraries, government agencies, the media, clergy, and businesses, as well as civic and voluntary service organizations, to join in efforts to focus public attention on the importance of making access to justice a reality for all persons. I also call upon all public officials to display the flag of the United States on all government buildings on this day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.

George Bush

[FR Doc. 89-10043]
Filed 4-21-89; 4:23 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5960 of April 21, 1989

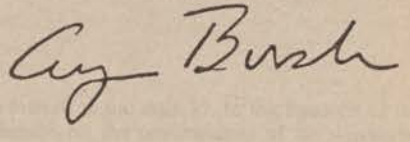
Death of American Servicemen on Board the USS IOWA

By the President of the United States of America

A Proclamation

As a mark of respect for the American servicemen who died as a result of the accident aboard the USS IOWA, which occurred on April 19, 1989, I hereby order, by the authority vested in me as President of the United States of America by section 175 of title 36 of the United States Code, that the flag of the United States shall be flown at half-staff upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and Possessions until sunset, Tuesday, April 25, 1989. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.



[FR Doc. 89-10044
Filed 4-21-89; 4:24 pm]
Billing code 3195-01-M

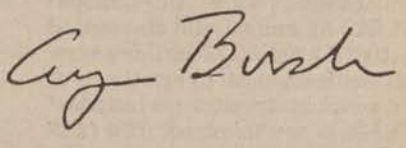
Editorial note: For the President's remarks of Apr. 21 on signing Proclamation 5960, see the *Weekly Compilation of Presidential Documents* (vol. 25, no. 16).

Presidential Documents

Notice of April 21, 1989

Continuation of Nicaraguan Emergency

On May 1, 1985, by Executive Order No. 12513, President Reagan declared a national emergency to deal with the threat to the national security and foreign policy of the United States constituted by the situation in Nicaragua. On April 25, 1988, the President announced the continuation of that emergency beyond May 1, 1988. Because the actions and policies of the Government of Nicaragua continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on May 1, 1985, and subsequently extended, must continue in effect beyond May 1, 1989. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Nicaragua. This notice shall be published in the **Federal Register** and transmitted to the Congress.



April 12, 1989.
THE WHITE HOUSE,

[FR Doc. 89-10055
Filed 4-21-89; 4:55 pm]
Billing code 3195-01-M

Editorial note: For the texts of two separate letters, dated Apr. 21, to the Speaker of the House of Representatives and the President of the Senate, on the continuation of the emergency, see the *Weekly Compilation of Presidential Documents* (vol. 25, no. 16).

Rules and Regulations

Federal Register
Vol. 54, No. 78
Tuesday, April 25, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1785

Cushion of Credit Account; Computations and Procedures

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: The Rural Electrification Administration is correcting an error in the cushion of credit account computation procedures which appeared in the Federal Register on April 5, 1989 (54 FR 13668).

FOR FURTHER INFORMATION CONTACT: Robert D. Ruddy, Director, Fiscal Accounting Division, Rural Electrification Administration, Washington, DC 20250–1500, telephone number (202) 382–8823.

SUPPLEMENTARY INFORMATION: The borrower's option to make a one time election to have computations regarding its cushion of credit account made as of April 5, 1989, instead of October 2, 1987, as specified in § 1785.70(a), is corrected by specifying the date by which the borrower must exercise this option. Any borrower wishing to elect April 5, 1989, as the computation date must notify REA to that effect within 30 days from the date this notice of correction is published. REA is correcting the last sentence of 7 CFR 1785.70(a) by adding the words "on or before May 25, 1989."

For the convenience of the public, 7 CFR 1785.70(a) as corrected by this notice is reprinted in full below.

§ 1785.70 Application of RETRF cushion of credit payments.

(a) If a maturing installment on an REA note or a note which has been guaranteed by REA is not received by its due date, funds will be withdrawn from the borrower's cushion of credit account and applied as of the installment due date beginning with the oldest of such notes as follows: first, to current interest then due on all notes; second, to the accumulated interest due, if any, on all notes; and third, to the principal then due on all notes. In those instances where a borrower has prior to October 2, 1987, maintained an advance payment account with REA, its cushion of credit account will be applied in accordance with the provisions of this section prior to using any balance remaining in its advance payment account to pay interest and principal installments on notes. Computations required under this section have been made by REA as of October 2, 1987; however, on or before May 25, 1989 any borrower may make a one time irrevocable election to have all such computations made as of April 5, 1989, by filing written notice to that effect with Robert D. Ruddy, Director, Fiscal Accounting Division, Rural Electrification Administration, Washington, DC 20250–1500.

* * * * *

Dated: April 19, 1989.

Jack Van Mark,

Acting Administrator.

[FR Doc. 89–9812 Filed 4–24–89; 8:45 am]
BILLING CODE 3410–15–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

Access to Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations for access to Safeguards Information to be consistent with "The Omnibus Diplomatic Security and Anti-Terrorism Act of 1986," which requires nuclear power reactor applicants and licensees to conduct Federal Bureau of Investigation (FBI) criminal history checks of certain individuals with access to information protected as Safeguards Information. This action is necessary to ensure that all applicable NRC regulations reflect this requirement.

EFFECTIVE DATE: May 25, 1989.

FOR FURTHER INFORMATION CONTACT: M.L. Au, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3749.

SUPPLEMENTARY INFORMATION: Section 606 of Pub. L. 99–399, "The Omnibus Diplomatic Security and Anti-Terrorism Act of 1986," requires nuclear power reactor applicants and licensees to conduct criminal history checks through the use of FBI criminal history data on individuals with access to Safeguards Information. The Act, signed by President Reagan on August 27, 1986, required the NRC to issue regulations to establish conditions for the use and control of the criminal history data received from the FBI. NRC published its implementing regulations March 2, 1987, as a new § 73.57 to 10 CFR Part 73. NRC requirements for the protection of Safeguards Information, 10 CFR 73.21, were published October 22, 1981, prior to enactment of the legislation. This technical amendment conforms 10 CFR 73.21 with the provisions of 10 CFR 73.57 which require certain individuals to undergo FBI criminal history checks prior to gaining access to Safeguards Information. Individuals who are exempted from fingerprinting under 10 CFR 73.57 will continue to be exempt under this rule.

Because this amendment is of a technical nature only, and does not add a new requirement, or revoke any existing regulation, good cause exists for finding that notice of proposed rulemaking and public procedure is unnecessary until Title 5 U.S.C. section 553. Accordingly, the amendment is being published for codification as a final rule.

Environmental Impact: Categorical Exclusion

The NRC has determined that this regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore neither an environmental impact statement nor environmental assessment has been prepared for this regulation.

Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et

seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150–0002.

Regulatory Analysis

No regulatory analysis has been prepared for this rule because the action represents an administrative cross-referencing between two existing sections in the regulations.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, that a backfit analysis is not required for this final rule, because these amendments are mandated by Pub. L. 99–399.

List of Subjects in 10 CFR Part 73

Hazardous materials-transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Security measures.

For reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendment to 10 CFR Part 73.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIAL

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273; §§ 73.21, 73.37(g), and 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73,24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, and 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i); and §§ 73.20(c)(1), 73.24(b)(1), 73.26 (b)(3), (h)(6), and (k)(4), 73.27 (a) and (b), 73.37(f), 73.40 (b) and (d), 73.46 (g)(6) and (h)(2), 73.50 (g)(2), (3)(iii)(B), and (h), 73.55 (h)(2) and (4)(iii)(B), 73.57, 73.70, 73.71, and 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 73.21, paragraph (c)(1)(i) is revised to read as follows:

§ 73.21 Requirements for the protection of safeguards information.

* * * * *

(c) * * *

(1) * * *

(i) An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government. However, an individual to be authorized access to Safeguards Information by a nuclear power reactor applicant or licensee must undergo a Federal Bureau of Investigation criminal history check to the extent required by 10 CFR 73.57;

* * * * *

Dated at Rockville, Maryland, this 4th day of April, 1989.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 89–9882 Filed 4–24–89; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 88F–0333]

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 the safe use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl as an antioxidant for 4-methylpentene-1 copolymers used in contact with food. This action is in response to a petition filed by Sandoz AG.

DATES: Effective May 26, 1989, objections by May 25, 1989.

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

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administation, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 25, 1988 (53 FR 43043), FDA announced that a food additive petition (FAP 8B4100) had been filed by Sandoz AG, CH–4402, Basel, Switzerland, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to include the use of di-*tert*-butylphenyl phosphonite condensation product with biphenyl as an antioxidant for 4-methylpentene-1 copolymers used in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended in § 178.2010 in the table of paragraph (b) by revising item 1. under the heading "Limitations" for the entry "Di-*tert*-butylphenyl phosphonite condensation product with biphenyl * * *".

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 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. FDA 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.

Any person who will be adversely affected by this regulation may at any time on or before May 25, 1989, 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 present 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 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. Section 178.2010 is amended in the table of paragraph (b) by revising item 1. under the heading "Limitations" for the entry "Di-*tert*-butylphenyl phosphonite condensation product with biphenyl * * *" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Di-*tert*-butylphenyl phosphonite condensation product with biphenyl * * *.	For use only: 1. At levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 2.1, 2.2, 3.1, 3.2, or 3.3. * * *
* * * * *	

Dated: April 14, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89–9844 Filed 4–24–89; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Parts 510 and 522

Animal Drugs, Feeds, and Related Products; Copper Disodium Edetate Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Veterinary Research and Development, Inc., providing for the use of Bovi-Cu (copper disodium edetate) injection in beef cattle and beef calves to prevent copper deficiency alone or in association with molybdenum toxicity.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Veterinary Research and Development, Inc., P.O. Box 1299, Truckee, CA 95734, filed NADA 140–904 which provides for the use of Bovi-Cu (copper disodium edetate) injection in beef cattle and beef calves to prevent copper deficiency alone or in association with molybdenum toxicity. The application is approved and the regulations are amended in 21 CFR 510.600(c) and in 21 CFR Part 522 by adding a new § 522.514. The basis for approval is discussed the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegatd to the Center for Veterinary Medicine, Parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. Section 510.600 is amended in the table of paragraph (c)(1) by alphabetically adding an entry for "Veterinary Research and Development, Inc.", and in the table of paragraph (c)(2) by numerically adding and entry for "057428" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Veterinary Research and Development, Inc., P.O. Box 1299, Truckee, CA 95734	057428
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
057428	Veterinary Research and Development, Inc., P.O. Box 1299, Truckee, CA 95734

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

4. New § 522.514 is added to Part 522 to read as follows:

§ 522.514 Copper disodium edetate injection.

(a) *Specifications.* Each milliliter of sterile, glycerol-aqueous solution contains 400 milligrams of copper disodium edetate (equivalent to 60 milligrams of copper).

(b) *Sponsor.* See 057428 in § 510.600(c) of this chapter.

(c) *Conditions of Use*—(1) *Amount.* 1 milliliter for calves weighing 300 pounds or less; 2 milliliters for calves weighing over 300 pounds and adult cattle.

(2) *Indications for use.* For beef cattle and beef calves to prevent copper deficiency alone or in association with molybdenum toxicity.

(3) *Limitations.* For subcutaneous use only. Repeat dose after 3 months in young calves and after 6 months in cattle of feeder age or older. Discontinue use 30 days before treated animals are slaughtered for food use.

Dated: April 17, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-9843 Filed 4-24-89; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-3560-9]

Wisconsin; Schedule of Compliance for Modification of Hazardous Waste Program

AGENCY: Environmental Protection Agency, Region V.

ACTION: Notice of Wisconsin's Compliance Schedule to Adopt Program Modifications.

SUMMARY: On September 22, 1986, U.S. EPA promulgated Amendments to the deadlines for State program modifications and published requirements for States to be placed on a compliance schedule to adopt necessary program modifications, if they cannot meet the prescribed deadlines. U.S. EPA is today publishing a compliance schedule for Wisconsin to modify its program, in accordance with § 271.21(g) to adopt Federal program modifications.

FOR FURTHER INFORMATION CONTACT: Brian Barwick, Wisconsin Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 230 South Dearborn Street, 5HR-JCK-13, Chicago, Illinois 60604, (312) 886-6085, (FTS: 8-886-6085).

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Federal hazardous waste program within the State is granted by U.S. EPA, if the Agency finds that the State program: (1) Is "equivalent" to the Federal program; (2) is "consistent" with the Federal program and other State programs; and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6926(b)). U.S. EPA regulations for final authorization appear at 40 CFR 271.1-271.24. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986, for a complete discussion of these procedures and deadlines.

B. Wisconsin

Wisconsin received final authorization of its hazardous waste program on January 31, 1986 (see 51 FR 3783, January 30, 1986). Today U.S. EPA is publishing a compliance schedule for Wisconsin to complete program revisions for the following Federal program requirements:

(1) Financial Responsibility; Settlement Agreement
(51 FR 16443-16459, May 2, 1986)
(2) Radioactive Mixed Waste
(51 FR 24504-24505, July 3, 1986)
(3) Liability Coverage-Corporate Guarantee
(51 FR 25350-25356, July 11, 1986)
(4) Hazardous Waste Tank Systems
(51 FR 25470-25486, July 14, 1986)
(5) Correction to Listing of Commercial Chemical Products and Appendix VIII Constituents
(51 FR 28296-28310, August 6, 1986)
(6) Correction to the Hazardous Waste Tank Systems Rule
(51 FR 29430-29431, August 15, 1986)
(7) Revised Manual SW-846 Amended Incorporation by Reference
(52 FR 8072-8073, March 16, 1987)
(8) Closure/Post-Closure Care for Interim Status Surface Impoundments
(52 FR 8704-8709, March 19, 1987)
(9) Definition of Solid Waste Technical Corrections
(52 FR 21306-21307, June 5, 1987)
(10) Amendments to Part B Information Requirements for Disposal Facilities
(52 FR 23447-23450, June 22, 1987)

Following is an explanation of why Wisconsin needs additional time to complete these program revisions.

The adoption deadline under 40 CFR 271.21 for Financial Responsibility; Settlement Agreement was July 1, 1987. In the preamble to the Federal rule (51 FR 16443-16459, May 2, 1986) and in other official U.S. EPA guidance, U.S. EPA indicated that certain provisions of this Federal rule were not required to maintain authorization, because those provisions were less stringent than pre-existing Federal rules. States are not required to make program revisions with respect to new Federal requirements which are less stringent than pre-existing Federal rules.

U.S. EPA has now determined that the preamble and the official U.S. EPA guidance mischaracterized certain Federal provisions as less stringent. Many of the Federal provisions that were mischaracterized are in fact more stringent than pre-existing Federal rules and, therefore, are required program revisions for authorization maintenance (see 53 FR 7740-7741, March 10, 1988).

When Wisconsin adopted rules analogous to the Federal rules, the State omitted those Federal provisions which were mischaracterized in the preamble and official U.S. EPA guidance as less stringent provisions. As a result, through no fault of its own, Wisconsin cannot receive authorization for Financial Responsibility—Settlement Agreement until it makes further program revisions in accordance with U.S. EPA's revised guidance. Wisconsin has agreed to make these additional program revisions.

The adoption deadline under 40 CFR 271.21 for the other Federal rules listed above was July 1, 1988. For the most part, State program revisions for these rules have been delayed because the State is currently reorganizing and recodifying its hazardous waste rules. This State effort should greatly enhance the public's ability to comprehend the requirements of Wisconsin's hazardous waste rules. In addition, some Federal rules other than those specified above, will be incorporated into the State rules as a part of this effort. For these reasons, U.S. EPA supports the State's reorganization and recodification effort and, therefore, has granted the State additional time to complete its program revisions.

The State has agreed to complete the needed program revisions according to the following schedule:

(1) Draft State rules, October 1988-March 1989.
(2) Submit draft State rules to U.S. EPA for review, December 1988 through March 1989.
(3) Hold a public hearing on the new State rules, April 15, 1989.
(4) Submit rule adoption request greensheet to appropriate State officials, July 1, 1989.
(5) Submit new State rules to the Wisconsin legislature for approval, August 31, 1989.

(6) New State rules become effective, December 31, 1989.

Wisconsin expects to submit an application to U.S. EPA for authorization of the above-mentioned program revisions by February 28, 1990.

Authority: This notice is issued under the authority of sections 200 (a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 89-9873 Filed 4-24-89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 721

[OPTS-50567B; FRL-3561-1]

Benzenamine, 4-Chloro-2-Methyl-; Benzenamine, 4-Chloro-2-Methyl, Hydrochloride; Benzenamine, 2-Chloro-6-Methyl-; Significant New Use of Chemical Substances; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in a Significant New Use Rule (SNUR) that was published in the **Federal Register** of March 27, 1989.

EFFECTIVE DATE: This document is effective April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M Street SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 27, 1989 (54 FR 12445), EPA issued a SNUR under section 5(a)(2) of the Toxic Substances Control Act which will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of benzenamine, 4-chloro-2-methyl-(CAS Number 95-69-2); benzenamine, 4-chloro-2-methyl-, hydrochloride (CAS Number 3165-93-3); or benzenamine, 2-chloro-6-methyl- (CAS Number 87-63-8) for any use. In the codified section of that document, the CAS Number for the chemical substance benzenamine, 2-chloro-6-methyl was incorrectly listed. This document corrects the typographical error that appeared in § 721.462(a)(1).

Dated: April 17, 1989.

Charles L. Elkins,

Director, Office of Toxic Substances.

Therefore, 40 CFR Part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for Part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

§ 721.462 [Amended]

2. In § 721.462(a)(1) by correcting the "CAS Number 87-63-6" to read "CAS Number 87-63-8".

[FR Doc. 89-9877 Filed 4-24-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6724

[AK-932-09-4214-10; AA-6047]

Partial Revocation of Powersite Classification No. 443 for Selection of Land by the State of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes Powersite Classification No. 443 of February 13, 1958, insofar as it effects approximately 1,800 acres at Caribou Creek. The land is no longer needed for the purpose for which it was withdrawn. This action will open the land for selection by the State of Alaska, if such land is otherwise available. If not selected by the State, the land will be subject to the terms and conditions of Public Land Order Nos. 5180 and 5186, both as amended. By virtue of overlapping withdrawals, the land has been and remains closed to surface entry, nonmetalliferous mining, and mineral leasing, but has been and remains open to metalliferous mining.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 West Seventh Street, No. 13, Anchorage, Alaska 99513-7599, 907-271-3342.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and by section 17(d)(1) of the Alaska Native Claims Settlement Act, 85 Stat. 708 and 709; 43 U.S.C. 1616(d)(1), it is ordered as follows:

1. Powersite Classification No. 443 is hereby revoked insofar as it affects the following described land:

Seward Meridian

Located within Tps. 20 and 21 N., R. 10 E., partially surveyed, and more particularly described as:

Beginning at a point on Caribou Creek approximately 4½ miles upstream from highway bridge on Glenn Highway, longitude 147°39'03" W., latitude 61°50'13" N. All lands upstream from this point below the 2,500 foot contour.

The area described contains approximately 1,800 acres.

2. Subject to valid existing rights, the land described above is hereby opened to selection by the State of Alaska under either the Alaska Statehood Act, 72 Stat. 339, *et seq.*; 48 U.S.C. prec. 21, or section 906(b) of the Alaska National Interest Lands Conservation Act, 94 Stat. 2371, 2437-2438; 43 U.S.C. 1635.

3. As provided by section 6(g) of the Alaska Statehood Act, the State of Alaska is provided a preference right of selection for the land described above, for a period of ninety-one (91) days from the date of publication of this order, if the land is otherwise available. Any of the land described herein that is not selected by the State of Alaska will be subject to the terms and conditions of Public Land Order Nos. 5180 and 5186, both as amended, and any other withdrawal of record.

Earl Gjelde,

Under Secretary of the Interior.

April 18, 1989.

[FR Doc. 89-9806 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-JA-M

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43 CFR Public Land Order 6725

[CO-930-09-4214-10; C-39289]

Withdrawal of Public Land for Cheney Reservoir Disposal Site; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 340 acres of public land from surface entry and mining for 5 years as requested by the Department of Energy to preserve and protect the Cheney Reservoir Disposal Site. The lands have been and continue to be open to mineral leasing.

EFFECTIVE DATE: April 18, 1989.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, 303-236-1768.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), to protect and preserve the Cheney Reservoir Disposal Site;

Ute Principal Meridian

T. 3 S., R. 2 E.,
Sec. 11, E½SE¼SW¼, S½SE¼;
Sec. 12, W½SW¼SW¼;
Sec. 13, W½NW¼SW¼;
Sec. 14, NE¼, E½E½NW¼.

The area described aggregates 340 acres of public land in Mesa County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws. This order does not transfer jurisdiction of this land from Department of the Interior to any other agency of the Federal Government.

3. This withdrawal will expire 5 years from the effective date of this order unless as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Earl Gjelde,
Under Secretary of the Interior.
April 18, 1989.
[FR Doc. 89-9808 Filed 4-24-89; 8:45 am]
BILLING CODE 4310-JB-M

43 CFR Public Land Order 6726

[CA-940-09-4214-10; CACA-19057]

Partial Revocation of Executive Order Dated July 2, 1910; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive order insofar as it affects 45.93 acres of public land withdrawn for Powersite Reserve No. 85. The land is no longer needed for the purpose for which it was withdrawn. This action will open the land to surface entry to permit consummation of a proposed land exchange. The land has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: May 25, 1989.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825, 916-978-4815.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order dated July 2, 1910, which withdrew public land for Powersite Reserve No. 85, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 36 N., R. 6 E.,
Sec. 3, lot 3.

The area described contains 45.93 acres in Lassen County.

2. At 10 a.m. on May 25, 1989, the land will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on May 29, 1989, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land remains open to the mining and mineral leasing laws.

Earl Gjelde,
Under Secretary of the Interior.
April 18, 1989.
[FR Doc. 89-9807 Filed 4-24-89; 8:45 am]
BILLING CODE 4310-40-M

43 CFR Public Land Order 6727

[AK-932-09-4214-10; F-14223]

Modification of Public Land Order No. 5150, as Amended; Classification and Opening of Land, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order modifies a public land order insofar as it affects 25.86 acres of public land withdrawn for a utility and transportation corridor. The land is located within the community of Wiseman, Alaska. This order also classifies the land as suitable for and opens the land to disposal by sale; however, this order does not otherwise change the provisions or limitations of Public Land Order Nos. 5150 and 5180, as amended, or other withdrawals of record.

EFFECTIVE DATE: May 25, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 West Seventh Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-3342.

By virtue of the authority vested in the Secretary of the Interior by section 17(d)(1) and section 22(h)(4) of the Alaska Native Claims Settlement Act, 85 Stat. 708 and 709, and 714; 43 U.S.C. 1616(d)(1) and 1621(h)(4), it is ordered as follows:

1. Public Land Order No. 5150, as amended, which withdrew public land for a utility and transportation corridor, is hereby modified to allow for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2750; 43 U.S.C. 1713, insofar as it affects the following described land:

Wiseman, Alaska

U.S. Survey No. 5276, lots 1 to 17, inclusive, and lots 19 to 26, inclusive.

The area described contains 25.86 acres.

2. Subject to valid existing rights, the land described above is hereby classified, pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act, as suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976.

3. At 10 a.m. on May 25, 1989, the land described above will be opened to disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976.

4. This order does not change any provisions or limitations of Public Land Order Nos. 5150 and 5180, as amended, or any other withdrawals of record except as expressly provided above.

Earl Gjelde,
Under Secretary of the Interior.
April 18, 1989.
[FR Doc. 89-9810 Filed 4-24-89; 8:45 am]
BILLING CODE 4310-JA-M

43 CFR Public Land Order 6728

[MT-930-09-4214-10; SDM-42954]

Partial Revocation of Public Land Order No. 725; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes Public Land Order No. 725 insofar as it affects 100 acres of National Forest System land used for the Dark Canyon Administrative Site. The land is no longer needed for an administrative site. This action is needed to permit an exchange. The land will be opened to such forms of disposition as may by law be made of National Forest System land

and to mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: May 25, 1989.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–657–6090.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 725 which withdrew National Forest System land for the Forest Service's Dark Canyon Administrative Site is hereby revoked insofar as it affects the following described land:

Black Hills, Meridian

T. 1 N., R. 6 E.,
Sec. 13, NW¼ NE¼, NE¼ NW¼ and E½ NW¼ NW¼.

The area described contains 100 acres in Pennington County.

At 9 a.m. on May 25, 1989, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, including location and entry under the United States mining laws. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

April 18, 1989.

Earl Gjelde,

Under Secretary of the Interior

[FR Doc. 89–9809 Filed 4–24–89; 8:45 am]

BILLING CODE 4310–DN–M

43 CFR Public Land Order 6729

[AZ–920–09–4214–10; A–6641]

Modification of Secretarial Order Dated July 10, 1908, as Amended; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies Secretarial Order of July 10, 1908, insofar as it affects 6.09 acres of public land withdrawn for use by the United States Forest Service as a part of the Sedona Administrative Site. This 6.09 acres has been identified for disposal by exchange, pursuant to the General Exchange Act of March 20, 1922, as amended and supplemented, and section 206 of the Federal Land Policy and Management Act. The land described below will be opened to disposal by exchange but will remain closed to all other forms of surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: May 25, 1989.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, (602) 241–5531.

By virtue of the authority vested in the Secretary of the Interior by section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, *it is ordered as follows:*

1. The Secretarial Order dated July 10, 1908, which withdrew public land for the United States Forest Service's Sedona Administrative site is hereby modified to allow for the disposal by exchange pursuant to the General Exchange Act of March 20, 1922, and section 206 of the Federal Land Policy and Management Act, 90 Stat. 2756; 43 U.S.C. 1716. The affected land is described as follows:

Gila and Salt River Meridian

T. 17 N., R. 6 E.,
Sec. 7, NE¼SW¼SW¼SE¼, NW¼SE¼ SW¼SE¼, W½W½NE¼SE¼SW¼ SE¼ NW¼NW¼SE¼SE¼SW¼SE¼, N½NE¼SW¼SE¼SW¼SE¼.

The area described contains 6.09 acres in Coconino County.

2. At 9:00 a.m. on May 25, 1989, the land described in paragraph 1 will be opened to such forms of exchange as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. The land will remain closed to mining entry. The land has been and will remain open to mineral leasing.

April 18, 1989.

Earl Gjelde,

Under Secretary of the Interior.

[FR Doc. 89–9811 Filed 4–24–89; 8:45 am]

BILLING CODE 4310–32–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[DA 89–312]

Recognizing Certain Radio Astronomy Observatories in the 1350–1400 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action the Commission is amending § 2.106, 47 CFR Part 2 by adding a new United States footnote to recognize specific radio astronomy observatories in the 1350–1400 MHz band. This footnote will urge Government administrations to exercise caution when making new assignments that may affect astronomy observations.

EFFECTIVE DATE: April 25, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Damon C. Ladson, Frequency Allocations Branch, Office of Engineering and Technology, (202) 653–8106.

SUPPLEMENTARY INFORMATION: This is a summary of the commission's order, DA 89–312, adopted March 3, 1989, and released April 12, 1989.

The full text of the Commission decisisions available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street Northwest, Suite 140, Washington, DC 20037.

Summary Of Order

1. The Commission is amending § 2.106, 47 CFR Part 2, by adding a new United States footnote to recognize certain radio astronomy observatories operating in the 1350–1400 MHz band. This band is allocated to the Government radiolocation service on a primary basis and Government fixed and mobile services on a secondary basis. There is no non-Government allocation in this band.

2. The new footnote, US311, will urge Government administrations to exercise caution when making assignments in this band that may affect radio astronomy observatories. The footnote also lists radio astronomy observatories that may be affected. No other non-

Government entities are affected by the new footnote.

Federal Communications Commission.

Thomas P. Stanley,

Chief Engineer.

List of Subjects in 47 CFR Part 2

Radio.

Rule Changes

Part 2 of the Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation in Part 2 continues to read as follows:

Authority: Sec. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended by listing footnote US311 in column 4 for the 1350–1400 MHz band and adding the text of footnote US311 to the list of footnotes at the end of the table as follows:

§ 2.106 Table of Frequency Allocations.

United States table	
Government Allocation (MHz)	(4)
* * *	
1350–1400	
RADIOLOCATION.	
Fixed.	
Mobile.	
714 718 720	
G2 G27 G114	
US311	
* * *	

* * * * *

United States (US) Footnotes

* * * * *

US311—Radio astronomy observations may be made in the 1350–1400 MHz band on an unprotected basis at certain Radio Astronomy Observatories indicated below:

National Astronomy and Ionosphere Center, Arecibo, Puerto Rico

Rectangle between latitudes 17° 30′ N and 19° 00′ N and between longitudes 65° 10′ W and 68° 00′ W.

National Radio Astronomy Observatory, Socorro, New Mexico

Rectangle between latitudes 32° 30′ N and 35° 30′ N and between longitudes 106° 00′ W and 109° 00′ W.

National Radio Astronomy Observatory, Green Bank, West Virginia

Rectangle between latitudes 37° 30′ N and 39° 15′ N and between longitudes 78° 30′ W and 80° 30′ W.

National Radio Astronomy Observatory 50 mile radius circles centered on:

Very long baseline array stations	Latitude (North)	Longitude (West)
Pie Town, NM	34° 18′	108° 07′
Kitt Peak, AZ	31° 57′	111° 37′
Los Alamos, NM	35° 47′	106° 15′
Fort Davis, TX	30° 38′	103° 57′
North Liberty, IA	41° 46′	91° 34′
Brewster, WA	48° 08′	119° 41′
Owens Valley, CA	37° 14′	118° 17′
Saint Croix, VI	17° 46′	64° 35′
Mauna Kea, HI	19° 49′	155° 28′
Hancock, NH	42° 56′	71° 59′

Every practicable effort will be made to avoid the assignment of frequencies in the band 1350–1400 MHz to stations in the fixed and mobile services which could interfere with radio astronomy observations within the geographic areas.

[FR Doc. 89-9658 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2 and 15

[GEN Docket No. 87-389, FCC 89-103]

Operation of Radio Frequency Devices Without an Individual License

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts a comprehensive revision of the technical and administrative provisions for the operation of a Part 15, non-licensed radio frequency device. This item standardizes the emission limitations between various devices and establishes a number of general usage frequency bands. These standards are designed to minimize the potential that Part 15 devices will cause interference to the authorized radio services. Further, these standards will permit the manufacture of many new types of devices that can be operated without obtaining a license from the Commission.

EFFECTIVE DATE: June 23, 1989.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Technical Standards Branch, Office of Engineering and Technology, (202) 653–7313.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in Gen. Docket No. 87–389, FCC 89–103, Adopted March 30, 1989, and Released April 18, 1989.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

The public reporting burden for these collections of information is estimated to vary from 2.5 to 30 hours per response, with an average of 18 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060–0329; 3060–0397; 3060–0398), Washington, DC 20503.

Summary of the Report and Order

1. The Commission has permitted the non-licensed operation of certain types of radio frequency (RF) devices, such as receivers and low power transmitters, for approximately 50 years. The regulations governing such devices are set forth in Part 15 of the rules and are designed in such a manner as to reduce the probability of interference being caused to the authorized radio services. The original regulations were based on a general field strength limit. As devices were designed to operate at higher frequencies, this standard was found to be too restrictive. Since that time, the Commission has adopted numerous amendments to the Part 15 rules to enable the operation of specific new types of devices in response to petitions for rule making. This ad hoc approach of adopting device-specific regulations has resulted in a number of inconsistencies and inequities in the technical standards, generally as a result of the timing of the petitions. Because the rules now require compliance with specific definitional and operational restrictions, they no longer provide the flexibility they were originally intended to provide. In addition, the standards need to protect against interference have changed over the years due to

improvements in the sensitivity of equipment used in the licensed services, the increased proliferation of licensed and non-licensed operations, and changes in frequency allocations.

2. The Part 15 regulatory plan being adopted in this Report and Order is designed to restore the technical flexibility originally envisioned for the operation of non-licensed devices, enabling manufacturers to market new RF devices without waiting for the conclusion of rule making considering the interference potential of the devices. We expect the new rules to encourage the development of significant numbers of new types of low power RF systems and devices to meet the strong consumer demand for this type of equipment.

3. To the extent possible, we have eliminated all unnecessary and overly restrictive regulations by adopting minimal standards on operational frequencies, bandwidth, modulation techniques and other parameters. We also have carefully considered the concerns of commenting parties who argue that expanded operation of Part 15 devices could lead to increases in the level of background RF "noise" that tends to cause interference to authorized services that depend on reception of very low level signals. In some instances, the decision to permit greater flexibility required a further reduction in the levels of unwanted emissions. In a few instances, we have taken this opportunity to adopt more restrictive standards on the permitted levels of unwanted emissions in order to provide a "cleaner" RF environment. However, we have provided a liberal transition period, permitting the continued manufacture and importation of equipment under the former regulations for five years for most RF devices. Receivers may be manufactured and imported under the former regulations for ten years unless the receiver is associated with a transmitter that could not have been authorized under the former regulations.

4. The following is a brief summary of some of the more substantial changes to the regulations:

—With certain exemptions, radiated field strength limits below 1000 MHz are specified using measurement instrumentation with a CISPR quasi-peak detector; radiated emission limits above 1000 MHz are specified using measurement instrumentation with an average detector; and, in those instances where use of average detectors are permitted, a limit on peak emissions corresponding to 20 dB above the maximum permitted average emission level is specified;

–A power line conducted limit of 250 uV in the frequency range of 450 kHz to 30 MHz, as measured with a 50 ohm/50 uH LISN and a CISPR quasi-peak detector, is adopted for all devices except carrier current systems operating within that frequency band and Class A digital devices;

–Receivers operating within the frequency ranges of 901–935 MHz and 940–960 MHz will be subject to the regulations; further, the frequency range over which emissions from the receivers must be measured is expanded for some devices and reduced for others;

–The emission limits for unintentional radiators, e.g. receivers, are reduced to the emission limits currently applied to Class B computing devices for the frequency range of 30 to 960 MHz and to 500 uV/m at 3 meters for frequencies above 960 MHz;

–New general operation bands are established at 13.553–13.567 MHz, 26.96–27.28 MHz, 40.66–40.70 MHz, 902–928 MHz, 2400–2483.5 MHz, 5725–5875 MHz, and 24.0–24.25 GHz; and,

–The emission limits for intentional radiators, i.e. transmitters, operating under the general provisions are as follows:

Band of operation (MHz)	Emission limit (μV/m)	Measurement distance (meters)
0.009–0.490	2400/F (in kHz)	300
0.490–1.705	24000/F (in kHz)	30
1.705–30	30	30
30–88	100[1]	3
88–216	150[1]	3
216–960	200[1]	3
Above 960	500	3

[1] NOTE: Except for non-residential perimeter protection systems operating in the bands 54–72 MHz or 76–88 MHz, operation under the general limits in the television broadcast bands is not permitted.

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, this proceeding will have a significant economic impact on a number of small entities. By providing the regulatory flexibility needed to permit general operation frequency bands, this action is expected to foster an effective competitive marketplace in the area of low power telecommunications, providing small entities, the opportunity to develop systems that were not previously permitted under the regulations. Some standards regarding spurious and other undesired emissions from receivers and certain transmitters are tightened. The manufacturers of certain transmitters also may be impacted by the addition of restricted frequency bands. The rules as herein amended will continue to provide for marketing of radio frequency equipment subject to the Commission's equipment authorization procedures.

6. Accordingly, *it is ordered* That under the authority contained in Sections 4(i), 301, 302, 303(e), 303(f), 303(r), 303(s), 304 and 307 of the Communications Action of 1934, as amended, Parts 2 and 15 of the Commission's Rules and Regulations are amended as set forth below. These rules and regulations are effective June 23, 1989.

List of Subjects

47 CFR Part 2

Communications equipment, Imports, Radio, Reporting and recordkeeping requirements, Television.

47 CFR Part 15

Communications equipment, Computer technology, Labeling, Radio, Reporting and recordkeeping requirements, Security measures, Telephone, Wiretapping, Electronic surveillance

Rule Changes

A. Title 47 of the Code of Federal Regulations, Part 2, is amended as follows:

PART 2—[AMENDED]

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, and 307, unless otherwise noted.

2. Section 2.801 is amended by revising paragraph (b) to read as follows:

§ 2.801 Radiofrequency device defined.

* * * * *

(b) The incidental, unintentional and intentional radiators defined in Part 15 of this chapter.

* * * * *

3. Section 2.805 is revised to read as follows:

§ 2.805 Equipment that does not require Commission approval.

In the case of a radiofrequency device that, in accordance with the rules in this chapter, does not have to have a grant of equipment authorization issued by the Commission, e.g., a device subject to verification, but, nevertheless, must comply with specified technical standards prior to use, no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purposes of selling or leasing or offering for sale or lease, any such

radiofrequency device unless, prior thereto, such device complies with the applicable administrative and technical provisions (including verification of the equipment, where required) specified in the Commission's rules.

4. Section 2.806 is revised in its entirety to read as follows:

§ 2.806 Exemption for a digital device.

(a) Notwithstanding the provisions in § 2.805, the announcement and offer for sale of a digital device, subject to verification under the provisions in Part 15 of this chapter, that is in the conceptual, developmental, design or preproduction stage is permitted prior to verification of compliance *Provided* the prospective buyer is advised in writing at the time of announcement or offer for sale that such equipment is subject to the FCC rules and that such equipment shall comply with the appropriate FCC rules before final delivery to the buyer or to centers of distribution.

(b) Parties responsible for verification of Class A digital devices, as defined in Part 15 of this chapter, shall have the option of ensuring compliance with the applicable technical specifications of this chapter at each end user's location after installation, provided that the purchase or lease agreement includes a proviso that such a determination of compliance be made and is the responsibility of the party responsible for verification of the equipment.

(c) A digital device subject to the provisions of this chapter may be operated prior to a determination of compliance under the following conditions:

(1) Any digital device may be operated for the purpose of compliance testing.

(2) Any digital device may be operated for the purpose of demonstration at a trade show provided there is displayed a conspicuous notice that the device has not been tested for compliance. If a digital device subject to verification is offered for sale or lease at the show, the provisions of § 2.806(a) shall apply. A digital device subject to a grant of equipment authorization from the Commission may not be offered for sale or lease prior to issuance of the grant of authorization by the FCC, but may be advertised or displayed as provided by § 2.803.

(3) Any digital device may be operated at the manufacturer's facilities during developmental, design or preproduction states for evaluation of product performance and determination of customer acceptability.

(4) Where customer acceptability of a Class A digital device cannot be determined at the manufacturer's facilities because of size or unique capability of the device, that device may be operated at the user's site during development, design or preproduction stages for evaluation of product performance and determination of customer acceptability.

(5) For the purpose of paragraphs (c)(3) and (c)(4) of this section, the manufacturer's facilities are considered to include the facilities of the party responsible for compliance with the regulations, the manufacturer, and other entities working under the authorization of the responsible party in connection with the development and manufacture, but not marketing, of the equipment.

§ 2.909 [Redesignated as § 2.911]

5. Section 2.909 is redesignated as § 2.911.

§ 2.910 [Redesignated as § 2.913]

6. Section 2.910 is redesignated as § 2.913.

7. A new § 2.909 is added before the heading "Application Procedures for Equipment Authorizations", to read as follows:

§ 2.909 Responsible party.

The following parties are responsible for the compliance of radiofrequency equipment with the applicable technical standards after a grant of equipment authorization is issued by the Commission or the equipment is verified:

(a) In the case of equipment which requires the issuance by the Commission of a grant of equipment authorization, the party to whom that grant of authorization is issued (the grantee).

(b) In the case of equipment subject to authorization under the verification procedure, the manufacturer or, in the case of imported equipment, the importer.

8. A new § 2.948 is added to read as follows:

§ 2.948 Description of measurement facilities.

(a) Each party making measurements of equipment that is subject to an equipment authorization under Part 15 or Part 18 of this chapter, regardless of whether the measurements are filed with the Commission or kept on file by the party responsible for compliance of equipment marketed within the U.S. or its possessions, shall compile a description of the measurement facilities employed.

(1) If the measured equipment is subject to the verification procedure, the description of the measurement facilities shall be retained by the party responsible for verification of the equipment.

(i) If the equipment is verified through measurements performed by an independent laboratory, it is acceptable for the party responsible for verification of the equipment to rely upon the description of the measurement facilities retained by or placed on file with the Commission by that laboratory. In this situation, the party responsible for verification of the equipment is not required to retain a duplicate copy of the description of the measurement facilities.

(ii) If the equipment is verified based on measurements performed at the installation site of the equipment, no specific site calibration data is required. It is acceptable to retain the description of the measurement facilities at the site at which the measurements were performed.

(2) If the equipment is to be authorized by the Commission under the certification or the notification procedure, the description of the measurement facilities shall be filed with the Commission's Laboratory in Columbia, Maryland. The data describing the measurement facilities need only be filed once but must be updated as changes are made to the measurement facilities or as otherwise described in this Section. At least every three years, the organization responsible for filing the data with the Commission shall certify that the data on file is current.

(b) The description shall contain the following information:

(1) Location of the test site.

(2) Physical description of the test site accompanied by photographs 8" x 10" in size. Smaller photographs may be used if they clearly show the details of the test site and are mounted on full size sheets of paper.

(3) A drawing showing the dimensions of the site, physical layout of all supporting structures, and all structures within 5 times the distance between the measuring antenna and the device being measured.

(4) Description of structures used to support the device being measured and the test instrumentation.

(5) List of measuring equipment used.

(6) Information concerning the calibration of the measuring equipment, i.e., the date the equipment was last calibrated and how often the equipment is calibrated.

(7) If desired, a statement as to whether the test site is available to do measurement services for the public on a fee basis.

(8) A plot of site attenuation data taken pursuant to FCC Bulletin OET 55 using a tuned dipole antenna (this provision does not apply to equipment that is not measured on an open field test site).

(9) A description of the types of equipment intended to be measured or other information regarding the types of measurements that would be performed at the test facility.

(c) The Commission will publish a list of those parties who have filed the information required by this section, provided they indicate that they wish to perform measurement services for the public on a fee basis. However, it should be noted that the Commission does not endorse or approve any facility on this list.

9. Section 2.955 is amended by adding new paragraphs (a)(3) and (a)(4) to read as follows:

§ 2.955 Retention of records.

(a) * * *

(3) A record of the measurements made on an appropriate test site that demonstrates compliance with the applicable regulations. The record shall identify the measurement procedure that was used and shall include all the data required to show compliance with the appropriate regulations.

(4) For equipment subject to the provisions in Part 15 of this chapter, the records shall indicate if the equipment was verified pursuant to the transition provisions contained in § 15.37 of this chapter.

* * * * *

10. Section 2.975 is amended by revising paragraph (a)(5) and by adding new paragraphs (a)(7), (f) and (g) to read as follows:

§ 2.975 Application for notification.

(a) * * *

(5) For devices operated under the provisions of Part 15 of this chapter, photographs showing the general appearance and the controls available to the user. Photographs should be 8 by 10 inches in size. Smaller photographs may be submitted provided they are sharp and clear, show the necessary detail, and are mounted on paper between 8 by 10½ inches and 8½ by 11 inches. Line sketches may be submitted in lieu of photographs provided those sketches are sufficiently detailed to allow identification of the equipment. For devices operated under the provisions of any other part and where it is specifically required under the rule section(s) under which the device is to be operated, photographs of the equipment of sufficient clarity to reveal its external appearances and size, both front and back;

* * * * *

(7) For equipment subject to the provisions of Part 15 of this chapter, the application shall indicate if the equipment is being authorized pursuant to the transition provisions in § 15.37 of this chapter.

* * * * *

(f) For a composite system that incorporates only devices subject to certification, verification and/or notification and that are contained in a single enclosure, a separate application, FCC Form 731, with the appropriate fee shall be submitted for each type of device within the enclosure. At the option of the applicant, a single FCC identifier may be requested for that system. Fees are based on the number of devices and types of authorizations.

(g) The records of measurement data, measurement procedures, photographs, circuit diagrams, etc. for the device to which the application applies shall be retained for two years after the manufacture of said equipment has been permanently discontinued, or until the conclusion of an investigation or proceeding if the holder of the grant of equipment authorization is officially notified that an investigation or any other administrative proceeding involving the equipment has been instituted.

11. Section 2.1033 is amended by revising paragraphs (b) and (c) to read as follows:

§ 2.1033 Application for certification.

* * * * *

(b) The application shall be accompanied by a technical report containing the following information:

(1) The full name and mailing address of the manufacturer of the device and the applicant for certification.

(2) FCC identifier.

(3) A copy of the installation and operating instructions to be furnished the user. A draft copy of the instructions may be submitted if the actual document is not available. The actual document shall be furnished to the FCC when it becomes available.

(4) A brief description of the circuit functions of the device along with a statement describing how the device operates. This statement should contain a description of the ground system and antenna, if any, used with the device.

(5) A block diagram showing the frequency of all oscillators in the device. The signal path and frequency shall be indicated at each block. The tuning range(s) and intermediate frequency(ies) shall be indicated at each block. A schematic diagram also is required for intentional radiators.

(6) A report of measurements of radiated and conducted emissions. This shall identify the test procedure used (e.g., indicate the FCC test procedure used or, if an alternate test procedure was used, a description of the test procedure and the reason it was necessary to use an alternate procedure), the date the measurements were made, the location where the measurements were made, and the device tested (model and serial number, if available). It shall also include a sample calculation showing how the obtained measurements were converted to the levels specified in the applicable rule sections.

(7) A sufficient number of photographs to clearly show the exterior appearance, the construction, the component placement on the chassis, and the chassis assembly. The exterior views shall show the overall appearance, the antenna used with the device (if any), the controls available to the user, and the required identification label in sufficient detail so that the name and FCC identifier can be read. In lieu of a photograph of the label, a sample label (or facsimile thereof) may be submitted together with a sketch showing where this label will be placed on the equipment. Photographs shall be 8 by 10 inches in size. Smaller photographs may be submitted provided they are sharp and clear, show the necessary detail, and are mounted on paper between 8 by 10½ inches and 8½ by 11 inches in size. A sample label or facsimile together with the sketch showing the placement of this label shall be on the same size paper.

(8) If the equipment for which certification is being sought must be tested with peripheral or accessory devices connected or installed, a brief description of those peripherals or accessories. The peripheral or accessory devices shall be unmodified, commercially available equipment.

(9) For equipment subject to the provisions of Part 15 of this chapter, the application shall indicate if the equipment is being authorized pursuant to the transition provisions in § 15.37 of this chapter.

(10) For a device used in decoding the Emergency Broadcast System Attention Signal, as defined in § 73.906 of this chapter, the value of the necessary voltage (RMS) or range of voltages of the attention signal to be applied to the input terminals of the decoder which will cause the desired-response of the device. In the event that input signals other than the attention signal

(excluding signals which in combination form the attention signal), including signals outside this voltage range, will cause false responses by the device, a description of such signals and their input voltage levels that cause such false responses shall be specified in the application and appropriate warnings shall be included in the instructions furnished to the user. The susceptibility of the device to false responses and any lack of reliability in responding to the attention signal at input levels within the rated voltage range may be regarded by the Commission as cause to deny certification.

(c) For a composite system that incorporates only devices subject to certification, verification and/or notification and that are contained in a single enclosure, a separate application, FCC Form 731, shall be submitted with the appropriate fee for each type of device within the enclosure. At the option of the applicant, a single FCC identifier may be requested for that system. Fees are based on the number of devices and types of authorizations.

12. Section 2.1043 is amended by revising paragraphs (a) and (c) and adding a new paragraph (b)(3) to read as follows:

§ 2.1043 Changes in certificated equipment.

(a) Changes to the basic frequency determining and stabilizing circuitry (including clock or data rates), frequency multiplication stages, basic modulator circuit or maximum power or field strength ratings shall not be performed without application for and authorization of a new grant of certification. Variations in electrical or mechanical construction, other than these indicated items, are permitted provided the variations either do not affect the characteristics required to be reported to the Commission or the variations are made in compliance with the other provisions of this section.

(b) * * *

(3) Permissive changes, as detailed above, shall be made only by the holder of the grant of certification. Changes by any party other than the grantee require a new application for and grant of certification.

(c) A grantee desiring to make a change other than a permissive change shall file an application on FCC Form 731 accompanied by the required fees. The grantee shall attach a description of the change(s) to be made and a statement indicating whether the change(s) will be made in all units (including previous production) or will be made only in those units produced after the change is authorized.

* * * * *

13. Section 2.1201 is amended by adding a new paragraph (c) after the Note to read as follows:

§ 2.1201 Purpose.

* * * * *

(c) The provisions of this Subpart shall not apply to musical greeting cards, quartz watches and clocks, modules of quartz watches and clocks, radio frequency devices (including digital devices) whose radio frequency stage has a power consumption not exceeding 6 nW, hand-held calculators and electronic games that do not require connection to the AC power lines, and digital devices in which both the highest frequency generated and the highest frequency used are less than 1.705 MHz and that do not operate from the AC power lines or contain provisions for operation while connected to the AC power lines.

B. Title 47 of the Code of Federal Regulations, Part 15, is amended as follows:

1. Part 15 is revised in its entirety to read as follows:

PART 15—RADIO FREQUENCY DEVICES

Subpart A—General

Sec.

15.1 Scope of this part.
15.3 Definitions.
15.5 General conditions of operation.
15.7 Special temporary authority.
15.9 Prohibition against eavesdropping.
15.11 Cross reference.
15.13 Incidental radiators.
15.15 General technical requirements.
15.17 Susceptibility to interference.
15.19 Labelling requirements.
15.21 Information to user.
15.23 Home-built devices.
15.25 Kits.
15.27 Special accessories.
15.29 Inspection by the Commission.
15.31 Measurement standards.
15.33 Frequency range of radiated measurements.
15.35 Emission limits.
15.37 Transition provisions for compliance with the rules.

Subpart B—Unintentional Radiators

15.101 Equipment authorization of unintentional radiators.
15.103 Exempted devices.
15.105 Information to the user.
15.107 Conducted limits.
15.109 Radiated emission limits.
15.111 Antenna power conduction limits for receivers.
15.113 Power line carrier systems.
15.115 TV interface devices, including cable system terminal devices.
15.117 TV broadcast receivers.

Subpart C—Intentional Radiators

Sec.

15.201 Equipment authorization requirement.
15.203 Antenna requirement.
15.205 Restricted bands of operation.
15.207 Conducted limits.
15.209 Radiated emission limits, general requirements.
15.211 Tunnel radio systems.
15.213 Cable locating equipment.

Radiated Emission Limits, Additional Provisions

15.215 Additional provisions to the general radiated emission limitations.
15.217 Operation in the band 160–190 kHz.
15.219 Operation in the band 510–1705 kHz.
15.221 Operation in the band 525–1705 kHz.
15.223 Operation in the band 1.705–10 MHz.
15.225 Operation within the band 13.553–13.567 MHz.
15.227 Operation within the band 26.96–27.28 MHz.
15.229 Operation within the band 40.66–40.70 MHz.
15.231 Periodic operation in the band 40.66–40.70 MHz and above 70 MHz.
15.233 Operation within the bands 46.60–46.98 MHz and 49.66–50.0 MHz.
15.235 Operation within the band 49.82–49.90 MHz.
15.237 Operation in the bands 72.0–73.0 MHz and 75.4–76.0 MHz.
15.239 Operation in the band 88–108 MHz.
15.241 Operation in the band 174–216 MHz.
15.243 Operation in the band 890–940 MHz.
15.245 Operation within the bands 902–928 MHz, 2435–2465 MHz, 5785–5815 MHz, 10500–10550 MHz, and 24075–24175 MHz.
15.247 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz.
15.249 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, 5725–5875 MHz, and 24.0–24.25 GHz.
15.251 Operation within the bands 2.9–3.26 GHz, 3.267–3.332 GHz, 3.339–3.3458 GHz, and 3.358–3.6 GHz.

Authority: Sec. 4, 302, 303, 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, 304, and 307.

Subpart A—General

§ 15.1 Scope of this part.

(a) This part sets out the regulations under which an intentional, unintentional, or incidental radiator may be operated without an individual license. It also contains the technical specifications, administrative requirements and other conditions relating to the marketing of Part 15 devices.

(b) The operation of an intentional or unintentional radiator that is not in accordance with the regulations in this part must be licensed pursuant to the provisions of section 301 of the Communications Act of 1934, as amended, unless otherwise exempted from the licensing requirements elsewhere in this chapter.

(c) Unless specifically exempted, the operation or marketing of an intentional or unintentional radiator that is not in compliance with the administrative and technical provisions in this part, including prior Commission authorization or verification, as appropriate, is prohibited under section 302 of the Communications Act of 1934, as amended, and Subpart I of Part 2 of this chapter. The equipment authorization and verification procedures are detailed in Subpart J of Part 2 of this chapter.

§ 15.3 Definitions.

(a) *Auditory assistance device.* An intentional radiator used to provide auditory assistance to a handicapped person or persons. Such a device may be used for auricular training in an education institution, for auditory assistance at places of public gatherings, such as a church, theater, or auditorium, and for auditory assistance to handicapped individuals, only, in other locations.

(b) *Biomedical telemetry device.* An intentional radiator used to transmit measurements of either human or animal biomedical phenomena to a receiver.

(c) *Cable input selector switch.* A transfer switch that is intended as a means to alternate between the reception of broadcast signals via connection to an antenna and the reception of cable television service.

(d) *Cable locating equipment.* An intentional radiator used intermittently by trained operators to locate buried cables, lines, pipes, and similar structures or elements. Operation entails coupling a radio frequency signal onto the cable, pipes, etc. and using a receiver to detect the location of that structure or element.

(e) *Cable system terminal device (CSTD).* A TV interface device that serves, as its primary function, to connect a cable system operated under Part 76 of this chapter to a TV broadcast receiver or other subscriber premise equipment. Any device which functions as a CSTD in one of its operating modes must comply with the technical requirements for such devices when operating in that mode.

(f) *Carrier current system.* A system that transmits radio frequency energy by conduction over the electric power lines. A carrier current system can be designed such that the signals are received by conduction directly from connection to the electric power lines (unintentional radiator) or the signals are received over-the-air due to radiation of the radio frequency signals from the electric power lines (intentional radiator).

(g) *CB receiver.* Any receiver that operates in the Personal Radio Services on frequencies allocated for Citizens Band (CB) Radio Service stations, as well as any receiver provided with a separate band specifically designed to receive the transmissions of CB stations in the Personal Radio Services. This includes the following: (1) A CB receiver sold as a separate unit of equipment; (2) the receiver section of a CB transceiver; (3) a converter to be used with any receiver for the purpose of receiving CB transmissions; and, (4) a multiband receiver that includes a band labelled "CB" or "11-meter" in which such band can be separately selected, except that an Amateur Radio Service receiver that was manufactured prior to January 1, 1960, and which includes an 11-meter band shall not be considered to be a CB receiver.

(h) *Class A digital device.* A digital device that is marketed for use in a commercial, industrial or business environment, exclusive of a device which is marketed for use by the general public or is intended to be used in the home.

(i) *Class B digital device.* A digital device that is marketed for use in a residential environment notwithstanding use in commercial, business and industrial environments. Examples of such devices include, but are not limited to, personal computers, calculators, and similar electronic devices that are marketed for use by the general public.

Note: The responsible party may also qualify a device intended to be marketed in a commercial, business or industrial environment as a Class B device, and in fact is encouraged to do so, provided the device complies with the technical specifications for a Class B digital device. In the event that a particular type of device has been found to repeatedly cause harmful interference to radio communications, the Commission may classify such a digital device as a Class B digital device, regardless of its intended use.

(j) *Cordless telephone system.* A system consisting of two transceivers, one a base station that connects to the public switched telephone network and the other a mobile handset unit that communicates directly with the base station. Transmissions from the mobile unit are received by the base station and then placed on the public switched telephone network. Information received from the switched telephone network is transmitted by the base station to the mobile unit.

Note: The Domestic Public Cellular Radio Telecommunications Service is considered to be part of the switched telephone network. In addition, intercom and paging operations are permitted provided these are not intended to be the primary modes of operation.

(k) *Digital device.* (Previously defined as a computing device). An unintentional radiator (device or system) that generates and uses timing signals or pulses at a rate in excess of 9,000 pulses (cycles) per second and uses digital techniques; inclusive of telephone equipment that uses digital techniques or any device or system that generates and uses radio frequency energy for the purpose of performing data processing functions, such as electronic computations, operations, transformations, recording, filing, sorting, storage, retrieval, or transfer. A radio frequency device that is specifically subject to an emanation requirement in any other FCC Rule part or an intentional radiator subject to Subpart C of this part that contains a digital device is not subject to the standards for digital devices, provided the digital device is used only to enable operation of the radio frequency device and the digital device does not control additional functions or capabilities.

Note: Computer terminals and peripherals that are intended to be connected to a computer are digital devices.

(l) *Field disturbance sensor.* A device that establishes a radio frequency field in its vicinity and detects changes in that field resulting from the movement of persons or objects within its range.

(m) *Harmful interference.* Any emission, radiation or induction that endangers the functioning of a radio navigation service or of other safety services or seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with this chapter.

(n) *Incidental radiator.* A device that generates radio frequency energy during the course of its operation although the device is not intentionally designed to generate or emit radio frequency energy. Examples of incidental radiators are dc motors, mechanical light switches, etc.

(o) *Intentional radiator.* A device that intentionally generates and emits radio frequency energy by radiation or induction.

(p) *Kit.* Any number of electronic parts, usually provided with a schematic diagram or printed circuit board, which, when assembled in accordance with instructions, results in a device subject to the regulations in this part, even if additional parts of any type are required to complete assembly.

(q) *Perimeter protection system.* A field disturbance sensor that employs leaky cables as the radiating source. These cables are installed in a manner

that allows the system to detect movement within the protected area.

(r) *Peripheral device.* An input/output unit of a system that feeds data into and/or receives data from the central processing unit of a digital device. Peripherals to a digital device include any device that is connected external to the digital device, any device internal to the digital device that connects the digital device to an external device by wire or cable, and any circuit board or card designed for interchangeable mounting, internally or externally, that increases the operating or processing speed of a digital device, e.g., "turbo cards" and "enhancement boards". Examples of peripheral devices include terminals, printers, external floppy disk drives and other data storage devices, video monitors, keyboards, control cards, interface boards, external memory expansion cards and other input/output devices that may or may not contain digital circuitry. However, an internal device that contains the central processing unit of a digital device is not a peripheral even though such a device may connect to an external keyboard or other components.

(s) *Personal computer.* An electronic computer that is marketed for use in the home, notwithstanding business applications. Such computers are considered Class B digital devices. Computers which use a standard TV receiver as a display device or meet all of the following conditions are considered examples of personal computers:

(1) Marketed through a retail outlet or direct mail order catalog.

(2) Notices of sale or advertisements are distributed or directed to the general public or hobbyist users rather than restricted to commercial users.

(3) Operates on a battery or 120 volt electrical supply.

If the responsible party can demonstrate that because of price or performance the computer is not suitable for residential or hobbyist use, it may request that the computer be considered to fall outside of the scope of this definition for personal computers.

(t) *Power line carrier systems.* An unintentional radiator employed as a carrier current system used by an electric power utility entity on transmission lines for protective relaying, telemetry, etc. for general supervision of the power system. The system operates by the transmission of radio frequency energy by conduction over the electric power transmission lines of the system. The system does not include those electric lines which connect the distribution substation to the customer or house wiring.

(u) *Radio frequency (RF) energy.* Electromagnetic energy at any frequency in the radio spectrum between 9 kHz and 3,000,000 MHz.

(v) *Scanning receiver.* For the purpose of this part, this is a receiver that automatically switches among four or more frequencies in the range of 30 to 960 MHz and which is capable of stopping at and receiving a radio signal detected on a frequency. Receivers designed solely for the reception of the broadcast signals under Part 73 of this chapter or for operation as part of a licensed station are not included in this definition.

(w) *Television (TV) broadcast receiver.* A device designed to receive television pictures that are broadcast simultaneously with sound on the television channels authorized under Part 73 of this chapter.

(x) *Transfer switch.* A device used to alternate between the reception of over-the-air radio frequency signals via connection to an antenna and the reception of radio frequency signals received by any other method, such as from a TV interface device.

(y) *TV interface device.* An unintentional radiator that produces or translates in frequency a radio frequency carrier modulated by a video signal derived from an external or internal signal source, and which feeds the modulated radio frequency energy by conduction to the antenna terminals or other non-baseband input connections of a television broadcast receiver. A TV interface device may include a stand-alone RF modulator, or a composite device consisting of an RF modulator, video source and other components devices. Examples of TV interface devices are video cassette recorders and terminal devices attached to a cable system or used with a Master Antenna (including those used for central distribution video devices in apartment or office buildings).

(z) *Unintentional radiator.* A device that intentionally generates radio frequency energy for use within the device, or that sends radio frequency signals by conduction to associated equipment via connecting wiring, but which is not intended to emit RF energy by radiation or induction.

§ 15.5 General conditions of operation.

(a) Persons operating intentional or unintentional radiators shall not be deemed to have any vested or recognizable right to continued use of any given frequency by virtue of prior registration or certification of equipment, or, for power line carrier systems, on the basis of prior notification of use pursuant to § 90.63(g) of this chapter.

(b) Operation of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused and that interference must be accepted that may be caused by the operation of an authorized radio station, by another intentional or unintentional radiator, by industrial, scientific and medical (ISM) equipment, or by an incidental radiator.

(c) The operator of a radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference. Operation shall not resume until the condition causing the harmful interference has been corrected.

(d) Intentional radiators that produce Class B emissions (damped wave) are prohibited.

§ 15.7 Special temporary authority.

(a) The Commission will, in exceptional situations, consider an individual application for a special temporary authorization to operate an incidental, intentional or unintentional radiation device not conforming to the provisions of this part, where it can be shown that the proposed operation would be in the public interest, that it is for a unique type of station or for a type of operation which is incapable of being established as a regular service, and that the proposed operation can not feasibly be conducted under this part.

(b) No authorization is required in order to perform testing of equipment for determining compliance with these regulations. Except as provided in Subpart I of Part 2 of this chapter, this provision does not permit the providing of equipment to potential users in order to determine customer acceptance of the product or marketing strategy, nor does this provision permit any type of operation other than a determination of compliance with the regulations. During this testing, the provisions of §§ 15.5 and 15.205 apply.

§ 15.9 Prohibition against eavesdropping.

Except for the operations of law enforcement officers conducted under lawful authority, no person shall use, either directly or indirectly, a device operated pursuant to the provisions of this part for the purpose of overhearing or recording the private conversations of others unless such use is authorized by all of the parties engaging in the conversation.

§ 15.11 Cross reference.

The provisions of Subparts A, H, I, J and K of Part 2 apply to intentional and unintentional radiators, in addition to the provisions of this part. Also, a cable system terminal device and a cable input selector switch shall be subject to the relevant provisions of Part 76 of this chapter.

§ 15.13 Incidental radiators.

Manufacturers of these devices shall employ good engineering practices to minimize the risk of harmful interference.

§ 15.15 General technical requirements.

(a) An intentional or unintentional radiator shall be constructed in accordance with good engineering design and manufacturing practice. Emanations from the device shall be suppressed as much as practicable, but in no case shall the emanations exceed the levels specified in these rules.

(b) An intentional or unintentional radiator must be constructed such that the adjustments of any control that is readily accessible by or intended to be accessible to the user will not cause operation of the device in violation of the regulations.

(c) Parties responsible for equipment compliance should note that the limits specified in this part will not prevent harmful interference under all circumstances. Since the operators of Part 15 devices are required to cease operation should harmful interference occur to authorized users of the radio frequency spectrum, the parties responsible for equipment compliance are encouraged to employ the minimum field strength necessary for communications, to provide greater attenuation of unwanted emissions than required by these regulations, and to advise the user as to how to resolve harmful interference problems (for example, see § 15.105(b)).

§ 15.17 Susceptibility to interference.

(a) Parties responsible for equipment compliance are advised to consider the proximity and the high power of non-Government licensed radio stations, such as broadcast, amateur and land mobile stations, and of U.S. Government radio stations when choosing operating frequencies during the design of their equipment so as to reduce the susceptibility for receiving harmful interference. Information on non-Government use of the spectrum can be obtained by consulting the Table of Frequency Allocations in § 2.106 of this chapter.

(b) Information on U.S. Government operations can be obtained by contacting: Director, Spectrum Plans and Policy, National Telecommunications and Information Administration, Department of Commerce, Room 4096, Washington, DC 20230.

§ 15.19 Labelling requirements.

(a) In addition to the requirements in Part 2 of this chapter, a device subject to certification, notification, or verification shall be labelled as follows:

(1) Receivers associated with the operation of a licensed radio service, e.g., FM broadcast under Part 73 of this chapter, land mobile operation under Part 90, etc., shall bear the following statement in a conspicuous location on the device:

This device complies with Part 15 of the FCC Rules. Operation is subject to the condition that this device does not cause harmful interference.

(2) A stand-alone cable input selector switch, shall bear the following statement in a conspicuous location on the device:

This device is verified to comply with Part 15 of the FCC Rules for use with cable television service.

(3) All other devices shall bear the following statement in a conspicuous location on the device:

This device complies with Part 15 of the FCC Rules. Operation is subject to the following two conditions: (1) This device may not cause harmful interference, and (2) this device must accept any interference received, including interference that may cause undesired operation.

(b) Where a device is constructed in two or more sections connected by wires and marketed together, the statement specified in this section is required to be affixed only to the main control unit.

(c) When the device is so small or for such use that it is not practicable to place the statement specified in this section on it, the information required by these paragraphs shall be placed in a prominent location in the instruction manual or pamphlet supplied to the user or, alternatively, shall be placed on the container in which the device is marketed. However, the FCC identifier or the unique identifier, as appropriate, must be displayed on the device.

§ 15.21 Information to user.

The users manual or instruction manual for an intentional or unintentional radiator shall caution the user that changes or modifications not expressly approved by the party responsible for compliance could void the user's authority to operate the equipment.

§ 15.23 Home-built devices.

(a) Equipment authorization is not required for devices that are not marketed, are not constructed from a kit, and are built in quantities of five or less for personal use.

(b) It is recognized that the individual builder of home-built equipment may not possess the means to perform the measurements for determining compliance with the regulations. In this case, the builder is expected to employ good engineering practices to meet the specified technical standards to the greatest extent practicable. The provisions of § 15.5 apply to this equipment.

§ 15.25 Kits.

A TV interface device, including a cable system terminal device, which is marketed as a kit shall comply with the following requirements:

(a) All parts necessary for the assembled device to comply with the technical requirements of this part must be supplied with the kit. No mechanism for adjustment that can cause operation in violation of the requirements of this part shall be made accessible to the builder.

(b) At least two units of the kit shall be assembled in exact accordance with the instructions supplied with the product to be marketed. If all components required to fully complete the kit (other than those specified in paragraph (a) of this section which are needed for compliance with the technical provisions and must be included with the kit) are not normally furnished with the kit, assembly shall be made using the recommended components. The assembled units shall be certified or notified, as appropriate, pursuant to the requirements of this part.

(1) The measurement data required for a TV interface device subject to certification shall be obtained for each of the two units and submitted with an application for certification pursuant to Subpart J of Part 2 of this chapter.

(2) The measurement data required for a TV interface device subject to notification shall be obtained for the units tested and retained on file pursuant to the provisions of Subpart J of Part 2 of this chapter.

(c) A copy of the exact instructions that will be provided for assembly of the device shall be submitted with an application for certification or notification. Those parts which are not normally furnished shall be detailed in the application for equipment authorization.

(d) In lieu of the label required by § 15.19, the following label, along with the label bearing the FCC identifier and other information specified in §§ 2.925 and 2.926, shall be included in the kit with instructions to the builder that it shall be attached to the completed kit:

(Name of Grantee)

(FCC Identifier)

This device can be expected to comply with Part 15 of the FCC Rules provided it is assembled in exact accordance with the instructions provided with this kit. Operation is subject to the following conditions: (1) This device may not cause harmful interference, and (2) this device must accept any interference received including interference that may cause undesired operation.

(e) For the purpose of this section, circuit boards used as repair parts for the replacement of electrically identical defective circuit boards are not considered to be kits.

§ 15.27 Special accessories.

(a) Equipment marketed to a consumer must be capable of complying with the necessary regulations in the configuration in which the equipment is marketed. Where special accessories, such as shielded cables and/or special connectors, are required to enable an unintentional or intentional radiator to comply with the emission limits in this part, the equipment must be marketed with, i.e., shipped and sold with, those special accessories. However, in lieu of shipping or packaging the special accessories with the unintentional or intentional radiator, the responsible party may employ other methods of ensuring that the special accessories are provided to the consumer, without additional charge, at the time of purchase. Information detailing any alternative method used to supply the special accessories shall be included in the application for a grant of equipment authorization or retained in the verification records, as appropriate. The party responsible for the equipment, as detailed in § 2.909 of this chapter, shall ensure that these special accessories are provided with the equipment. The instruction manual for such devices shall include appropriate instructions on the first page of the text concerned with the installation of the device that these special accessories must be used with the device. It is the responsibility of the user to use the needed special accessories supplied with the equipment.

(b) If a device requiring special accessories is installed by or under the supervision of the party marketing the device, it is the responsibility of that party to install the equipment using the special accessories. For equipment requiring professional installation, it is not necessary for the responsible party to market the special accessories with the equipment. However, the need to use the special accessories must be detailed in the instruction manual, and it is the responsibility of the installer to provide and to install the required accessories.

(c) Accessory items that can be readily obtained from multiple retail outlets are not considered to be special accessories and are not required to be marketed with the equipment. The manual included with the equipment must specify what additional components or accessories are required to be used in order to ensure compliance with this part, and it is the responsibility of the user to provide and use those components and accessories.

(d) The resulting system, including any accessories or components marketed with the equipment, must comply with the regulations.

§ 15.29 Inspection by the Commission.

(a) Any equipment or device subject to the provisions of this part, together with any certificate, notice of registration or any technical data required to be kept on file by the operator, supplier or party responsible for compliance of the device shall be made available for inspection by a Commission representative upon reasonable request.

(b) The owner or operator of a radio frequency device subject to this part shall promptly furnish to the Commission or its representative such information as may be requested concerning the operation of the radio frequency device.

(c) The party responsible for the compliance of any device subject to this part shall promptly furnish to the Commission or its representatives such information as may be requested concerning the operation of the device, including a copy of any measurements made for obtaining an equipment authorization or demonstrating compliance with the regulations.

(d) The Commission, from time to time, may request the party responsible for compliance, including an importer, to submit to the FCC Laboratory in Columbia, Maryland, various equipment to determine that the equipment continues to comply with the applicable standards. Shipping costs to the Commission's Laboratory and return shall be borne by the responsible party. Testing by the Commission will be performed using the measurement procedure(s) that was in effect at the time the equipment was authorized or verified.

§ 15.31 Measurement standards.

(a) The following measurement procedures are used by the Commission to determine compliance with the technical requirements. Copies of these procedures are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 or from the Commission's current duplicating contractor whose name and address are available from the Commission's Consumer Assistance Office.

(1) FCC/OET MP–1: FCC Methods of Measurements for Determining Compliance of Radio Control and Security Alarm Devices and Associated Receivers.

(2) FCC/OET MP–2: Measurement of UHF Noise Figures of TV Receivers.

(3) FCC/OET MP–3: FCC Methods of Measurements of Output Signal Level, Output Terminal Conducted Spurious Emissions, Transfer Switch Characteristics, and Radio Noise Emissions from TV Interface Devices.

(4) FCC/OET MP–4: FCC Procedure for Measuring RF Emissions from Computing Devices.

(5) FCC/OET MP–9: FCC Procedure for Measuring Cable Television Switch Isolation.

(b) All parties making compliance measurements on equipment subject to the requirements of this part are urged to use these measurement procedures. Any party using other procedures should ensure that such other procedures can be relied on to produce measurement results compatible with the FCC measurement procedures. The description of the measurement procedure used in testing the equipment for compliance and a list of the test equipment actually employed shall be made part of an application for certification or included with the data required to be retained by the party responsible for devices subject to notification or verification.

(c) For swept frequency equipment, measurements shall be made with the frequency sweep stopped at those frequencies chosen for the measurements to be reported.

(d) Field strength measurements shall be made, to the extent possible, on an open field site. Test sites other than open field sites may be employed if they are properly calibrated so that the measurement results correspond to what would be obtained from an open field site. In the case of equipment for which measurements can be performed only at the installation site, such as perimeter protection systems, carrier current

systems, and systems employing a "leaky" coaxial cable as an antenna, measurements for verification or for obtaining a grant of equipment authorizaton shall be performed at a minimum of three installations that can be demonstrated to be representative of typical installation sites.

(e) For intentional radiators, measurements of the variation of the input power or the radiated signal level of the fundamental frequency component of the emission, as appropriate, shall be performed with the supply voltage varied between 85% and 115% of the nominal rated supply voltage. For battery operated equipment, the equipment tests shall be performed using a new battery.

(f) To the extent practicable, the device under test shall be measured at the distance specified in the appropriate rule section. The distance specified corresponds to the horizontal distance between the measurement antenna and the closest point of the equipment under test, support equipment or interconnecting cables as determined by the boundary defined by an imaginary straight line periphery describing a simple geometric configuration enclosing the system containing the equipment under test. The equipment under test, support equipment and any interconnecting cables shall be included within this boundary.

(1) At frequencies equal to or above 30 MHz, measurements may be performed at a distance closer than that specified provided this does not result in measurements taken in the near field. When performing measurements at a closer distance than specified, the results shall be extrapolated to the specified distance using an inverse linear distance extrapolation factor (20 dB/decade). Measurement at a distance greater than specified is not permitted unless the responsible party can demonstrate the measurements at the specified distance are impractical because of the size of the equipment, the location of the equipment, or other factors, or unless the responsible party can demonstrate that such a measurement would take place in the near field, as could occur when performing measurements on some large digital devices and perimeter protection systems. Measurements shall not be performed at a distance greater than 30 meters unless it can be demonstrated that measurement at a distance of 30 meters or less is impracticable and, further, that the signal level needed to be determined at the distance employed can be detected by the measuring equipment. When performing measurements at a distance greater than that specified, the results shall be interpolated to the specified distance using an inverse linear distance interpolation factor (20 dB/decade).

(2) At frequencies below 30 MHz, measurements may be performed at a distance closer than that specified in the regulations; however, an attempt should be made to avoid making measurements in the near field. Pending the development of an appropriate measurement procedure for measurements performed below 30 MHz, when performing measurements at a closer distance than specified, the results shall be extrapolated to the specified distance by either making measurements at a minimum of two distances on at least one radial to determine the proper extrapolation factor or by using the square of an inverse linear distance extrapolation factor (40 dB/decade).

(3) The applicant for a grant of certification shall specify the interpolation or extrapolation method used in the application filed with the Commission. For equipment subject to notification or verification, this information shall be retained with the measurement data.

(4) When measurement distances of 30 meters or less are specified in the regulations, the Commission will test the equipment at the distance specified unless measurement at that distance results in measurements being performed in the near field. When measurement distances of greater than 30 meters are specified in the regulations, the Commission will test the equipment at a closer distance, usually 30 meters, extrapolating the measured field strength to the specified distance using the methods shown in this section.

(5) Measurements shall be performed at a sufficient number of radials around the equipment under test to determine the radial at which the field strength values of the radiated emissions are maximized. The maximum field strength at the frequency being measured shall be reported in an application for certification.

(g) Equipment under test shall be adjusted, using those controls that are readily accessible to or are intended to be accessible to the consumer, in such a manner as to maximize the level of the emissions. For those devices to which wire leads may be attached by the consumer, tests shall be performed with wire leads attached. The wire leads shall be of the length to be used with the equipment if that length is known. Otherwise, wire leads one meter in length shall be attached to the equipment. Longer wire leads may be employed if necessary to interconnect to associated peripherals.

(h) For a composite system that incorporates devices contained either in a single enclosure or in separate enclosures connected by wire or cable, testing for compliance with the standards in this Part shall be performed with all of the devices in the system functioning. If an intentional radiator incorporates more than one antenna or other radiating source and these radiating sources are designed to emit at the same time, measurements of conducted and radiated emissions shall be performed with all radiating sources that are to be employed emitting.

(i) If the device under test provides for the connection of external accessories, including external electrical input signals, the device shall be tested with the accessories attached. The device under test shall be fully exercised with these external accessories. The emission tests shall be performed with the device and accessories configured in a manner that tends to produce maximized emissions within the range of variations that can be expected under normal operating conditions. In the case of multiple accessory external ports, an external accessory shall be connected to one of each type of port. Only one test using peripherals or external accessories that are representative of the devices that will be employed with the equipment under test is required. All possible equipment combinations do not need to be tested. The accessories or peripherals connected to the device being tested shall be unmodified, commercially available equipment.

(j) If the equipment under test consists of a central control unit and an external or internal accessory(ies) (peripheral) and the party verifying the equipment or applying for a grant of equipment authorization manufactures or assembles the central control unit and at least one of the accessory devices that can be used with that control unit, testing of the control unit and/or the accessory(ies) must be performed using the devices manufactured or assembled by that party, in addition to any other needed devices which the party does not manufacture or assemble. If the party verifying the equipment or applying for a grant of equipment authorization does not manufacture or assemble the central control unit and at least one of the accessory devices that can be used with that control unit or the party can demonstrate that the central

control unit or accessory(ies) normally would be marketed or used with equipment from a different entity, testing of the central control unit and/or the accessory(ies) must be performed using the specific combination of equipment which is intended to be marketed or used together. Only one test using peripherals or accessories that are representatve of the devices that will be employed with the equipment under test is required. All possible equipment combinations are not required to be tested. The accessories or peripherals connected to the device being tested shall be unmodified, commercially available equipment.

(k) A composite system is a system that incorporates different devices contained either in a single enclosure or in separate enclosures connected by wire or cable. If the individual devices in a composite system are subject to different technical standards, each such device must comply with its specific standards. In no event may the measured emissions of the composite system exceed the highest level permitted for an individual component. For digital devices which consist of a combination of Class A and Class B devices, the total combination of which results in a Class A digital device, it is only necessary to demonstrate that the equipment combination complies with the limits for a Class A device. This equipment combination may not be employed for obtaining a grant of equipment authorization or verifying a Class B digital device. However, if the digital device combination consists of a Class B central control unit, e.g., a personal computer, and a Class A internal peripheral(s), it must be demonstrated that the Class B central control unit continues to comply with the limits for a Class B digital device with the Class A internal peripheral(s) installed but not active.

(l) Measurements of radio frequency emissions conducted to the public utility power lines shall be performed using a 50 ohm/50 uH line-impedance stabilization network (LISN).

Note: Receivers tested under the transition provisions contained in § 15.37 may be tested with a 50 ohm/5 μH LISN.

(m) Measurements on intentional radiators or receivers, other than TV broadcast receivers, shall be performed and, if required, reported for each band in which the device can be operated with the device operating at the number of frequencies in each band specified in the following table:

Frequency range over which device operates	Number of frequencies	Location in the range of operation
1 MHz or less	1	Middle.
1 to 10 MHz	2	1 near top and 1 near bottom.
More than 10 MHz	3	1 near top, 1 near middle and 1 near bottom.

(n) Measurements on TV broadcast receivers shall be performed with the receiver tuned to each VHF frequency and also shall include the following oscillator frequencies: 520, 550, 600, 650, 700, 750, 800, 850, 900 and 931 MHz. If measurements cannot be made on one or more of the latter UHF frequencies because of the presence of signals from licensed radio stations or for other reasons to be detailed in the measurement report, measurements shall be made with the receiver oscillator at a nearby frequency. If the receiver is not capable of receiving channels above 806 MHz, the measurements employing the oscillator frequencies 900 and 931 MHz may be omitted.

(o) The amplitude of spurious emissions from intentional radiators and emissions from unintentional radiators which are attenuated more than 20 dB below the permissible value need not be reported unless specifically required elsewhere in this part.

§ 15.33 Frequency range of radiated measurements.

(a) For an intentional radiator, the spectrum shall be investigated from the lowest radio frequency signal generated in the device, without going below 9 kHz, up to at least the tenth harmonic of the highest fundamental frequency or to 40 GHz, whichever is lower. If the intentional radiator contains a digital device, regardless of whether this digital device controls the functions of the intentional radiator or the digital device is used for additional control or function purposes other than to enable the operation of the intentional radiator, the frequency range shall be investigated up to the higher of the tenth harmonic of the highest fundamental frequency designed to be emitted by the intentional radiator or the upper frequency of the measurement range applicable to the digital device, as shown in paragraph (b)(1) of this section.

(b) For unintentional radiators:

(1) Except as otherwise indicated in paragraphs (b)(2) or (b)(3) of this section, for an unintentional radiator, including a digital device, the spectrum shall be investigated from the lowest radio frequency signal generated or used in the device, without going below the lowest frequency for which a radiated emission limit is specified, up to the frequency shown in the following table:

Highest frequency generated or used in the device or on which the device operates or tunes (MHz)	Upper frequency of measurement range (MHz)
Below 1.705	30.
1.705–108	1000.
108–500	2000.
500–1000	5000.
Above 1000	5th harmonic of the highest frequency or 40 GHz, whichever is lower.

(2) A unintentional radiator, excluding a digital device, in which the highest frequency generated in the device, the highest frequency used in the device and the highest frequency on which the device operates or tunes are less than 30 MHz and which, in accordance with § 15.109, is required to comply with standards on the level of radiated emissions within the frequency range 9 kHz to 30 MHz, such as a CB receiver or a device designed to conduct its radio frequency emissions via connecting wires or cables, e.g., a carrier current system not intended to radiate, shall be investigated from the lowest radio frequency generated or used in the device, without going below 9 kHz (25 MHz for CB receivers), up to the frequency shown in the following table. If the unintentional radiator contains a digital device, the upper frequency to be investigated shall be that shown in the table below or in the table in paragraph (b)(1) of this section, as based on both the highest frequency generated and the highest frequency used in the digital device, whichever range is higher.

Highest frequency generated or used in the device or on which the device operates or tunes (MHz)	Upper frequency of measurement range (MHz)
Below 1.705	30
1.705–10	400
10–30	500

(3) Except for a CB receiver, a receiver employing superheterodyne techniques shall be investigated from 30 MHz up to at least the second harmonic of the highest local oscillator frequency generated in the device. If such receiver is controlled by a digital device, the frequency range shall be investigated up to the higher of the second harmonic of the highest local oscillator frequency

generated in the device or the upper frequency of the measurement range specified for the digital device in paragraph (b)(1) of this section.

(c) The above specified frequency ranges of measurements apply to the measurement of radiated emissions and, in the case of receivers, the measurement to demonstrate compliance with the antenna conduction limits specified in § 15.111. The frequency range of measurements for AC power line conducted limits is specified in §§ 15.107 and 15.207 and applies to all equipment subject to those regulations. In some cases, depending on the frequency(ies) generated and used by the equipment, only signals conducted onto the AC power lines are required to be measured.

(d) Particular attention should be paid to harmonics and subharmonics of the fundamental frequency as well as to those frequencies removed from the fundamental by multiples of the oscillator frequency. Radiation at the frequencies of multiplier states should also be checked.

§ 15.35 Emission limits.

The conducted and radiated emission limits shown in this part are based on the following, unless otherwise specified elsewhere in this part:

(a) On any frequency or frequencies below or equal to 1000 MHz, the limits shown are based on measuring equipment employing a CISPR quasi-peak detector function and related measurement bandwidths, unless otherwise specified. The specifications for the measuring instrument using the CISPR quasi-peak detector can be found in Publication 16 of the International Special Committee on Radio Interference (CISPR) of the International Electrotechnical Commission. As an alternative to CISPR quasi-peak measurements, the responsible party, at its option, may demonstrate compliance with the emission limits using measuring equipment employing a peak detector function, properly adjusted for such factors as pulse desensitization, as long as the same bandwidths as indicated for CISPR quasi-peak measurements are employed.

Note: For pulse modulated devices with a pulse-repetition frequency of 20 Hz or less and for which CISPR quasi-peak measurements are specified, compliance with the regulations shall be demonstrated using measuring equipment employing a peak detector function, properly adjusted for such factors as pulse desensitization, using the same measurement bandwidths that are indicated for CISPR quasi-peak measurements.

(b) On any frequency or frequencies above 1000 MHz, the radiated limits shown are based on the use of measurement instrumentation employing an average detector function. When average radiated emission measurements are specified in the regulations, including emission measurements below 1000 MHz, there is also a limit on the radio frequency emissions, as measured using instrumentation with a peak detector function, corresponding to 20 dB above the maximum permitted average limit for the frequency being investigated. Measurements of AC power line conducted emissions are performed using a CISPR quasi-peak detector, even for devices for which average radiated emission measurements are specified.

(c) When the radiated emission limits are expressed in terms of the average value of the emission, and pulsed operation is employed, the measured field strength shall be determined by averaging over one complete pulse train, including blanking intervals, as long as the pulse train does not exceed 0.1 seconds. As an alternative (provided the transmitter operates for longer than 0.1 seconds) or in those cases where the pulse train exceeds 0.1 seconds, the measured field strength shall be determined from the average absolute voltage during a 0.1 second interval during which the field strength is at its maximum value. The exact method of calculating the average field strength shall be submitted with any application for certification or shall be retained in the measurement data file for equipment subject to notification or verification.

§ 15.37 Transition provisions for compliance with the rules.

Equipment may be authorized, manufactured and imported under the rules in effect prior to June 26, 1989 in accordance with the following schedules:

(a) *For all intentional and unintentional radiators, except for receivers.* Radio frequency equipment verified by the responsible party or for which an application for a grant of equipment authorization is submitted to the Commission on or after June 23, 1992 shall comply with the regulations specified in this part. Radio frequency equipment that is manufactured or imported on or after June 23, 1994, shall comply with the regulations specified in this part.

(b) *For receivers.* Receivers subject to the regulations in this Part that are manufactured or imported on or after June 23, 1999 shall comply with the regulations specified in this part. However, if a receiver is associated with a transmitter that could not have been authorized under the regulations in effect prior to June 26, 1989, e.g., a transmitter operating under the provisions of §§ 15.209 or 15.249 (below 960 MHz), the transition provisions in this section do not apply. Such receivers must comply with the regulations in this part.

(c) There are no restrictions on the operation or marketing of equipment complying with the regulations in effect prior to June 26, 1989.

Subpart B—Unintentional Radiators

§ 15.101 Equipment authorization of unintentional radiators.

(a) Except as otherwise exempted in §§ 15.23, 15.103, and 15.113, unintentional radiators shall be authorized by the Commission or verified prior to the initiation of marketing, as follows:

Type of device	Equipment authorization required [1]
TV broadcast receiver	Verification.
FM broadcast receiver	Do.
CB receiver	Certification.
Superregenerative receiver	Do.
Scanning receiver	Do.
All other receivers subject to Part 15.	Notification.
TV interface device	Certification.
Cable system terminal device	Notification.
Stand-alone cable input selector switch.	Verification.
Class B personal computers & peripherals.	Certification.
Other Class B digital devices & peripherals.	Verification.
Class A digital devices & peripherals.	Do.
External switching power supplies.	Do.
All other devices	Do.

[1] See additional provisions in this section and in § 15.103 of this part.

(b) Only those receivers that operate (tune) within the frequency range of 30–960 MHz and CB receivers are subject to the authorizations shown in paragraph (a) of this section. However, receivers indicated as being subject to notification that are contained within a transceiver, the transmitter portion of which is subject to type acceptance, certification or notification, shall be authorized under the verification procedure. Receivers operating above 960 MHz or below 30 MHz, except for CB receivers, are exempt from complying with the technical provisions of this part but are subject to § 15.5.

(c) Personal computer mother boards (the circuit board performing the central processing) that are marketed assembled with an enclosure and a

power supply must be certificated with that enclosure and power supply.

(d) Peripheral devices, as defined in § 15.3(r), shall be certified or verified, as appropriate, prior to marketing. However, if a peripheral always will be marketed with a specific personal computer, it is not necessary to obtain a separate grant of certification for that peripheral, provided the specific combination of personal computer and peripheral has received a grant of certification.

(e) Subassemblies to digital devices are not subject to the technical standards in this part unless they are marketed as part of a system in which case the resulting system must comply with the applicable regulations. Subassemblies include: Those devices that are enclosed solely within the enclosure housing the digital device and are not included in the definition of peripherals in § 15.3(r), such as internal disc drives and memory expansion units; digital devices marketed to another manufacturer to be incorporated into a final product; circuit boards containing the central processing unit that are marketed without an enclosure or power supply; and, switching power supplies that are separately marketed and are solely for use internal to a digital device.

(f) The procedures for obtaining a grant of certification or notification and for verification are contained in Subpart J of Part 2 of this chapter.

§ 15.103 Exempted devices.

The following devices are subject only to the general conditions of operation in §§ 15.5 and 15.29 and are exempt from the specific technical standards and other requirements contained in this part. The operator of the exempted device shall be required to stop operating the device upon a finding by the Commission or its representative that the device is causing harmful interference. Operation shall not resume until the condition causing the harmful interference has been corrected. Although not mandatory, it is strongly recommended that the manufacturer of an exempted device endeavor to have the device meet the specific technical standards in this part.

(a) A digital device utilized exclusively in any transportation vehicle including motor vehicles and aircraft.

(b) A digital device used exclusively as an electronic control or power system utilized by a public utility or in an industrial plant. The term public utility includes equipment only to the extent that it is in a dedicated building or large room owned or leased by the utility and does not extend to equipment installed in a subscriber's facility.

(c) A digital device used exclusively as industrial, commercial, or medical test equipment.

(d) A digital device utilized exclusively in an appliance, e.g., microwave oven, dishwasher, clothes dryer, air conditioner (central or window), etc.

(e) Specialized medical digital devices (generally used at the direction of or under the supervision of a licensed health care practitioner) whether used in a patient's home or a health care facility. Non-specialized medical devices, i.e., devices marketed through retail channels for use by the general public, are not exempted. This exemption also does not apply to digital devices used for record keeping or any purpose not directly connected with medical treatment.

(f) Digital devices that have a power consumption not exceeding 6 nW.

(g) Joystick controllers or similar devices, such as a mouse, used with digital devices but which contain only non-digital circuitry or a simple circuit to convert the signal to the format required (e.g., an integrated circuit for analog to digital conversion) are viewed as passive add-on devices, not themselves directly subject to the technical standards or the equipment authorization requirements.

(h) Digital devices in which both the highest frequency generated and the highest frequency used are less than 1.705 MHz and which do not operate from the AC power lines or contain provisions for operation while connected to the AC power lines. Digital devices that include, or make provision for the use of, battery eliminators, AC adaptors or battery chargers which permit operation while charging or that connect to the AC power lines indirectly, obtaining their power through another device which is connected to the AC power lines, do not fall under this exemption.

(i) Responsible parties should note that equipment containing more than one device is not exempt from the technical standards in this part unless all of the devices in the equipment meet the criteria for exemption. If only one of the included devices qualifies for exemption, the remainder of the equipment must comply with any applicable regulations. If a device performs more than one function and all of those functions do not meet the criteria for exemption, the device does not qualify for inclusion under the exemptions.

§ 15.105 Information to the user.

(a) For a Class A digital device or peripheral, the instructions furnished the user shall include the following or similar statement, placed in a prominent location in the text of the manual:

Note: This equipment has been tested and found to comply with the limits for a Class A digital device, pursuant to Part 15 of the FCC Rules. These limits are designed to provide reasonable protection against harmful interference when the equipment is operated in a commercial environment. This equipment generates, uses, and can radiate radio frequency energy and, if not installed and used in accordance with the instruction manual, may cause harmful interference to radio communications. Operation of this equipment in a residential area is likely to cause harmful interference in which case the user will be required to correct the interference at his own expense.

(b) For a Class B digital device or peripheral, the instructions furnished the user shall include the following or similar statement, placed in a prominent location in the text of the manual:

Note: This equipment has been tested and found to comply with the limits for a Class B digital device, pursuant to Part 15 of the FCC Rules. These limits are designed to provide reasonable protection against harmful interference in a residential installation. This equipment generates, uses and can radiate radio frequency energy and, if not installed and used in accordance with the instructions, may cause harmful interference to radio communications. However, there is no guarantee that interference will not occur in a particular installation. If this equipment does cause harmful interference to radio or television reception, which can be determined by turning the equipment off and on, the user is encouraged to try to correct the interference by one or more of the following measures:

—Reorient or relocate the receiving antenna.
—Increase the separation between the equipment and receiver.
—Connect the equipment into an outlet on a circuit different from that to which the receiver is connected.
—Consult the dealer or an experienced radio/TV technician for help.

(c) The provisions of paragraphs (a) and (b) of this section do not apply to digital devices exempted from the technical standards under the provisions of § 15.103.

(d) For systems incorporating several digital devices, the statement shown in paragraph (a) or (b) of this section needs to be contained only in the instruction manual for the main control unit.

§ 15.107 Conducted limits.

(a) Except for Class A digital devices, for equipment that is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted back onto the AC

power line on any frequency or frequencies within the band 450 kHz to 30 MHz shall not exceed 250 microvolts. Compliance with this provision shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminals.

(b) For a Class A digital device that is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted back onto the AC power line on any frequency or frequencies within the band 450 kHz to 30 MHz shall not exceed the limits in the following table. Compliance with this provision shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminals. The lower limit applies at the band edges.

Frequency of emission (MHz)	Conducted limit (microvolts)
0.45 to 1.705	1000
1.705 to 30.0	3000

(c) For carrier current systems used as unintentional radiators whose emissions are contained within the frequency range 450 kHz to 30 MHz, the provisions of this section shall not apply. Such systems are subject to radiated emission limits as provided in § 15.109(e).

(d) Measurements to demonstrate compliance with the conducted limits are not required for devices which only employ battery power for operation and which do not operate from the AC power lines or contain provisions for operation while connected to the AC power lines. Devices that include, or make provision for, the use of battery chargers which permit operating while charging, AC adaptors or battery eliminators or that connect to the AC power lines indirectly, obtaining their power through another device which is connected to the AC power lines, shall be tested to demonstrate compliance with the conducted limits.

§ 15.109 Radiated emission limits.

(a) Except for Class A digital devices, the field strength of radiated emissions from unintentional radiators at a distance of 3 meters shall not exceed the following values:

Frequency of emission (MHz)	Field strength (microvolts/meter)
30–88	100
88–216	150
216–960	200
Above 960	500

(b) The field strength of radiated emissions from a Class A digital device, as determined at a distance of 10 meters, shall not exceed the following:

Frequency of emission (MHz)	Field strength (microvolts/meter)
30–88	90
88–216	150
216–960	210
Above 960	300

(c) In the emission tables above, the tighter limit applies at the band edges. Sections 15.33 and 15.35 which specify the frequency range over which radiated emissions are to be measured and the detector functions and other measurement standards apply.

(d) For CB receivers, the field strength of radiated emissions within the frequency range of 25–30 MHz shall not exceed 40 microvolts/meter at a distance of 3 meters. The field strength of radiated emissions above 30 MHz from such devices shall comply with the limits in paragraph (a) of this section.

(e) Carrier current systems used as unintentional radiators or other unintentional radiators that are designed to conduct their radio frequency emissions via connecting wires or cables and that operate in the frequency range of 9 kHz to 30 MHz, including devices that deliver the radio frequency energy to transducers, such as ultrasonic devices not covered under Part 18 of this chapter, shall comply with the radiated emission limits for intentional radiators provided in § 15.209 for the frequency range of 9 kHz to 30 MHz. At frequencies above 30 MHz, the provisions of paragraph (a) of this section apply.

(f) For a receiver which employs terminals for the connection of an external receiving antenna, the receiver shall be tested to demonstrate compliance with the provisions of this section with an antenna connected to the antenna terminals unless the antenna conducted power is measured as specified in § 15.111(a). If a permanently attached receiving antenna is used, the receiver shall be tested to demonstrate compliance with the provisions of this section.

§ 15.111 Antenna power conduction limits for receivers.

(a) In addition to the radiated emission limits, receivers that operate (tune) in the frequency range 30 to 960 MHz and CB receivers that provide terminals for the connection of an external receiving antenna may be tested to demonstrate compliance with the provisions of § 15.109 with the antenna terminals shielded and terminated with a resistive termination equal to the impedance specified for the antenna, provided these receivers also comply with the following: With the receiver antenna terminal connected to a resistive termination equal to the impedance specified or employed for the antenna, the power at the antenna terminal at any frequency within the range of measurements specified in § 15.33 shall not exceed 2.0 nanowatts.

(b) CB receivers and receivers that operate (tune) in the frequency range 30 to 960 MHz that are provided only with a permanently attached antenna shall comply with the radiated emission limitations in this part, as measured with the antenna attached.

§ 15.113 Power line carrier systems.

Power line carrier systems, as defined in § 15.3(t), are subject only to the following requirements:

(a) A power utility operating a power line carrier system shall submit the details of all existing systems plus any proposed new systems or changes to existing systems to an industry-operated entity as set forth in § 90.63(g) of this chapter. No notification to the FCC is required.

(b) The operating parameters of a power line carrier system (particularly the frequency) shall be selected to achieve the highest practical degree of compatibility with authorized or licensed users of the radio spectrum. The signals from this operation shall be contained within the frequency band 9 kHz to 490 kHz. A power line carrier system shall operate on an unprotected, non-interference basis in accordance with § 15.5 of this part. If harmful interference occurs, the electric power utility shall discontinue use or adjust its power line carrier operation, as required, to remedy the interference. Particular attention should be paid to the possibility of interference to Loran C operations at 100 kHz.

(c) Power line carrier system apparatus shall be operated with the minimum power possible to accomplish the desired purpose. No equipment authorization is required.

(d) The best engineering principles shall be used in the generation of radio

frequency currents by power line carrier systems to guard against harmful interference to authorized radio users, particularly on the fundamental and harmonic frequencies.

(e) Power line carrier system apparatus shall conform to such engineering standards as may be promulgated by the Commission. In addition, such systems should adhere to industry approved standards designed to enhance the use of power line carrier systems.

(f) These provisions for power line carrier systems apply only to systems operated by a power utility for general supervision of the power system and do not permit operation on electric lines which connect the distribution substation to the customer or house wiring.

§ 15.115 TV interface devices, including cable system terminal devices.

(a) Measurements of the radiated emissions of a TV interface device shall be conducted with the output terminal(s) of the device terminated by a resistance equal to the rated output impedance. The emanations of a TV interface device incorporating an intentional radiator shall not exceed the limits in § 15.109 or Subpart C of this part, whichever is higher for each frequency. Where it is possible to determine which portion of the device is contributing a particular radio frequency emission, the emissions from the TV interface device portion shall comply with the emission limits in § 15.109, and the emissions from the intentional radiator shall comply with Subpart C of this part.

(b) Output signal limits:

(1) At any RF output terminal, the maximum measured RMS voltage, in microvolts, corresponding to the peak envelope power of the modulated signal during maximum amplitude peaks across a resistance (R in ohms) matching the rated output impedance of the TV interface device, shall not exceed the following:

(i) For a cable system terminal device or a TV interface device used with a master antenna, 692.8 times the square root of (R) for the video signal and 155 times the square root of (R) for the audio signal.

(ii) For all other TV interface devices, 346.4 times the square root of (R) for the video signal and 77.5 times the square root of (R) for the audio signal.

(2) At any RF output terminal, the maximum measured RMS voltage, in microvolts, corresponding to the peak envelope power of the modulated signal during maximum amplitude peaks across a resistance (R in ohms) matching the rated output impedance of the TV interface device, of any emission appearing on frequencies removed by more than 4.6 MHz below or 7.4 MHz above the video carrier frequency on which the TV interface device is operated shall not exceed the following:

(i) For a cable system terminal device or a TV interface device used with a master antenna, 692.8 times the square root of (R).

(ii) For all other TV interface devices, 10.95 times the square root of (R).

(3) The term "master antenna" used in this paragraph refers to TV interface devices employed for central distribution within large buildings such as apartments, hospitals, office buildings, etc.

(c) A TV interface device shall be equipped with a transfer switch for connecting the antenna terminals of a receiver selectively either to the receiving antenna or to the radio frequency output of the TV interface device, subject to the following:

(1) When measured in any of its set positions, transfer switches shall comply with the following requirements:

(i) For a cable system terminal device or a TV interface device equipped for use with a cable system or a master antenna, as defined in paragraph (b)(3) of this section, the isolation between the antenna and cable input terminals shall be at least 80 dB from 54 to 216 MHz and at least 60 dB from 216 to 550 MHz. The 80 dB limit applies at 216 MHz. In the case of a transfer switch requiring a power source, the required isolation shall be maintained in the event the device is not connected to a power source or power is interrupted.

(ii) For all other TV interface devices, the maximum voltage, corresponding to the peak envelope power of the modulated video signal during maximum amplitude peaks, in microvolts, appearing at the receiving antenna input terminals when terminated with a resistance (R in ohms) matching the rated impedance of the antenna input of the switch, shall not exceed 0.346 times the square root of (R).

(iii) Measurement to determine compliance with the transfer switch limits shall be made using a connecting cable, where required, between the TV interface device and the transfer switch of the type and length:

(A) Provided with the TV interface device,

(B) Recommended in the instruction manual, or

(C) Normally employed by the consumer.

(2) A TV interface device shall be designed and constructed, to the extent practicable, so as to preclude the possibility that the consumer may inadvertently attach the output of the device to the receiving antenna, if any, without first going through the transfer switch.

(3) A transfer switch is not required for a TV interface device that, when connected, results in the user no longer having any need to receive standard over-the-air broadcast signals via a separate antenna. A transfer switch is not required to be marketed with a cable system terminal device unless that device provides for the connection of an external antenna. A transfer switch is not required for a device that is intended to be used as an accessory to an authorized TV interface device.

(4) An actual transfer switch is not required for a TV interface device, including a cable system terminal device, that has an antenna input terminal(s); provided, the circuitry following the antenna input terminal(s) has sufficient bandwidth to allow the reception of all TV broadcast channels authorized under Part 73 of this chapter and: For a cable system terminal device that can alternate between the reception of cable television service and an antenna, compliance with the isolation requirement specified in paragraph (c)(1)(i) of this section can be demonstrated; and, for all other TV interface devices, the maximum voltage appearing at the antenna terminal(s) does not exceed the limit in paragraph (c)(1)(ii) of this section.

(5) If a transfer switch is not required, the following label shall be used in addition to the label shown in § 15.19(a):

> This device is intended to be attached to a receiver that is not used to receive over-the-air broadcast signals. Connection of this device in any other fashion may cause harmful interference to radio communications and is in violation of the FCC Rules, Part 15.

(d) A TV interface device, including a cable system terminal device, shall incorporate circuitry to automatically prevent emanations from the device from exceeding the technical specifications in this part. These circuits shall be adequate to accomplish their functions when the TV interface device is presented, if applicable, with video input signal levels in the range of one to five volts; this requirement is not applicable to a TV interface device that uses a built-in signal source and has no provisions for the connection of an external signal source. For devices that contain provisions for an external signal source but do not contain provisions for the input of an external baseband signal, e.g., some cable system terminal devices, compliance with the provisions of this paragraph shall be demonstrated

with a radio frequency input signal of 0 to 25 dBmV.

(e) For cable system terminal devices and TV interface devices used with a master antenna, as defined in paragraph (b)(3) of this section, the holder of the grant of authorization shall specify in the instruction manual or pamphlet, if a manual is not provided, the types of wires or coaxial cables necessary to ensure that the unit complies with the requirements of this part. The holder of the grant of authorization must comply with the provisions of § 15.27. For all other TV interface devices, the wires or coaxial cables used to couple the output signals to the TV receiver shall be provided by the responsible party.

(f) A TV interface device which is submitted to the Commission as a composite device in a single enclosure containing a RF modulator, video source and other component devices shall be submitted on a single application (FCC Form 731) and shall be authorized as a single device.

(g) An external device or accessory that is intended to be attached to a TV interface device shall comply with the technical and administrative requirements set out in the rules under which it operates. For example, a personal computer must be certificated to show compliance with the regulations for digital devices.

§ 15.117 TV broadcast receivers.

(a) All TV broadcast receivers shipped in interstate commerce or imported from any foreign country into the United States, for sale or resale to the public, shall comply with the provisions of this section. The reference in this section to TV broadcast receivers also includes devices, such as TV interface devices, that incorporate the tuner portion of a TV broadcast receiver and that are equipped with an antenna or antenna terminals that can be used for the off-the-air reception of TV broadcast signals, as authorized under Part 73 of this chapter.

(b) TV broadcast receivers shall be capable of adequately receiving all channels allocated by the Commission to the television broadcast service.

(c) On a given receiver, use of the UHF and VHF tuning systems shall provide approximately the same degree of tuning accuracy with approximately the same expenditure of time and effort: *Provided, however*, That this requirement will be considered to be met if the need for routine fine tuning is eliminated on UHF channels.

(1) *Basic tuning mechanism.* If a TV broadcast receiver is equipped to provide for repeated access to VHF television channels at discrete tuning positions, that receiver shall be equipped to provide for repeated access to a minimum of six UHF television channels at discrete tuning positions. Unless a discrete tuning position is provided for each channel allocated to UHF television, each position shall be readily adjustable to a particular UHF channel by the user without the use of tools. If 12 or fewer discrete tuning positions are provided, each position shall be adjustable to receive any channel allocated to UHF television.

Note: The combination of detented rotary switch and pushbutton controls is acceptable, provided UHF channels, after their initial selection, can be accurately tuned with an expenditure of time and effort approximately the same as that used in accurately tuning VHF channels. A UHF tuning system comprising five pushbuttons and a separate manual tuning knob is considered to provide repeated access to six channels at discrete tuning positions. A one-knob (VHF/UHF) tuning system providing repeated access to 11 or more discrete tuning positions is also acceptable, provided each of the tuning positions is readily adjustable, without the use of tools, to receive any UHF channel.

(2) *Tuning controls and channel readout.* UHF tuning controls and channel readout on a given receiver shall be comparable in size, location, accessibility and legibility to VHF controls and readout on that receiver.

Note: Differences between UHF and VHF channel readout that follow directly from the larger number of UHF television channels available are acceptable if it is clear that a good faith effort to comply with the provisions of this section has been made.

(d) If equipment and controls that tend to simplify, expedite or perfect the reception of television signals (e.g., AFC, visual aids, remote control, or signal seeking capability referred to generally as tuning aids) are incorporated into the VHF portion of a TV broadcast receiver, tuning aids of the same type and comparable capability and quality shall be provided for the UHF portion of that receiver.

(e) If a television receiver has an antenna affixed to the VHF antenna terminals, it must have an antenna designed for and capable of receiving all UHF television channels affixed to the UHF antenna terminals. If a VHF antenna is provided with but not affixed to a receiver, a UHF antenna shall be provided with the receiver.

(f) The picture sensitivity of a TV broadcast receiver averaged for all channels between 14 and 69 inclusive shall not be more than 8dB larger than the peak picture sensitivity of that receiver averaged for all channels between 2 and 13 inclusive.

(g) The noise figure for any television channel 14 to 69 inclusive shall not exceed 14 dB. A TV receiver model is considered to comply with this noise figure if the maximum noise figure for channels 14–69 inclusive of 97.5% of all receivers within that model does not exceed 14 dB.

(1) The responsible party shall measure the noise figure of a number of UHF channels of the test sample to give reasonable assurance that the UHF noise figure for each channel complies with the above limit.

(2) The responsible party shall insert in his files a statement explaining the basis on which it will rely to ensure that at least 97.5% of all production units of the test sample that are manufactured have a noise figure of no greater than 14 dB.

(3) Within one year after a specific TV receiver model has been verified for compliance, the responsible party shall file a report with the Commission giving the actual UHF noise figure performance of units of that model actually measured during that year. The report, as an alternative, may be filed by the party responsible for the marketing of that model TV broadcast receiver within this country.

(4) In the case of a TV tuner built-in as part of a video tape recorder that uses a power splitter between the antenna terminals of the video tape recorder and the input terminals of the TV tuner or a TV broadcast receiver that uses a power splitter between the antenna terminals of two or more UHF tuners contained within that receiver, 4 dB may be subtracted from the noise figure measured at the antenna terminals of the video tape recorder or TV broadcast receiver for determining compliance of the UHF tuner(s) with the 14 dB noise figure limit.

(h) For a TV broadcast receiver equipped with a cable input selector switch, the selector switch shall provide in any of its set positions isolation between the antenna and cable input terminals of at least 80 dB from 54 to 216 MHz, and of at least 60 dB from 216 to 550 MHz. At MHz, the 80 dB isolation standard applies. In the case of a selector switch requiring a power source, the required isolation shall be maintained in the event the device is not connected to a power source or power is interrupted. A physical cable input selector switch is not required for a TV broadcast receiver that can alternate between the reception of cable television service and an antenna, provided compliance with the isolation requirement specified in this paragraph can be demonstrated and the circuitry

following the antenna input terminal(s) has sufficient bandwidth to allow the reception of all TV broadcast channels authorized under this chapter.

Subpart C—Intentional Radiators

§ 15.201 Equipment authorization requirement.

(a) Intentional radiators operated as carrier current systems and devices operated under the provisions of §§ 15.211, 15.213 and 15.221 shall be verified pursuant to the procedures in Subpart J of Part 2 of this chapter prior to marketing.

(b) Except as otherwise exempted in paragraph (c) of this section and in § 15.23 of this part, all intentional radiators operating under the provisions of this part shall be certificated by the Commission pursuant to the procedures in Subpart J of Part 2 of this chapter prior to marketing.

(c) For devices such as perimeter protection systems which, in accordance with § 15.31(d), are required to be measured at the installation site, each application for certification must be accompanied by a statement indicating that the system has been tested at three installations and found to comply at each installation. Until such time as certification is granted, a given installation of a system that was measured for the submission for certification will be considered to be in compliance with the provisions of this chapter, including the marketing regulations in Subpart I of Part 2 of this chapter, if tests at that installation show the system to be in compliance with the relevant technical requirements. Similarly, where measurements must be performed on site for equipment subject to verification, a given installation that has been verified to demonstrate compliance with the applicable standards will be considered to be in compliance with the provisions of this chapter, including the marketing regulations in Subpart I of Part 2 of this chapter.

(d) For perimeter protection systems operating in the frequency bands allocated to television broadcast stations operating under Part 73 of this chapter, the holder of the grant of certification must test each installation prior to initiation of normal operation to verify compliance with the technical standards and must maintain a list of all installations and records of measurements. For perimeter protection systems operating outside of the frequency bands allocated to television broadcast stations, upon receipt of a grant of certification, further testing of the same or similar type of system or installation is not required.

§ 15.203 Antenna requirement.

An intentional radiator shall be designed to ensure that no antenna other than that furnished by the responsible party shall be used with the device. The use of a permanently attached antenna or of an antenna that uses a unique coupling to the intentional radiator shall be considered sufficient to comply with the provisions of this section. The manufacturer may design the unit so that a broken antenna can be replaced by the user, but the use of a standard antenna jack or electrical connector is prohibited. This requirement does not apply to carrier current devices or to devices operated under the provisions of § 15.211, 15.213, 15.217, 15.219, 15.221, or 15.247. Further, this requirement does not apply to intentional radiators that must be professionally installed, such as perimeter protection systems and some field disturbance sensors, or to other intentional radiators which, in accordance with § 15.31(d), must be measured at the installation site. However, the installer shall be responsible for ensuring that the proper antenna is employed so that the limits in this part are not exceeded.

§ 15.205 Restricted bands of operation.

(A) Except as shown in paragraph (d) of this section, only spurious emissions are permitted in any of the frequency bands listed below:

MHz	MHz	MHz	GHz
0.090–0.110	162.0125–167.17	2310–2390	9.3–9.5.
0.49–0.51	167.72–173.2	2438.5–2500	10.6–12.7.
2.1735–2.1905	240–285	2655–2900	13.25–13.4.
8.362–8.366	322–335.4	3260–3267	14.47–14.5
13.36–13.41	399.9–410	3332–3339	15.35–16.2.
25.5–25.67	608–614	3345.8–3358	17.7–21.4.
37.5–38.25	960–1240	3600–4400	22.01–23.12.
73–75.4	1300–1427	4500–5250	23.6–24.0.
108–121.94	1435–1626.5	5350–5460	31.2–31.8.
123–138	1660–1710	7250–7750	36.43–36.5.
149.9–150.05	1718.8–1722.2	8025–8500	Above 38.6.
156.7–156.9	2200–2300	9000–9200	

(b) Except as provided in paragraph (d) of this section, the field strength of emissions appearing within these frequency bands shall not exceed the limits shown in § 15.209. At frequencies equal to or less than 1000 MHz, compliance with the limits in § 15.209 shall be demonstrated using measurement instrumentation employing a CISPR quasi-peak detector. Above 1000 MHz, compliance with the emission limits in § 15.209 shall be demonstrated based on the average value of the measured emissions. The provisions in § 15.35 apply to these measurements.

(c) Except as provided in paragraph (d) of this section, regardless of the field strength limits specified elsewhere in this subpart, the provisions of this section apply to emissions from any intentional radiator.

(d) The following devices are exempt from the requirements of this section:

(1) Swept frequency field disturbance sensors operating between 1.705 and 37 MHz provided their emissions only sweep through the bands listed in paragraph (a) of this section, the sweep is never stopped with the fundamental emission within the bands listed in paragraph (a) of this section, and the fundamental emission is outside of the bands listed in paragraph (a) of this section more than 99% of the time the device is actively transmitting, without compensation for duty cycle.

(2) Transmitters used to detect buried electronic markers at 101.4 kHz which are employed by telephone companies.

(3) Cable locating equipment operated pursuant to § 15.213.

§ 15.207 Conducted limits.

(a) For an intentional radiator which is designed to be connected to the public utility (AC) power line, the radio frequency voltage that is conducted

back onto the AC power line on any frequency or frequencies within the band 450 kHz to 30 MHz shall not exceed 250 microvolts. Compliance with this provision shall be based on the measurement of the radio frequency voltage between each power line and ground at the power terminals.

(b) The limit in paragraph (a) of this section shall not apply to intentional radiators operated as carrier current systems in the frequency range of 450 kHz to 30 mHz. Such systems are subject to radiated emission limits as provided in §§ 15.205 and 15.209.

(c) Measurements to demonstrate compliance with the conducted limits are not required for devices which only employ battery power for operation and which do not operate from the AC power lines or contain provisions for operation while connected to the AC power lines. Devices that include, or make provision for, the use of battery chargers which permit operating while charging, AC adaptors or battery eliminators or that connect to the AC power lines indirectly, obtaining their power through another device which is connected to the AC power lines, shall be tested to demonstrate compliance with the conducted limits.

§ 15.209 Radiated emission limits, general requirements.

(a) Except as provided elsewhere in this Subpart, the emissions from an intentional radiator shall not exceed the field strength levels specified in the following table:

Frequency (MHz)	Field strength (microvolts/meter)	Measurement distance (meters)
0.009–0.490	2400/F(kHz)	300
0.490–1.705	24000/F(kHz)	30
1.705–30.0	30	30
30–88	[1] 100	3
88–216	[1] 150	3
216–96	[1] 200	3
Above 960	500	3

[1] Except as provided in paragraph (g), fundamental emissions from intentional radiators operating under this Section shall not be located in the frequency bands 54–72 MHz, 76–88 MHz, 174–216 MHz or 470–806 MHz.

(b) In the emission table above, the tighter limit applies at the band edges.

(c) The level of any unwanted emissions from an intentional radiator operating under these general provisions shall not exceed the level of the fundamental emission. For intentional radiators which operate under the provisions of other sections within this part and which are required to reduce their unwanted emissions to the limits specified in this table, the limits in this table are based on the frequency of the unwanted emission and not the fundamental frequency. However, the level of any unwanted emissions shall not exceed the level of the fundamental frequency.

(d) The emission limits shown in the above table are based on measurements employing a CISPR quasi-peak detector except for the frequency bands 9–90 kHz, 110–490 kHz and above 1000 MHz. Radiated emission limits in these three bands are based on measurements employing an average detector.

(e) The provisions in §§ 15.31, 15.33, and 15.35 for measuring emissions at distances other than the distances specified in the above table, determining the frequency range over which radiated emissions are to be measured, and limiting peak emissions apply to all devices operated under this part.

(f) In accordance with § 15.33(a), in some cases the emissions from an intentional radiator must be measured to beyond the tenth harmonic of the highest fundamental frequency designed to be emitted by the intentional radiator because of the incorporation of a digital device. If measurements above the tenth harmonic are so required, the radiated emissions above the tenth harmonic shall comply with the general radiated emission limits applicable to the incorporated digital device, as shown in § 15.109 and as based on the frequency of the emission being measured, or, except for emissions contained in the restricted frequency bands shown in § 15.205, the limit on spurious emissions specified for the intentional radiator, whichever is the higher limit. Emissions which must be measured above the tenth harmonic of the highest fundamental frequency designed to be emitted by the intentional radiator and which fall within the restricted bands shall comply with the general radiated emission limits in § 15.109 that are applicable to the incorporated digital device.

(g) Perimeter protection systems operating under the provisions of this Section in the frequency bands allocated to TV broadcast stations, as shown in Part 73 of this chapter, shall contain their fundamental emissions within the frequency bands 54–72 MHz and 76–88 MHz. Further, the use of such perimeter protection systems is limited to industrial, business and commercial applications.

§ 15.211 Tunnel radio systems.

An intentional radiator utilized as part of a tunnel radio system may operate on any frequency provided it meets all of the following conditions:

(a) Operation of a tunnel radio system (intentional radiator and all connecting wires) shall be contained solely within a tunnel, mine or other structure that provides attenuation to the radiated signal due to the presence of naturally surrounding earth and/or water.

(b) Any intentional or unintentional radiator external to the tunnel, mine or other structure, as described in paragraph (a) of this section, shall be subject to the other applicable regulations contained within this part.

(c) The total electromagnetic field from a tunnel radio system on any frequency or frequencies appearing outside of the tunnel, mine or other structure described in paragraph (a) of this section, shall not exceed the limits shown in § 15.209 when measured at the specified distance from the surrounding structure, including openings. Particular attention shall be paid to the emissions from any opening in the structure to the outside environment. When measurements are made from the openings, the distances shown in § 15.209 refer to the distance from the plane of reference which fits the entire perimeter of each above ground opening.

(d) The conducted limits in § 15.207 apply to the radiofrequency voltage on the public utility power lines outside of the tunnel.

§ 15.213 Cable locating equipment.

An intentional radiator used as cable locating equipment, as defined in § 15.3(d), may be operated on any frequency within the band 9–490 kHz, subject to the following limits: Within the frequency band 9 kHz, up to, but not including, 45 kHz, the peak output power from the cable locating equipment shall not exceed 10 watts; and, within the frequency band 45 kHz to 490 kHz, the peak output power from the cable locating equipment shall not exceed one watt. If provisions are made for connection of the cable locating equipment to the AC power lines, the conducted limits in § 15.207 also apply to this equipment.

Radiated Emission Limits, Additional Provisions

§ 15.215 Additional provisions to the general radiated emission limitations.

(a) The regulations in §§ 15.217 through 15.251 provide alternatives to the general radiated emission limits for intentional radiators operating in specified frequency bands. Unless otherwise stated, there are no restrictions as to the types of operation permitted under these sections.

(b) In most cases, unwanted emissions outside of the frequency bands shown in these alternative provisions must be attenuated to the emission limits shown

in § 15.209. In no case shall the level of the unwanted emissions from an intentional radiator operating under these additional provisions exceed the field strength of the fundamental emission.

(c) For those bands of frequencies where alternative radiated emission limitations apply and for which a frequency stability is not specified, it is recommended that the fundamental frequency be kept within at least the central 80% of the permitted band in order to minimize the possibility of out-of-band operation.

(d) Where the following sections specify limits on the bandwidth of the emissions, the bandwidth limits include the effects of frequency sweeping, frequency hopping, and other modulation techniques which may be employed.

§ 15.217 Operation in the band 160–190 kHz.

(a) The total input power to the final radio frequency stage (exclusive of filament or heater power) shall not exceed one watt.

(b) The total length of the transmission line, antenna, and ground lead (if used) shall not exceed 15 meters.

(c) All emissions below 160 kHz or above 190 kHz shall be attenuated at least 20 dB below the level of the unmodulated carrier. Determination of compliance with the 20 dB attenuation specification may be based on measurements at the intentional radiator's antenna output terminal unless the intentional radiator uses a permanently attached antenna, in which case compliance shall be demonstrated by measuring the radiated emissions.

§ 15.219 Operation in the band 510–1705 kHz.

(a) The total input power to the final radio frequency stage (exclusive of filament or heater power) shall not exceed 100 milliwatts.

(b) The total length of the transmission line, antenna and ground lead (if used) shall not exceed 3 meters.

(c) All emissions below 510 kHz or above 1705 kHz shall be attenuated at least 20 dB below the level of the unmodulated carrier. Determination of compliance with the 20 dB attenuation specification may be based on measurements at the intentional radiator's antenna output terminal unless the intentional radiator uses a permanently attached antenna, in which case compliance shall be deomonstrated by measuring the radiated emissions.

§ 15.221 Operation in the band 525–1705 kHz.

(a) The provisions of this section are restricted to the operation of an AM broadcast station on a college or university campus or on the campus of any other educational institution. Operation is restricted to the ground of the campus. For the band 535–1705 kHz, the frequency of operation shall be chosen such that operation is not within the protected field strength contours of licensed AM stations.

(b) On the campus, the field strength of emissions appearing outside of this frequency band shall not exceed the general radiated emission limits shown in § 15.209 as measured from the radiating source. There is no limit on the field strength of emissions appearing within this frequency band, except that the provisions of § 15.5 continue to apply.

(c) At the perimeter of the campus, the field strength of any emissions, including those within the frequency band 525–1705 kHz, shall not exceed the general radiated emission limits in § 15.209.

(d) The conducted limits specified in § 15.207 apply to the radio frequency voltatge on the public utility power lines outside of the campus. Due to the large number of radio frequency devices which may be used on the campus, contributing to the conducted emissions, as an alternative to measuring conducted emissions on the AC power lines outside of the campus, it is acceptable to demonstrate compliance with this provision by measuring each individual intentional radiator employed in the system at the point where it connects to the AC power lines. As provided in § 15.207(b), if only a carrier current system is employed, the AC power line conducted limits do not apply. However, the radiated emission limits provided in this section apply to carrier current systems.

(e) A grant of equipment authorization is not required for a campus radio system. In lieu thereof, a campus radio system shall be verified for compliance with the regulations in accordance with Subpart J of Part 2 of this chapter. This data shall be kept on file at the location of the studio, office or control room associated with the transmitting equipment. In some cases, this may correspond to the location of the transmitting equipment.

§ 15.223 Operation in the band 1.705–10 MHz.

(a) The field strength of any emission within the band 1.705–10.0 MHz shall not exceed 100 microvolts/meter at a distance of 30 meters. However, if the bandwidth of the emission is less than 10% of the center frequency, the field strength shall not exceed 15 microvolts/meter or (the bandwidth of the device in kHz) divided by (the center frequency of the device in MHz) microvolts/meter at a distance of 30 meters, whichever is the higher level. For the purposes of this section, bandwidth is determined at the points 6 dB down from the modulated carrier. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35(b) for limiting peak emissions apply.

(b) The field strength of emissions outside of the band 1.705–10.0 MHz shall not exceed the general radiated emission limits in § 15.209.

§ 15.225 Operation within the band 13.553–13.567 MHz.

(a) The field strength of any emissions within this band shall not exceed 10,000 microvolts/meter at 30 meters.

(b) The field strength of any emissions appearing outside of this band shall not exceed the general radiated emission limits shown in § 15.209.

(c) The frequency tolerance of the carrier signal shall be maintained within ±0.01% of the operating frequency over a temperature variation of −20 degrees to +50 degrees C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

§ 15.227 Operation within the band 26.96–27.28 MHz.

(a) The field strength of any emission within this band shall not exceed 10,000 microvolts/meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(b) The field strength of any emissions which appear outside of this band shall not exceed the general radiated emission limits in § 15.209.

§ 15.229 Operation within the band 40.66–40.70 MHz.

(a) Unless operating pursuant to the provisions in § 15.231, the field strength of any emissions within this band shall not exceed 1,000 microvolts/meter at 3 meters.

(b) The field strength of any emissions appearing outside of this band shall not exceed the general radiated emission limits in § 15.209.

(c) The frequency tolerance of the carrier signal shall be maintained within

±0.01% of the operating frequency over a temperature variation of −20 degrees to +50 degrees C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

§ 15.231 Periodic operation in the band 40.66–40.70 MHz and above 70 MHz.

(a) The provisions of this section are restricted to periodic operation within the band 40.66–40.70 MHz and above 70 MHz. Except as shown in paragraph (e) of this section, the intentional radiator is restricted to the transmission of a control signal such as those used with alarm systems, door openers, remote switches, etc. Radio control of toys is not permitted. Continuous transmissions, such as voice or video, and data transmissions are not permitted. The prohibition against data transmissions does not preclude the use of recognition codes. Those codes are used to identify the sensor that is activated or to identify the particular component as being part of the system. The following conditions shall be met to comply with the provisions for this periodic operation:

(1) A manually operated transmitter shall employ a switch that will automatically deactivate the transmitter within not more than 5 seconds of being released.

(2) A transmitter activated automatically shall cease transmission within 5 seconds after activation.

(3) Periodic transmissions at regular predetermined intervals are not permitted. However, polling or supervision transmissions to determine system integrity of transmitters used in security or safety applications are allowed if the periodic rate of transmission does not exceed one transmission of not more than one second duration per hour for each transmitter.

(4) Intentional radiators which are employed for radio control purposes during emergencies involving fire, security, and safety of life, when activated to signal an alarm, may operate during the pendency of the alarm condition

(b) In addition to the provisions of § 15.205, the field strength of emissions from intentional radiators operated under this section shall not exceed the following:

Fundamental frequency (MHz)	Field strength of fundamental (microvolts/meter)	Field strength of spurious emissions (microvolts/meter)
40.66–40.70.	2,250	225
70–130	1,250	125
130–174	[1] 1,250 to 3,750	[1] 125 to 375
174–260	3,750	375
260–470	[1] 3,750 to 12,500	[1] 375 to 1,250
Above 470	12,500	1,250

[1] Linear interpolations.

(1) The above field strength limits are specified at a distance of 3 meters. The tighter limits apply at the band edges.

(2) Intentional radiators operating under the provisions of this Section shall demonstrate compliance with the limits on the field strength of emissions, as shown in the above table, based on the average value of the measured emissions. As an alternative, compliance with the limits in the above table may be based on the use of measurement instrumentation with a CISPR quasi-peak detector. The specific method of measurement employed shall be specified in the application for equipment authorization. If average emission measurements are employed, the provisions in § 15.35 for averaging pulsed emissions and for limiting peak emissions apply. Further, compliance with the provisions of § 15.205 shall be demonstrated using measurement instrumentation with a CISPR quasi-peak detector.

(3) The limits on the field strength of the spurious emissions in the above table are based on the fundamental frequency of the intentional radiator. Spurious emissions shall be attenuated to the average limits shown in this table or to the general limits shown in § 15.209, as measured with a CISPR quasi-peak detector, whichever limit permits a higher field strength.

(c) The bandwidth of the emission shall be no wider than 0.25% of the center frequency for devices operating above 70 MHz and below 900 MHz. For devices operating above 900 MHz, the emission shall be no wider than 0.5% of the center frequency. Bandwidth is determined at the points 20 dB down from the modulated carrier.

(d) For devices operating within the frequency band 40.66–40.70 MHz, the bandwidth of the emission shall be confined within the band edges and the frequency tolerance of the carrier shall be ± 0.01%. This frequency tolerance shall be maintained for a temperature variation of −20 degrees to +50 degrees C at normal supply voltage, and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

(e) Intentional radiators may operate at a periodic rate exceeding that specified in paragraph (a) of this section and may be employed for any type of operation, including operation prohibited in paragraph (a) of this section, provided the intentional radiator complies with the provisions of paragraphs (b) through (d) of this section, except the field strength table in paragraph (b) of this section is replaced by the following:

Fundamental frequency (MHz)	Field strength of fundamental (microvolts/meter)	Field strength of spurious emission (microvolts/meter)
40.66–40.70.	1,000	100
70–130	500	50
130–174	500 to 1,500 [1]	50 to 150 [1]
174–260	1,500	150
260–470	1,500 to 5,000 [1]	150 to 500 [1]
Above 470	5,000	500

[1] Linear interpolations.

In addition, devices operated under the provisions of this paragraph shall be provided with a means for automatically limiting operation so that the duration of each transmission shall not be greater than one second and the silent period between transmissions shall be at least 30 times the duration of the transmission but in no case less than 10 seconds.

§ 15.233 Operation within the bands 46.60–46.98 MHz and 49.66–50.0 MHz.

(a) The provisions shown in this section are restricted to cordless telephones.

(b) An intentional radiator used as part of a cordless telephone system shall operate on one or more of the following frequency pairs:

Channel	Base transmitter (MHz)	Handset transmitter (MHz)
1	46.610	49.670
2	46.630	49.845
3	46.670	49.860
4	46.710	49.770
5	46.730	49.875
6	46.770	49.830
7	46.830	49.890
8	46.870	49.930
9	46.930	49.990
10	46.970	49.970

(c) The field strength of the fundamental emission shall not exceed 10,000 microvolts/meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The

provisions in § 15.35 for limiting peak emissions apply.

(d) The fundamental emission shall be confined with a 20 kHz band centered on the actual carrier frequency. Modulation products outside of this 20 kHz band shall be attenuated at least 26 dB below the level of the unmodulated carrier or to the general limits in § 15.209, whichever permits the higher emission levels. Emissions on any frequency more than 20 kHz removed from the center frequency shall consist solely of unwanted emissions and shall not exceed the general radiated emission limits in § 15.209.

(e) All emissions exceeding 20 microvolts/meter at 3 meters are to be reported in the application for certification. Tests to determine compliance with this requirement shall be performed using an appropriate input signal as prescribed in § 2.989 of this chapter.

(f) If the device provides for the connection of external accessories, including external electrical input signals, the device must be tested with the accessories attached. The emission tests shall be performed with the device and accessories configured in a manner which tends to produce the maximum level of emissions within the range of variations that can be expected under normal operating conditions.

(g) The frequency tolerance of the carrier signal shall be maintained within ±0.01% of the operating frequency. The tolerance shall be maintained for a temperature variation of −20 degrees C to +50 degrees C at normal supply voltage, and for variation in the primary voltage from 85% to 115% of the rated supply voltage at a temperature of 20 degrees C. For battery operated equipment, the equipment tests shall be performed using a new battery.

(h) For equipment authorization, a single application form, FCC Form 731, may be filed for a cordless telephone system, provided the application clearly identifies and provides data for all parts of the system to show compliance with the applicable technical requirements. When a single application form is submitted, both the base station and the portable handset must carry the same FCC identifier. The application shall include a fee for certification of each type of transmitter and notification or certification, if appropriate, for each type of receiver included in the system.

(i) A cordless telephone which is intended to be connected to the public telephone network shall also comply with the applicable regulations in Part 68 of this chapter. A separate application for registration under Part 68 is required.

(j) The label required under Subpart A shall also contain the following statement: "Privacy of communications may not be ensured when using this phone."

(k) The box or other package in which the individual cordless telephone is to be marketed shall carry a statement in a prominent location, visible to the buyer before purchase, which reads as follows:

Notice: The base units of some cordless telephones may respond to other nearby units or to radio noise resulting in telephone calls being dialed through this unit without your knowledge and possibly calls being misbilled. In order to protect against such occurrences, this cordless telephone is provided with the following features: (to be completed by the responsible party).

An application for certification of a cordless telephone shall specify the complete text of the statement that will be carried on the package and indicate where, specifically, it will be located on the carton.

§ 15.235 Operation within the band 49.82–49.90 MHz.

(a) The field strength of any emission within this band shall not exceed 10,000 microvolts/meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(b) The field strength of any emissions appearing between the band edges and up to 10 kHz above and below the band edges shall be attenuated at least 26 dB below the level of the unmodulated carrier or to the general limits in § 15.209, whichever permits the higher emission levels. The field strength of any emissions removed by more than 10 kHz from the band edges shall not exceed the general radiated emission limits in § 15.209. All signals exceeding 20 microvolts/meter at 3 meters shall be reported in the application for certification.

(c) For a home-built intentional radiator, as defined in § 15.23(a), operating within the band 49.82–49.90 MHz, the following standards may be employed:

(1) The RF carrier and modulation products shall be maintained within the band 49.82–49.90 MHz.

(2) The total input power to the device measured at the battery or the power line terminals shall not exceed 100 milliwatts under any condition of modulation.

(3) The antenna shall be a single element, one meter or less in length, permanently mounted on the enclosure containing the device.

(4) Emissions outside of this band shall be attenuated at least 20 dB below the level of the unmodulated carrier.

(5) The regulations contained in § 15.23 of this part apply to intentional radiators constructed under the provisions of this paragraph.

(d) Cordless telephones are not permitted to operate under the provisions of this section.

§ 15.237 Operation in the bands 72.0–73.0 MHz and 75.4–76.0 MHz.

(a) The intentional radiator shall be restricted to use as an auditory assistance device.

(b) Emissions from the intentional radiator shall be confined within a band 200 kHz wide centered on the operating frequency. The 200 kHz band shall lie wholly within the above specified frequency ranges.

(c) The field strength of any emissions within the permitted 200 kHz band shall not exceed 80 millivolts/meter at 3 meters. The field strength of any emissions radiated on any frequency outside of the specified 200 kHz band shall not exceed 1500 microvolts/meter at 3 meters. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

§ 15.239 Operation in the band 88–108 MHz.

(a) Emissions from the intentional radiator shall be confined within a band 200 kHz wide centered on the operating frequency. The 200 kHz band shall lie wholly within the frequency range of 88–108 MHz.

(b) The field strength of any emissions within the permitted 200 kHz band shall not exceed 250 microvolts/meter at 3 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(c) The field strength of any emissions radiated on any frequency outside of the specified 200 kHz band shall not exceed the general radiated emission limits in § 15.209.

(d) A custom built telemetry intentional radiator operating in the frequency band of 88–208 MHz and used for experimentation by an educational institute need not be certified provided the device complies with the standards in this Part and the educational institution notifies the Engineer in Charge of the local FCC office, in writing, in advance of operation, providing the following information:

(1) The dates and places where the device will be operated;

(2) The purpose for which the device will be used;

(3) A description of the device, including the operating frequency, RF power output, and antenna; and,

(4) A statement that the device complies with the technical provisions of this part.

§ 15.241 Operation in the band 174–216 MHz.

(a) Operation under the provisions of this section is restricted to biomedical telemetry devices.

(b) Emissions from the device shall be confined within a 200 kHz band which shall lie wholly within the frequency range of 174–216 MHz.

(c) The field strength of any emissions radiated within the specified 200 kHz band shall not exceed 1500 microvolts/meter at 3 meters. The field strength of emissions radiated on any frequency outside of the specified 200 kHz band shall not exceed 150 microvolts/meter at 3 meters. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

§ 15.243 Operation in the band 890–940 MHz.

(a) Operation under the provisions of this section is restricted to devices that use radio frequency energy to measure the characteristics of a material. Devices operated pursuant to the provisions of this section shall not be used for voice communications or the transmission of any other type of message.

(b) The field strength of any emissions radiated within the specified frequency band shall not exceed 500 microvolts/meter at 30 meters. The emission limit in this paragraph is based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(c) The field strength of emissions radiated on any frequency outside of the specified band shall not exceed the general radiated emission limits in § 15.209.

(d) The device shall be self-contained with no external or readily accessible controls which may be adjusted to permit operation in a manner inconsistent with the provisions in this section. Any antenna that may be used with the device shall be permanently attached thereto and shall not be readily modifiable by the user.

§ 15.245 Operation within the bands 902–928 MHz, 2435–2465 MHz, 5785–5815 MHz, 10500–10550 MHz, and 24075–24175 MHz.

(a) Operation under the provisions of this section is limited to intentional radiators used as field disturbance sensors, excluding perimeter protection systems.

(b) The field strength of emissions from intentional radiators operated within these frequency bands shall comply with the following:

Fundamental frequency (MHz)	Field strength of fundamental (millivolts/meter)	Field strength of harmonics (millivolts/meter)
902–928	500	1.6
2435–2465	500	1.6
5785–5815	500	1.6
10500–10550	2500	25.0
24075–24175	2500	25.0

(1) Field strength limits are specified at a distance of 3 meters.

(2) Emissions radiated outside of the specified frequency bands, except for harmonics, shall be attenuated by at least 50 dB below the level of the fundamental or to the general radiated emission limits in § 15.209, whichever is the lesser attenuation.

(3) The emission limits shown in the above table are based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

§ 15.247 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz.

(a) Operation under the provisions of this section is limited to frequency hopping and direct sequence spread spectrum intentional radiators that comply with the following provisions:

(1) For frequency hopping systems, at least 75 hopping frequencies, separated by at least 25 kHz, shall be used. The average time of occupancy on any frequency shall not be greater than 0.4 seconds within a 30 second period. The maximum bandwidth of the hopping channel is 25 kHz.

(2) For direct sequence systems, the minimum 6 dB bandwidth shall be at least 500 kHz.

(b) The maximum peak output power of the intentional radiator shall not exceed one watt.

(c) Radio frequency output power outside these frequency bands over any 100 kHz bandwidth shall be at least 20 dB below that in any 100 kHz bandwidth within the band that contains the highest level of the desired power.

Note: Spread spectrum systems are sharing these bands on a noninterference basis with systems supporting critical Government requirements that have been allocated the usage of these bands, secondary only to ISM equipment operated under the provisions of Part 18 of this chapter. Many of these Government systems are airborne radiolocation systems that emit a high EIRP which can cause interference to other users. Also, investigations of the effect of spread spectrum interference to U. S. Government operations in the 902–928 MHz band may require a future decrease in the power limits allowed for spread spectrum operation.

§ 15.249 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, 5725–5875 MHZ, and 24.0–24.25 GHz

(a) The field strength of emissions from intentional radiators operated within these frequency bands shall comply with the following:

Fundamental frequency	Field strength of fundamental (millivolts/meter)	Field strength of harmonics (microvolts/meter)
902–928 MHz	50	500
2400–2483.5 MHz	50	500
5725–5875 MHz	50	500
24.0–24.25 GHz	250	2500

(b) Field strength limits are specified at a distance of 3 meters.

(c) Emissions radiated outside of the specified frequency bands, except for harmonics, shall be attenuated by at least 50 dB below the level of the fundamental or to the general radiated emission limits in § 15.209, whichever is the lesser attenuation.

(d) As shown in § 15.35(b), for frequencies above 1000 MHz, the above field strength limits are based on average limits. However, the peak field strength of any emission shall not exceed the maximum permitted average limits specified above by more than 20 dB under any condition of modulation.

§ 15.251 Operation within the bands 2.9–3.26 GHz, 3.267–3.332 GHz, 3.339–3.3458 GHz, and 3.358–3.6 GHz.

(a) Operation under the provisions of this section is limited to automatic vehicle identification systems (AVIS) which use swept frequency techniques for the purpose of automatically identifying transportation vehicles.

(b) The field strength anywhere within the frequency range swept by the signal shall not exceed 3000 microvolts/meter/MHz at 3 meters in any direction. Further, an AVIS, when in its operating position, shall not produce a field strength greater than 400 microvolts/meter/MHz at 3 meters in any direction within ± 10 degrees of the horizontal

plane. In addition to the provisions of § 15.205, the field strength of radiated emissions outside the frequency range swept by the signal shall be limited to a maximum of 100 microvolts/meter/MHz at 3 meters, measured from 30 MHz to 20 GHz for the complete system. The emission limits in this paragraph are based on measurement instrumentation employing an average detector. The provisions in § 15.35 for limiting peak emissions apply.

(c) The minimum sweep repetition rate of the signal shall not be lower than 4000 sweeps per second, and the maximum sweep repetition rate of the signal shall not exceed 50,000 sweeps per second.

(d) An AVIS shall employ a horn antenna or other comparable directional antenna for signal emission.

(e) Provision shall be made so that signal emission from the AVIS shall occur only when the vehicle to be identified is within the radiated field of the system.

(f) In addition to the labelling requirements in § 15.19(a), the label attached to the AVIS transmitter shall contain a third statement regarding operational conditions, as follows:

* * * and, (3) during this device (the antenna) may not be pointed within ± ** degrees of the horizontal plane.

The double asterisks in condition three (**) shall be replaced by the responsible party with the angular pointing restriction necessary to meet the horizontal emission limit specified in paragraph (b) of this section.

(g) In addition to the information required in Subpart J of Part 2, the application for certification shall contain:

(1) Measurements of field strength per MHz along with the intermediate frequency of the spectrum analyzer or equivalent measuring receiver;

(2) The angular separation between the direction at which maximum field strength occurs and the direction at which the field strength is reduced to 400 microvolts/meter/MHz at 3 meters;

(3) A photograph of the spectrum analyzer display showing the entire swept frequency signal and a calibrated scale for the vertical and horizontal axes; the spectrum analyzer settings that were used shall be labelled on the photograph; and,

(4) The results of the frequency search for spurious and sideband emissions from 30 MHz to 20 GHz, exclusive of the swept frequency band, with the measuring instrument as close as possible to the unit under test.

Federal Communications Commission.

Donna R. Searcy,

Secretary

[FR Doc. 89-9660 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-465; RM-6393]

Radio Broadcasting Services; Sitka, AK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 276C2 to Sitka, Alaska, as that community's first local commercial FM service, in response to a petition for rule making filed on behalf of Alaska Broadcast Communications, Inc. Coordinates used for Channel 276C2 at Sitka are 57-03-00 and 135-20-00. With this action, the proceeding is terminated.

DATES: Effective June 5, 1989; the window period for filing applications on Channel 276C2 at Sitka, Alaska, will open on June 6, 1989, and close on June 9, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-465, adopted March 28, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Alaska, is amended by revising the entry for Sitka, by adding Channel 276C2.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9793 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-184; RM-6116]

Radio Broadcasting Services, Ridgecrest, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 224B1 for Channel 224A at Ridgecrest, California, and modifies the Class A license of Bel Air Broadcasting Corporation for Station KZIQ-FM, as requested, to specify operation on the higher class channel, thereby providing that community with its first wide coverage area FM service. Coordinates at the petitioner's perferred site for Channel 224B1 at Ridgecrest are 35-28-39 and 117-41-57. With this action, the proceeding is terminated.

EFFECTIVE DATE: June 5, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-458, adopted March 28, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for California, is amended by revising the entry for Ridgecrest, by deleting Channel 224A and adding Channel 224B1.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9792 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-76; RM-6054]

Radio Broadcasting Services; Alma and Dublin, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of State Broadcasting Company, Inc., substitutes Channel 240C2 for Channel 240A at Dublin, Georgia, and modifies its license for Station WQZY(FM) to specify operation on the higher powered channel. In addition, the Commission substitutes Channel 282A for Channel 240A at Alma, Georgia, and modifies the license of Queen City Broadcasting System, Inc. for Station WKXH-FM accordingly. Both channels can be allotted in compliance with the Commission's minimum distance separation requirements and can be used at their respective station's present transmitter sites. The coordinates for Channel 240C2 at Dublin are North Latitude 32-33-51 and West Longitude 82-52-18. The coordinates for Channel 282A at Alma are North Latitude 31-36-26 and West Longitude 82-32-46. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 2, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-76, adopted March 28, 1989, and released April 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Georgia is amended by removing Channel 240A and adding Channel 282A to Alma and by removing Channel 240A and adding Channel 240C2 to Dublin.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9849 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-494; RM-6412]

Radio Broadcasting Services; Clarinda, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The commission, at the request of G.O. Radio, Ltd., substitutes Channel 291C2 for Channel 292A at Clarinda, Iowa, and modifies its license for Station KQIS-FM to specify operation on the higher-powered channel. Channel 291C2 can be allotted to Clarinda in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.3 kilometers (5.8 miles) east to avoid a short-spacing to unused but applied for Channel 290A at Omaha, Nebraska. The coordinates for this allotment are North Latitude 40-42-42 and West Longitude 94-55-55. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 2, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-494, adopted March 29, 1989, and released April 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Clarinda, Iowa, is amended by removing Channel 292A and adding Channel 291C2.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9848 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-525; RM-6475]

Radio Broadcasting Services; Marion, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 236C2 for Channel 236A at Marion, Mississippi, in response to a petition filed by Marion Broadcasting Company, Inc. We shall also modify the license of Station WQIC(FM) to specify operation on Channel 236C2 in lieu of Channel 236A in accordance with § 1.420(g) of the Commission's Rules. The coordinates for Channel 236C2 are 32-20-00 and 88-44-00. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 5, 1989.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-525, adopted March 29, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Mississippi is amended by deleting Channel 236A and adding Channel 236C2 at Marion.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9795 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-498; RM-6486]

Radio Broadcasting Services; Wahpeton, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Guderian Broadcasting, Inc., substitutes Channel 295C2 for Channel 296A at Wahpeton, North Dakota, and modifies its construction permit for Station KGWB to specify operation on the higher powered channel. Channel 295C2 can be allotted to Wahpeton in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.6 kilometers (5.3 miles) northeast to avoid a short-spacing to Station KGIM-FM, Channel 294C1, Aberdeen, South Dakota. The coordinates for this allotment are North Latitude 46°18'00" and West Longitude 96°29'50". With this action, this proceeding is terminated.

EFFECTIVE DATE: June 2, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-498, adopted April 5, 1989, and released April 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Wahpeton, North Dakota, is amended by removing Channel 296A and adding Channel 295C2.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9850 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-453; RM-6456]

Radio Broadcasting Services; Franklin, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 255A to Franklin, Texas, as that community's first local FM service, at the request of Franklin Community Radio Company. The channel allotment can be made in compliance with the Commission's minimum distance separation requirements, at coordinates 31-01-36 and 96-29-00. With this action, this proceeding is terminated.

DATES: Effective June 5, 1989; the window period for filing applications will open on June 6, 1989, and close on July 6, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-453, adopted April 3, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended by adding Franklin, Channel 255A under Texas.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9794 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

48 CFR Parts 951 and 952

Acquisition Regulations; Government Travel Discounts to Cost Reimbursement

AGENCY: Department of Energy (DOE).

ACTION: Final rule.

SUMMARY: This rule amends the Department of Energy Acquisition Regulation (DEAR) to implement General Service Administration (GSA) Bulletin Federal Property Management Regulations (FPMR) A-95, Availability of Government Travel Discounts to Cost Reimbursement Type Contractors, dated August 19, 1988. (The proposed rule referenced FPMR A-90 which was superseded by A-95.) The GSA bulletin requests agencies to make information available to contracting officers and, where appropriate, to cost-reimbursable contractors (CRCs) regarding the use of discount air fares through specified airlines, reduced hotel/motel rates and reduced car rental rates. This rulemaking affects three parts of the DEAR: an addition to 48 CFR Part 951, Use of Government Sources by Contractors, which outlines the travel discount air fares program being made available to employees of CRCs; 48 CFR Part 952, Solicitation provisions and Contract Clauses, which sets forth the provision to be included in solicitations and the clause to be included in eligible contracts and contract modifications to effect availability of the travel discounts; and 48 CFR Part 970, DOE Management and Operating (M&O) Contracts, which references the two preceding regulations as they apply to M&O contracts.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT:

Gwen Cowan, Business and Financial Policy Division (MA-422), Office of the Deputy Assistant Secretary for Procurement and Assistance Management, Washington, DC 20585, (202) 586-8159

Prentis Cook, Office of the Assistant General Counsel for Procurement and Finance (GC–34), Washington, DC 20585, (202) 586–1526

SUPPLEMENTARY INFORMATION:

I. Background
II. Procedural Requirements
A. Review Under Executive Order 12291
B. Review Under the Regulatory Flexibility Act
C. Paperwork Reduction Act
D. National Environmental Policy Act
E. Review Under Executive Order 12612
F. Public Hearing
III. Public Comments
IV. Other Changes

I. Background

Under section 644 of the DOE Organization Act, Pub. L. 95–91 (42 U.S.C. 7254), the Secretary of Energy is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in that position. Accordingly, the DEAR was promulgated with an effective date of April 1, 1984 (49 FR 11992, March 28, 1984), 48 CFR Chapter 9.

The purpose of this rulemaking is to revise the DEAR, as necessary, to implement GSA Bulletin FPMR A–95, Availability of Government Travel Discounts to Cost Reimbursement Type Contractor, dated August 19, 1988. The bulletin, which superseded A–90, announced the conditions of availability of the GSA contract airline discount fares, reduced hotel/motel rates and car rental rates to CRCs. Regulations governing the use of contract airlines are contained in FPMR Temporary Regulation A–30, dated October 1, 1986, as amended by Supplements 1–3, which provides that CRCs working for the Government may use the same discounted contract air fares available to Federal employees while traveling of Government business, provided the contract airline agrees to the arrangement and the destination(s) are included in the city-pairs contracts negotiated by GSA with the airline(s). The regulation also provides that eligible CRC employees, with a proper identification letter from the authorizing agencies, may use a Government Transportation Request (GTR), Standard Form 1169, cash or a personal credit card, depending upon the requirements of the airline, to obtain discount air fares.

Identification of the participating contract airlines and airline city-pairs schedules are contained in the Federal Travel Director (FTD) (ISSN: 0278–0941), published monthly by GSA. The FTD also contains the names of participating car rental agencies and hotel/motels. Copies are available through the U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402, telephone (202) 783–3238.

DEAR Part 951, Use of Government Sources by Contractors, is amended by the addition of DEAR 951.70, entitled "Contractor Employee Travel Discounts," which describes the scope, policy, and responsibilities for administering the travel discount program.

DEAR Part 952, Solicitation Provisions and Contract Clauses, is amended by the addition of DEAR 952.251–70, entitled "Contractor Employee Travel Discounts," which provides the authorizing solicitation provision and contract and contract modification clause for cost-reimbursable contracts.

DEAR Part 970, DOE Management and Operating (M&O) Contracts, is amended by the addition of DEAR 970.5204–53, Contractor Employee Travel Discounts, which provides that the solicitation provisions and contract clauses at DEAR 952.251.70 are to be incorporated in DOE M&O contracts.

II. Procedural Requirements

A. Review Under Executive Order 12291

This Executive order, entitled "Federal Regulations," requires that certain regulations be reviewed by the Office of Management and Budget (OMB) prior to their promulgation. OMB Bulletin 85–7 exempts all but certain types of procurement regulations from such review. This proposed rule does not involve any of the topics requiring prior review under the bulletin and is, accordingly, exempt from such review.

B. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities; the costs of goods or services or other direct economic factors. It will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because this final rule does not impose additional reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq. Responsibility for recordkeeping and paperwork burden associated with collecting GTR information rests directly with GSA. GTR reporting is required by FPMR 101–41.2 and is submitted directly from the using agency/agent to GSA.

D. National Environmental Policy Act

DOE has concluded that promulgation of this rule would not represent a major Federal action having a significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432, *et seq.*, 1976), or the Council on Environmental Quality Regulations (40 CFR Part 1020), and therefore does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

E. Review Under Executive Order 12612

The Department has concluded that this proposed rule does not involve issues which are expected to have a substantial direct effect on traditional state functions or their institutional interest and thus the "federalism" assessment requirements of Executive Order 12612 (52 FR 41685, October 30, 1987) do not apply.

F. Public Hearing

DOE has concluded that this rule does not involve a substantial issue of fact or law and that it should not have a substantial impact on the nation's economy or large numbers of individuals or businesses. Therefore, pursuant to Pub. L. 95–91, the DOE Organization Act, the DOE did not hold a public hearing on this rule.

III. Public Comments

This final rule is based on the Notice of Proposed Rulemaking (NOPR), which DOE published in the Federal Register on December 29, 1986 (51 FR 46884), wherein public comments were invited. Public comments were received from three universities. The public comments and DOE's responses and actions taken in response thereto are summarized in the paragraphs that follow:

Comment: Three commenters stated that many airlines, hotels/motels, and/or car rental companies do not offer Government discounts to CRCs, or that discount service is not acceptable because of poor schedules or unreliable service.

Response: The intent of this rule is to ensure that CRCs are aware of and use the Government discount program within the confines of availability and

meeting contract objectives. If a needed travel service is not available to a CRC employee or does not reasonably meet the needs of the traveler in fulfilling contract objectives, then there is not requirement to use Government sources. As to the matter of service, GSA and Military Traffic Management Command (MTMC) have included minimum requirements in their contracts for travel services. The FTD contains information on whom to notify if these minimum acceptable levels of service are not provided.

Comment: Three commenters stated that they are sometimes able to obtain discounts on travel services which are greater than those offered in the Government discount program.

Response: CRCs are not mandatory users of the Government discount program and DOE did not intend to make them so. To clarify the language of the rule in this regard, DOE has deleted the phrase "To the maximum extent practicable * * *" from Subpart 952.251–70 and inserted the wording "* * * when use of these discounts would result in lower overall trip costs and the discounted services are reasonably available. * * *"

Comment: One commenter objected to the final sentence of Subpart 952.251–70, paragraph (d)(1), which required CRCs to obtain the lowest available airfare.

Response: It was not the intent of DOE to require contractors to check on each and every trip with all air carriers serving a particular city-pair and document that the air carrier used offered the absolutely lowest available fare. DOE desires that its CRCs become aware of the availability of Government travel discounts and institute a system which provides reasonable assurance that the contractor is taking full advantage of these discounts when doing so will reduce overall travel costs. In some cases, it is recognized that subjective decisions must be made in determining whether a Government discount air carrier can adequately meet the travel requirements of the contractor; this kind of business judgment falls within the Federal Acquisition Regulation (FAR) definition of reasonableness of costs. To avoid any misinterpretation, the final sentence of paragraph (d)(i) of Subpart 952.251–70 of the NOPR has been deleted.

Comment: Three commenters objected to the requirement of the NOPR that CRCS make use of Government discounts whenever available and suggested either dropping the NOPR entirely or altering the requirements of the proposed contract clause.

Response: DOE recognizes the benefits of contractors having flexibility in performing the travel requirements of their contracts and does not desire to unnecessarily reduce this flexibility. However, at the same time, DOE wishes to assure that contract travel costs are kept as low as reasonably possible. DOE believes it to be completely appropriate to require contractors to obtain the lowest cost travel services which are reasonably available and fulfill the contractor's requirements. DOE has revised the wording of Subpart 952.251–70 to clarify that use of Government discount travel services is not mandatory for CRCs, but that Government discounts shall be used when less costly and reasonably available.

Comment: One commenter stated that the proposed rule should be in the FAR and appply to all Government agencies.

Response: In response to such concerns, DOE delayed publication of this final rule while participating in the development of similar coverage to be issued in FAR. It is now DOE's understanding that the FAR Councils have decided that FAR coverage on this subject will not be issued. Therefore, the DEAR coverage is now being published.

Comment: One commenter stated that requesting GTRs for each trip under a contract would delay contractor employees and suggested that blanket GTRs be issued for the entire contract period.

Response: GTRs are controlled documents which, in some cases, obligate the Government to make payments to air carriers. GSA policy does not allow the issuance of blanket GTRs for periods longer than one month. Accordingly, for the limited cases in which GTRs are the only accepted method of payment, it will be necessary for CRCs to obtain either individual trip or one-month blanket GTRs from the cognizant DOE contracting officer. Currently, only two air carriers insist upon GTRs for payment of CRC airfares; GTRs are required to obtain Government discounts for hotels/motels or car rentals.

Comment: One commenter expressed concern that CRC identification letters could be abused by CRC employees to obtain Government discounts for personal travel.

Response: The recommended format of the CRC identification letter contained in the NOPR has been modified by adding the phrase "* * * for contract related travel * * *" to the authorization to obtain discounts. DOE relies upon the integrity of its contractors to use Government discounts only as intended and authorized.

IV. Other Changes

In addition to modifications to the NOPR which were made as a result of public comments, DOE has made minor revisions to the NOPR to reflect changes in the publication of GSA Bulletin FPMR A–95, the FTD, and in the procedures for obtaining services. Also, minor editorial changes were made as required.

List of Subjects in 48 CFR Parts 951, 952, and 970

Government procurement.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, DC, on April 14, 1989.

Berton J. Roth,

Deputy Assistant Secretary for Procurement and Assistance Management.

1. The authority citation for Parts 951, 952 and 970 continues to read as follows:

Authority: Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), and section 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254).

PART 951—USE OF GOVERNMENT SOURCES BY CONTRACTORS

2. Subpart 951.70, Contractor employee travel discounts, is added as follows:

Subpart 951.70—Contractor Employee Travel Discounts

951.7000 Scope of subpart.
951.7001 General policy.
951.7002 Responsibilities.

Subpart 951.70—Contractor Employee Travel Discounts

951.7000 Scope of subpart.

The General Services Administration (GSA) and, in some cases, the Department of Defense (DOD) Military Traffic Management Command negotiate agreements with commercial organizations to provide certain discounts to contractors performing travel under Government cost-reimbursable contracts. In the case of discount air fares and hotel/motel room rates, the GSA has established agreements with certain airlines and thousands of hotels/motels to extend discounts which were previously only available to Federal employees on official travel status. DOD has negotiated agreements with car rental companies for special rates with unlimited mileage which were also to be used by only Federal employees on official Government business. GSA Bulletin Federal Property Management Regulations (FPMRs) A–95, dated

August 19, 1988, makes these three travel discounts available to Government cost-reimbursable contractors at the option of the vendor.

951.7001 General policy.

Contracting officers will encourage DOE cost-reimbursable contractors (CRCs) to use Government travel discounts to the maximum extent practicable in accordance with contractual terms and conditions. Vendors providing the service may require that Government contractor employees furnish a letter of identification signed by the authorizing contracting officer. Contracting officers shall provide CRCs with a "Standard Letter of Identification" when appropriate to do so. An example of a "Standard Letter of Identification" is included as an attachment to GSA Bulletin A–95 and at 952.251–70(e).

(a) FPMR Temporary Regulation A–30 governs the use of contract airlines and provides that CRCs working for the Government are authorized, but not required, to obtain the same contract fares offered to Federal employees if the contract air carrier has agreed to such an arrangement. FPMR Temporary Regulation A–30 further provides that CRCs may obtain contract fares by use of a Government Transportation Request, Standard Form 1169, cash or personal credit card. The Federal Travel Directory (FTD) (ISSN: 0278–0941), published monthly by GSA, identifies air carriers that have agreed to permit CRCs to purchase contract fares when traveling on official Government business.

(b) The Hotel/Motel Discount Section of the FTD lists all participating lodging locations with which GSA has negotiated rates for use by Federal travelers. The directory lists rates and facilities, and identifies those which also offer their Federal discount rates to Government contractors. Hotels/motels participating in travel discounts may, at their option, extend the reduced rates to not only CRCs but to employees of firms working under any type of Government contract. Hotels/motels usually require identification signed by the contracting officer (see above).

(c) Participating car rental firms offering discounted rates to Federal travelers, including those offering discount rates to Government contractor employees, are published in the "Rental Car Information" section of the FTD. Car rental firms which extend the discounted rates to CRCs are identified and should be used as the first source of supply for contractor car rental needs. GSA Bulletin FPMR G–173 and supplement 1 thereto provide guidelines and overall procedures to be used in obtaining discount car rental rates. CRCs should check with the individual car rental firms for details and identification requirements. Accepted methods of payment include cash and personal credit cards.

951.7002 Responsibilities.

Contracting officers will include in all cost-reimbursable solicitations and resulting contracts, or contract modifications, the provision or clause, as applicable, at 952.251–70 when significant costs involving travel by air carrier, ground transportation by rental car and lodging at a hotel or motel will be required in connection with the performance of the contract. Contracting officers may furnish Government contractors with the identification letter for presentation to contract airline, hotel/motel or car rental firm (see 951.7001 above), depending upon the requirements of the vendor.

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 952.251–70, Contractor employee travel discounts, is added as follows:

952.251–70 Contractor employee travel discounts.

As prescribed in Subpart 951.70, the following provision/clause will be included in all cost-reimbursable solicitations and resulting contracts, or contract modifications, as applicable. Consistent with contract-authorized travel requirements, contractor employees shall make use of the travel discounts offered to Federal travelers, through use of contracted airlines discount air fares, hotels and motels lodging rates and car rental companies, when use of such discounts would result in lower overall trip costs and the discounted services are reasonably available to contractor employees performing official Government contract business. Vendors providing these services may require that the contractor employee traveling on Government business be furnished with a letter of identification signed by the authorized contracting officer.

(a) *Contracted airlines.* Airlines participating in travel discounts are listed in the Federal Travel Directory (FTD), published monthly by the General Services Administration (GSA). Regulations governing the use of contracted airlines are contained in the Federal Property Management Regulation (FPMR), Temporary Regulation A–30. Temporary Regulation A–30 stipulates that cost-reimbursable contractor employees may obtain discount air fares by use of a Government Transportation Request (GTR), Standard Form 1169, cash or personal credit cards. When the GTR is used, contracting officers may issue a blanket GTR for a period of not less than two weeks nor more than one month. In unusual circumstances, such as prolonged or international travel, the contracting officer may extend the period for which a blanket GTR is effective to a maximum of three months. Contractors will ensure that their employees traveling under GTR's provide the GTR number to the contracted airlines for entry on individual tickets and on month-end billings to the contractor.

(b) *Hotels/motels.* Participating hotels and motels which extend discounts are listed in the FTD, which shows rates, facilities, and identifies by code those which offer reduced rates to cost-reimbursable contractor employees while traveling on official contract business.

(c) *Car rentals.* The Military Traffic Management Command (MTMC) Department of Defense, negotiates rate agreements with car rental companies for special flat rates and unlimited mileage. Participating car rental companies which offer these terms on to cost-reimbursable contractor employees while traveling on official contract business are listed in the FTD.

(d) *Procedures for obtaining service.* (1) Identification and method of payment requirements for participating Federal contracted airlines are listed in the FTR. Travel discount air fares may be ordered by the issuance of a GTR either directly to the contractor, or to a Scheduled Airline Travel Office (SATO) or Federal Travel Management Center (FTMC), provided the letter of identification signed by the cognizant contracting officer accompanies the order. In appropriate instances, such as geographical proximity, contractors may obtain discount air fares through a DOE office or a cooperating local travel agency when neither a SATO or FTMC is available. Some airlines allow the purchase of discounted air fares with cash or credit card. (2) In the case of hotel and motel accommodations, reservations may be made by the contractor employee directly with the hotel or motel but the employee must display, on arrival, the letter of identification and any other identification required by the hotel or motel proprietorship. (3) For car rentals, generally the same procedures as in (d)(2) above will be followed in

arranging reservations and obtaining discounts.

(e) *Standard letter of identification.* Contractors shall prepare for the authorizing contracting officer a letter of identification based on the following format:

Format for Government Contractors to Qualify for Travel Discounts (To be typed on agency official letterhead)

To: (*Source of ticketing, accommodations or rental*)

Subject: Official Travel of Government Contractor

(*Full name of traveler*), bearer of this letter, is an employee of (*company name*) which is under contract to this agency under the Government contract (*contract number*). During the period of the contract (*give dates*), the employee is eligible and authorized to use available discount rates for contract-related travel in accordance with your contract and/or agreement with the Federal Government.

(*Signature, title and telephone number of the contracting officer*)

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

4. Section 970.5204–53 is added as follows:

970.5204–53 Contractor employee travel discounts.

Insert the contract clause at 952.251–70 when the circumstances described in 951.7002 apply.

[FR Doc. 89–9909 Filed 4–24–89; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 80732–9079]

Taking and Importing of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is issuing this rule to establish the basic living accommodations acceptable for observers placed by the Federal Government on U.S. tuna vessels and further to establish the minimum adjustments in living arrangements that will be required to accommodate a female observer on a vessel with an all male crew. NOAA has determined that it is necessary to implement minimal standards to address problems that have arisen in the past relating to accommodations for male observers and to avoid problems that may arise with the placement of female observers on tuna boats with all-male crews.

EFFECTIVE DATE: This rule is effective on June 9, 1989, until superseded or rescinded.

ADDRESS: E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton, Regional Director, NMFS, Telephone: 213/514–6196.

SUPPLEMENTARY INFORMATION:

Background

Biological technicians are placed under the authority of the Federal Government to serve as "tuna/porpoise observers" aboard privately-owned, U.S.-flag tuna purse seine vessels which fish in the eastern tropical Pacific Ocean under the Marine Mammal Protection Act (MMPA) General Permit issued to the American Tunaboat Association. Fishing trips for these vessels usually range between 500 and 3,000 miles from San Diego and are at sea for 45 to 120 days with few or no port stops. These observers are college graduates with majors in biology and an emphasis in marine science or fisheries. They are trained to record data on marine mammal safety gear, marine mammals observed in the wild, fishing operations involving marine mammals, and the dissection of marine mammals that are killed incidentally during fishing.

Since 1976 more than 400 persons have been hired as observers and trained and placed on approximately 1,000 purse seine fishing trips. In August 1986, NOAA decided not to continue seeking waivers from the Office of Personnel Management which allowed the hiring of only males for the positions of observers. This decision was prompted by a complaint alleging sex discrimination by the National Marine Fisheries Service (NOAA Fisheries) Tuna/Porpoise program for not hiring females and a subsequent recommendation from the NOAA Office of Civil Rights to hire and place female observers. From the beginning of the observer program in the mid-1970s, only men had been hired and placed as observers. The basis for his limited hiring policy stemmed from the nature of the observer's living and work environment, including the fact that all vessels had all-male crews. These conditions persist but NOAA believes that, with reasonable adjustments by tuna vessels, women can be placed as observers without violating the personal privacy of either the crew members or the observer.

NOAA Fisheries attempted to place qualified and trained female observers aboard tuna vessels starting in January 1987. Two women successfully completed trips collecting the data necessary for the marine mammals program. After these two placements, preliminary injunctions issued by the United States District Court in San Diego enjoined NOAA from placing other female observers. That injunction was later lifted by the Ninth Circuit Court of Appeals, but the litigation is still underway in the District Court. NOAA has not attempted to place female observers pending completion of this rule. A hearing on the merits of the case has not been scheduled yet.

Comments on the Proposed Rule and Responses

NOAA Fisheries published a proposed rule for observer accommodations on August 19, 1988 (53 FR 31725) for public comment. Comments were received from the American Tunaboat Association and the attorneys representing vessel owners and crew members who are plaintiffs in the litigation to prevent placement of female observers. Also during this period, NOAA has gathered more information on the experience in other programs that place observers aboard foreign and U.S.-flag fishing vessels. This new information further supports the position of the Government relative to the placement of female observers. The comments received are summarized below.

Comment 1: The presence of a female observer on board violates NOAA's own regulations which prohibit the observer from interfering with the fishing operation.

Response: The regulation in question establishes limits on the role of an observer aboard a vessel. For example, an observer is not authorized to halt or in any way direct fishing operations to ensure compliance with marine mammal protection regulations. The assertion that the mere presence of a female observer during the fishing operation has a substantially greater influence over the conduct of that operation than would the presence of a male observer is not supported by the experience in other fisheries and the experience gained from the use of the two female observers who did complete fishing trips aboard U.S. tuna purse seine vessels.

Comment 2: Requiring an officer of the vessel to surrender his cabin to an observer would jeopardize that officer's ability to discipline the crew members.

would be demeaning to the officer who earned the right to a cabin through years of service, and would violate collective bargaining agreements between the vessel owners and the labor union representing the vessel crew.

Response: The rule does not require that the vessel captain's cabin be considered for either sharing or for assignment to an observer. Below the level of the captain, the Government's responsibility to provide equal employment opportunity for women outweighs the speculative damage to an officer's prestige and authority related to sharing or surrendering his cabin. Regarding the concern raised about violating a collective bargaining agreement, such an agreement cannot take precedence over the right to equal employment opportunity for tuna boat observers. No comments of any kind were received from the union regarding the collective bargaining agreement or the proposed regulations.

Comment 3: The vessel owners cannot insure against their liability stemming from intentional torts, including sexual harassment, over which they have little, if any, control.

Response: To the extent that owners are liable for intentional torts of any nature by crew members, owners would likely have the same liability for actions taken by a crew member against a female observer. To our knowledge, insurance against such a risk is not available. However, owners are not insured against intentional torts by a crew member involving a male observer. To date that issue has not been raised by an observer nor have any claims been filed by an observer against a vessel owner for intentional torts. To improve understanding of what constitutes harassment, and sexual harassment particularly, this final rule includes a definition of harassment, including sexual harassment, which was not in the proposed rule but is based upon the regulations in 50 CFR 611.2 and 611.7 governing the treatment of Government authorized observers on foreign-flag fishing vessels.

Comment 4: Under the criteria for granting an exemption from carrying a female observer in the proposed rule, no vessels in the current certificated fishing fleet would qualify for such a waiver. All vessels in the fleet have at least one private or semi-private cabin in addition to the captain's cabin.

Response: The exemption criteria are based upon the concept of providing an exemption in a situation where the obligation to carry a female observer could not be met without unreasonable, financially burdensome modifications to the existing living accommodations aboard a vessel. The criteria were not intended to provide waivers to a predetermined percentage of the certificated fleet, as this comment seems to anticipate.

Comment 5: Establishing a schedule for sharing toilet and shower facilities between the crew and a female observer is impractical given the erratic and unpredictable schedule of activity on the vessel which is driven by timing of the fishing operation.

Response: Having a female observer time-share the only toilet and shower facility aboard a vessel available for crew members on a vessel with an all-male crew is not the preferred arrangement from the Government's standpoint, as well. This situation could be made to work, if it did exist, with but minor inconvenience to the crew, with the establishment of reasonable time-sharing procedures as provided for in these regulations. However, there are in most, if not all vessels, additional toilet and shower facilities (other than the captain's facilities), separate from the crew's larger group facilities, that can be provided for the female observer's exclusive use or for time-sharing with one or two officers. Vessels that have private or semi-private cabins with their own adjoining toilet and shower facilities would not need to establish a time-sharing schedule because that facility could be assigned to the exclusive use of the female observer. If a time-sharing schedule were the choice of the vessel in this situation, it would only have to involve the observer and one other person, a very minor inconvenience if an inconvenience at all.

Comment 6: Several comments revolved around concerns for the disruption of crew members' family lives and the potential for a breakdown of crew discipline due to the presence of a female aboard the vessel.

Response: These same concerns have accompanied nearly every argument against the introduction of women into a previously all-male work environment. Experience in other cases indicates that their significance is reduced after women become an established part of the program. Female observers are now employed in other fisheries around the nation. NOAA Fisheries has gathered information on the use of female observers in programs of the State of Alaska and NOAA Fisheries on both the West and East Coasts. In some of these fisheries, the observer's assignment aboard the fishing vessel is as lengthy as the tuna fishing trips. In each of the domestic programs, problems arising from the presence of a female observer have not been reported. A few incidents against female observers aboard foreign fishing vessels in the course of this nation-wide program which has been in place for over ten years have occurred and resulted in legal actions. These few incidents, however, are not a legitimate basis for denying equal employment opportunities.

Comment 7: An environmental impact statement (EIS) should have been prepared for this rule.

Response: NOAA Fisheries prepared an environmental assessment (EA), as required by the National Environmental Policy Act (NEPA) and its implementing regulations. That assessment led the Assistant Administrator to determine that his action would not result in a significant impact on the human environment, except the social impacts. Regulations implementing NEPA do not require preparation of an EIS when the impacts to the human environment are limited to economic and social impacts. Therefore, NOAA has determined that preparation of an EIS is not required and would not add substantial new information to the decision process.

Changes From the Proposed Rule

The only substantive change to the proposed rule that is included in this final rule adds a definition of harassment and sexual harassment to 50 CFR 216.24(f)(5). This definition is drawn from the Federal regulations governing the treatment of U.S. observers on foreign-flag fishing vessels and is added to remove any uncertainty on the part of vessel owners and crews as to what constitutes harassment of an observer.

Description of the Provisions of the Final Rule

In order to ensure that Government observers aboard U.S.-flag tuna vessels are provided suitable living accommodations that will not hinder them in their performance of official duties nor unduly disrupt vessel operations, NOAA amends 50 CFR 216.24(f) to set minimum standards for such accommodations. The amended regulation requires that all observers must be provided sleeping, toilet and eating accommodations at least equivalent to a full crew member. A mattress or futon on the floor or a cot is not an acceptable replacement for a regular bunk. Meals and other galley privileges must be the same for the observer as for other crew members.

NOAA believes that it is reasonable to require standard crew member accommodations for observers because the program has been requiring that these vessels carry observers on a sample of their fishing trips since 1976.

Further, the schedule for placing observers is announced well in advance of the actual trip and, under the current 100 percent coverage (required by the 1988 amendments to the MMPA), a vessel owner knows that an observer will be placed on each trip of his vessel. Finally, NOAA reimburses the vessel owner for the costs of providing the observer with living accommodations and food during the trip. For these reasons, the vessel owner is expected to plan for adequate space and provisions for the assigned observer.

For female observers, additional adjustments to toilet and sleeping accommodations are required under this regulation. Female observers on a vessel with an all-male crew must be provided a bunk either in a single-person cabin or in a two-person cabin shared with a licensed officer of the vessel if reasonable privacy can be ensured by installing a curtain or other temporary room divider. If the cabin assigned to the female observer does not have attached toilet and shower facilities that can be provided for the exclusive use of the observer, then a schedule for time-sharing toilet and shower facilities must be established before the placement meeting and approved by NOAA Fisheries and must be adhered to during the entire trip. In the event there are one or more female crew members, the female observer may be provided a bunk in a cabin shared solely with female crew members, and provided toilet and shower facilities shared solely with these female crew members.

This regulation also provides vessel owners with an all-male crew a procedure for seeking an exemption from carrying female observers, under explicit criteria. The Southwest Regional Director of NOAA Fisheries may grant an exemption from the requirement to carry female observers if the vessel owner demonstrates the following:

1. The vessel will have an all-male crew; and

2. The vessel has fewer than two private (single-person) and semi-private (two-person) cabins in total, excluding the captain's cabin; and

3. A curtain or other temporary room divider cannot be installed in any of the private or semi-private cabins (excluding the captain's cabin) to provide reasonable privacy; and

4. There are no other areas (excluding the captain's cabin) that can be converted to a sleeping room without either significant expense or significant sacrifice to the crew's quarters.

Under these criteria, a vessel with two or more private or semi-private cabins, in addition to the captain's cabin, cannot qualify for an exemption and must carry an assigned observer regardless of gender. The exclusion criteria do provide that the vessel certificate of inclusion holder can qualify for the exemption without having to provide the captain's cabin for the observer.

Application for an exemption must be made by the vessel certificate of inclusion holder (or the owner in the case of a new applicant for a vessel certificate of inclusion) in writing to the Southwest Regional Director when applying for the vessel certificate of inclusion. An accurate diagram of the vessel's living areas, and other areas possibly suitable for sleeping, is required to be provided. Additional documents, such as conversion cost estimates, and an inspection of the vessel may be required to substantiate that the vessel does meet the criteria for granting an exemption. An exemption once granted is valid for the calendar year which coincides with the period that the certificate of inclusion is valid. Exemptions must be renewed annually to remain valid. The vessel certificate of inclusion holder is responsible for reporting to the Regional Director any modifications to the vessel which may affect the continued eligibility for an exemption. Upon reasonable notice NOAA Fisheries may inspect a vessel holding an exemption to determine whether the criteria for an exemption are still satisfied. The Regional Director will revoke an exemption if the exemption criteria are no longer met.

Classification

NOAA Fisheries prepared an environmental assessment as a part of developing this rule and determined that there will be no significant impact on the environment as a result of this rule. A copy of the EA is available on request (see **ADDRESS**).

The Under Secretary for Oceans and Atmosphere has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The present action will not have a cumulative effect on the economy of $100 million or more, nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse effects on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises are anticipated.

The General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small businesses. There are currently 29 tuna purse seine vessels that would be subject to this rule and the individual business' cost to comply with the propose requirements would be minimal. For the most part, the cost would involve placement of a temporary room divider or, at most, the installation of one additional bunk on some vessels. Therefore, a regulatory flexibility analysis was not prepared.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). Information will be required to be submitted by vessel certificate of inclusion holders who choose to apply for an exemption that would allow them to carry only male observers. The information collection in this rule has been approved by the Office of Management and Budget under section 3504(h) of the PRA and assigned control number 0648–0208.

Public reporting burden for this collection of information is estimated to average two hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Based on comments from industry representatives responding to the publication of the proposed rule, we expect that two or fewer vessel certificate of inclusion holders will submit information required to obtain a waiver from carrying female observers. Therefore, the total information collection burden is expected to be four hours per year or less. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Southwest Regional Director, NOAA Fisheries, 300 South Ferry Street, Terminal Island, CA 90731; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612. This rule does not directly affect the coastal zone of any state with an approved coastal zone management plan.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Date: April 18, 1989.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for 50 CFR Part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Section 216.3 is amended by adding, in alphabetical order, a new definition for "sexual harassment" to read as follows:

§ 216.3 [Amended]

* * * * *

"Sexual harassment" means any unwelcome sexual advance, request for sexual favors, or other verbal and physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

* * * * *

3. Section 216.24 is amended by revising paragraph (f)(5) and adding new paragraphs (f)(6) and (f)(7) to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(f) * * *

(5) It is unlawful for any person to forcibly assault, impede, intimidate, interfere with, or to influence or attempt to influence an observer, or to harass (including sexual harassment) an observer by conduct which has the purpose or effect of unreasonably interfering with the observer's work performance, or which creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(6)(i) All observers must be provided sleeping, toilet and eating accommodations at least equal to that provided to a full crew member. A mattress or futon on the floor or a cot is not acceptable in place of a regular bunk. Meal and other galley privileges must be the same for the observer as for other crew members.

(ii) Female observers on a vessel with an all-male crew must be accommodated either in a single-person cabin or, if reasonable privacy can be ensured by installing a curtain or other temporary divider, in a two-person cabin shared with a licensed officer of the vessel. If the cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, then a schedule for time-sharing common facilities must be established before the placement meeting and approved by NMFS and must be followed during the entire trip.

(iii) In the event there are one or more female crew members, the female observer may be provided a bunk in a cabin shared solely with female crew members, and provided toilet and shower facilities shared solely with these female crew members.

(7)(i) A vessel certificate of inclusion holder (or vessel owner in the case of a new application) may seek an exemption from carrying a female observer on a vessel by applying to the Southwest Regional Director when applying for the vessel certificate of inclusion until July 10, 1989 and establishing the following:

(A) The vessel will have an all-male crew;

(B) The vessel has fewer than two private (one-person) and semi-private (two-person) cabins in total (excluding the captain's cabin);

(C) A temporary divider like a curtain cannot be installed in the private or semi-private cabin (excluding the captain's cabin) to provide reasonable privacy; and

(D) There are no other areas (excluding the captain's cabin) that can be converted to a sleeping room without either significant expense or significant sacrifice to the crew's quarters.

(ii) The exclusion criteria in paragraph (f)(7)(i) of this section can be met without having to provide the captain's cabin for the observer. The application for an exemption must also include an accurate diagram of the vessel's living areas, and other areas possibly suitable for sleeping. Additional documentation to support the application may also be required, as may an inspection of the vessel. The exemption, once granted, is valid for the same calendar year as the vessel certificate of inclusion, and the exemption must be renewed annually to remain valid. The vessel certificate of inclusion holder is responsible for reporting to the Regional Director any changes aboard the vessel within 15 days of the change which might affect the continued eligibility for an exemption. The Southwest Regional Director will revoke an exemption if the criteria for an exemption are no longer met.

* * * * *

[FR Doc. 89-9720 Filed 4-24-89; 8:45 am]

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Proposed Rules

Federal Register
Vol. 54, No. 78
Tuesday, April 25, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 949

[Docket No. FV-AO-88-2; AMS-88-034]

Irish Potatoes Grown in the High Plains Area of Texas and New Mexico; Secretary's Decision and Referendum Order on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision proposes the issuance of a marketing agreement and order regulating the handling of Irish potatoes grown in the High Plains area of Texas and New Mexico, and directs that a referendum be conducted to determine if potato producers favor the proposed order. The order would authorize regulations to establish grade, size, quality, maturity, pack and container for potatoes grown in 21 designated counties in Texas and 10 designated counties in New Mexico. In addition, the order would authorize production and marketing research and market development projects for High Plains potatoes. The program would be administered by a committee of six producers, four handlers and a public member, and would be financed by assessments levied on potato handlers. The primary objective of the program would be to improve the quality of potatoes shipped to fresh markets. This should reduce marketing losses, improve quality for consumers, and result in improved returns to growers.

DATES: The referendum shall be conducted from May 1 through May 12, 1989. The representative period for the purpose of the referendum herein ordered is January 1, 1988 to December 31, 1988.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Marketing Specialist, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, TX 78501, telephone (512) 682-2833; or Robert F. Matthews, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 447-2431.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued March 30, 1988 and published in the **Federal Register** on April 4, 1988 (53 FR 10887); and Recommended Decision and Opportunity to File Written Exceptions issued January 25, 1989 and published in the **Federal Register** on January 31, 1989 (54 FR 4805).

Preliminary Statement

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code, and therefore is excluded from the requirements of Executive Order 12291.

This decision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601 *et seq.*), hereinafter referred to as the "Act", and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The proposed marketing agreement and order were formulated on the record of a public hearing held at Hereford, Texas on April 19, 1988. Notice of the hearing was published in the April 4, 1988, issues of the **Federal Register**. The notice set forth a proposed order submitted by the Texas-New Mexico Potato Steering Committee on behalf of potato producers and handlers in the proposed production area. The order would authorize regulations to establish grade, size, quality, maturity, pack and container requirements for potatoes produced in the proposed production area. In addition, production and marketing research and market development projects would be authorized.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of the Agricultural Marketing Service (AMS) on January 25, 1989, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision providing opportunity to file written exceptions thereto by March 2, 1989. One exception was received from Jim Cramer, a potato shipper in Muleshoe, Texas. This exception to the Recommended Decision is discussed and ruled upon in this document.

Small Business Consideration

In accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $500,000. Small agricultural service firms, which would include handlers under this proposed order, are defined as those with gross annual revenues of less than $3.5 million.

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

There are approximately 30 handlers of potatoes in the High Plans area, who handled 2,848,000 hundredweight of potatoes for fresh market in 1986 with an estimated crop value of about $26.3 million. While there is a variance in size of individual handler operations, most, if not all, of the handlers that would be regulated under this proposed order would qualify as small firms under SBA's definition. In addition, there are about 110 potato growers in the High Plains area, the majority of which could be classified as small businesses.

While the proposed order would likely impose regulations on handlers, the burden of these regulatory requirements should not be significant compared to the benefits which should accrue to such businesses. The expected impact on persons acting in a handling capacity who could be classified as small businesses was discussed in detail in the Recommended Decision. In summary, the proposed order should be operated in as efficient and economical

a manner as will tend to effectuate the declared policy of the Act. In this way all entities, small and large, would be subject to minimal regulatory requirements under the proposed order. In addition, the proposed order contains the authority to exempt from regulation special purpose shipments, as well as minimum quantities, and the order should be operated in a way that would incorporate sound business practices and efficiencies which would minimize the burden on all regulated business entities.

Regulations promulgated under the proposed order could be expected to remove from fresh market channels less desirable grades and sizes of potatoes and divert them to other outlets, such as livestock feed. An extensive cattle-feeding industry exists within the proposed production area which could serve as an outlet for culls, or low grade potatoes. Moreover, as the lower grades and smaller sizes are removed from fresh market channels, prices to growers for the resulting higher quality supplies should increase, reflecting consumer preference for this level of quality. This should outweigh any loss to growers for cull potatoes, since such quality even on the fresh market historically returns little or nothing to the producer.

Although a somewhat larger proportion of a producer's potatoes may be marketed in secondary outlets at a lower price, the greater part of production, which includes the higher or fresh market grades, should yield a greater return. Thus, the proposed order could be expected to have a positive impact on grower returns.

The impact of the proposed order upon handlers is also expected to be positive. Most handlers perform their services for an established fee based on the quantity of potatoes handled for a producer. It is anticipated that most potatoes shipped to fresh market would be required to meet certain quality and size requirements. It is also expected that an expansion of existing markets and the development of new ones would result from the increase in quality.

Further, the burden placed on handlers by the proposed order with respect to reporting and recordkeeping requirements should be negligible. Most of the information that would be reported to the committee is already compiled by handlers for other uses and is readily available.

Reporting and recordkeeping requirements issued under comparable potato marketing order programs impose an average annual burden on each regulated handler of about four hours. It is reasonable to expect that a comparable burden may be imposed under this proposed order on the estimated 30 handlers of High Plains potatoes.

The Act requires that prior to the issuance of a marketing order, a referendum be conducted of affected producers to determine whether they favor issuance of the order. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the ballot material that will be used in the referendum herein ordered has been submitted to and approved by the Office of Management and Budget (OMB) and has been assigned OMB No. 0581–0159. It has been estimated that it will take an average of 10 minutes for each of the approximately 110 High Plains potato growers to participate in the voluntary referendum balloting. Additionally, it has been estimated that it will take about 10 minutes for each of the 30 handlers to complete the marketing agreement. The reporting and recordkeeping requirements to be imposed under the proposed order, would likewise be submitted to OMB and would not become effective prior to OMB approval.

In determining that the proposed order would not have a significant economic impact on a substantial number of small entities, all of the issues discussed above were considered. The proposed order provisions have been carefully reviewed and every effort has been made to eliminate any unnecessary costs or requirements. Although the order may impose some additional costs and requirements on handlers, it is anticipated that the programs under the proposed order would help to increase demand for potatoes grown in the High Plains area. Therefore, any additional costs should be offset by the benefits derived from expanded markets and sales benefiting handlers and producers alike.

Accordingly, it is determined that the proposed marketing order would not have a significant impact on small handlers or producers.

Moreover, potatoes grown in more than one State would be regulated under the proposed order in order to effectuate the declared purposes of the Act. Thus, any marketing orders, or their equivalent, authorized under respective State statutes could not achieve the same results as an alternative to a Federal marketing order. In accordance with the principle and purpose of Executive Order 12612, consideration has been given as to whether the proposed order would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

It has been determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Findings and Conclusions

The findings and conclusions included in the discussion of the material issues and the rulings and general findings of the Recommended Decision set forth in the January 31, 1989, issue of the **Federal Register** (54 FR 4805) are hereby approved and adopted subject to the following modifications and corrections.

Based on the exception filed by Mr. Cramer, the findings and conclusions in material issue number 5(b) of the Recommended Decision concerning committee nomination are amended by adding the following paragraph after the 34th paragraph of material issue 5(b) to read as follows:

The exception received from Mr. Jim Cramer, a shipper from Muleshoe, Texas, opposed the 11-member committee to recommend regulations. However, record evidence shows a committee is necessary to administer the provisions of the order. Moreover, the proposed order includes provisions for the establishment and membership on the committee, procedures for nominating committee persons so that all producers and handlers will have representation, and provisions for terms of office, selection of committee members and the powers and duties of the committee. Accordingly, the committee should provide for reasonable judgment and deliberation with respect to recommendations made to the Secretary and in discharge of other committee duties. Therefore, this point of his exception is found to be without merit and is hereby denied.

Based upon the exception filed by Mr. Cramer, the findings and conclusions of material issue 5(e) of the Recommended Decision are hereby amended by adding the following paragraph after the 27th paragraph of material issue 5(e) as follows:

In his exception Mr. Cramer stated that requiring potatoes to be inspected would not guarantee quality, nor would the use of the U.S. standards as inspection criteria. Mr. Cramer also stated that the crop generally lacks full maturity because of early harvest, and that establishing maturity requirements would delay harvest. Such a delay would move the harvest and shipping period closer to that of competing producing areas and would thus put downward pressure on growers' prices.

The proposed order would authorize the committee to recommend to the Secretary a handling regulation that could require that shipments meet specified grade, size, quality, pack and container requirements. Such a regulation therefore would provide a minimum quality for the commodity shipped from the proposed production area and would serve as a basis to increase the quality of High Plains potato shipments to the benefit of growers and handlers and would be in the public interest. The proposed order could be expected to improve grower returns and expand existing markets and develop new ones. These requirements, when implemented, would provide a means of carrying out the declared policy of the Act.

Therefore, for the above reasons the exceptions concerning quality and maturity are deemed without merit and are denied.

Based upon the exception filed by Mr. Cramer, the findings and conclusions in material issue 5(f) of the Recommended Decision concerning mandatory inspection and certification are amended by adding the following paragraphs after the second paragraph of material issue 5(f) to read as follows:

In his exception, Mr. Cramer stated that the results of inspections performed at the terminal market sometimes were different from those made at shipping point resulting in a "down graded" product. No corroborative evidence was presented to confirm this statement. However, since potatoes are a perishable commodity, particularly so when less than fully mature as is typical of High Plains shipments, some deterioration may occur in transit. Nevertheless, the results of inspection of potatoes grown in the production area at shipping point would keep buyers, sellers and other interested persons informed as to the quality of the load at shipping point and as a result they would have a better indication of quality at destination. The inspection and certification of shipments are, according to record evidence, necessary. Further, they provide the most practicable way to assure that the handling of potatoes complies with the regulations that may be issued pursuant to the proposed order.

Mr. Cramer also stated that he believed not all inspectors were sufficiently well qualified. In actuality, all inspectors of the Federal and Federal-State Inspection Service are fully trained and well qualified in their positions before they are assigned to grade a commodity.

Mr. Cramer, in his exception, posed the question whether all handlers in the State of Texas would be subject to inspection requirements adopted under the order. The only handlers of whom such inspection requirements would be required would be those subject to the proposed order and its implementing regulations. The production area would be limited to 31 designated counties in the panhandle of Texas and eastern New Mexico as the High Plains. This area has been determined to constitute the smallest regional production area that is practicable and consistent with carrying out the declared policy of the Act. All industry members and interested persons in the proposed production area have had the opportunity to participate in developing the proposed order. This included a public hearing in Hereford, Texas, on April 19, 1988. Testimony at that hearing and the decision resulting from it indicate that the potato industry in the proposed production area would benefit from a locally administered regulatory program.

For the reasons stated above, the comments with respect to material issue 5(f) are hereby denied.

Rulings on Exceptions

In arriving at the findings and conclusions and the regulatory provision of this decision, the exceptions to the Recommended Decision were carefully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with the exceptions, such exceptions are hereby denied for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents entitled, respectively, "Order Regulating the Handling of Irish Potatoes Grown in the High Plains Area of Texas and New Mexico" and "Marketing Agreement Regulating the Handling of Irish Potatoes Grown in the High Plains Area of Texas and New Mexico". These documents have been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical to those contained in the order as hereby proposed by the annexed order which is published with this decision.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*) to determine whether the issuance of the annexed order regulating the handling of Irish potatoes grown in the High Plains area of Texas and New Mexico is approved or favored by producers, as defined under the terms of the proposed order, who during the representative period were engaged in the production of Irish potatoes in the aforesaid production area.

The representative period for the conduct of such referendum is hereby determined to be January 1, 1988 to December 31, 1988.

The agents of the Secretary to conduct such referendum are hereby designated to be Belinda G. Garza, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, 1313 E. Hackberry, McAllen, Texas 78501, telephone (512) 682–2833; and Robert F. Matthews, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–2431.

List of Subjects in 7 CFR Part 949

Marketing agreements and orders, Potatoes, Texas, New Mexico.

Dated: April 19, 1989.

Kenneth A. Gilles,

Assistant Secretary for Marketing and Inspection Services.

Order Regulating the Handling of Irish Potatoes Grown in the High Plains Area of Texas and New Mexico [1]

Findings and Determinations Upon the Basis of the Hearing Record

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and order regulating the handling of Irish potatoes grown in the High Plains area of Texas and New Mexico.

Upon the basis of the record it is found that:

(1) The proposed marketing agreement and order and all of the terms and

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

conditions thereof will tend to effectuate the declared policy of the Act;

(2) The proposed marketing agreement and order regulate the handling of Irish potatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the proposed marketing agreement and order upon which a hearing has been held;

(3) The proposed marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) There are no differences in the production and marketing Irish potatoes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of Irish potatoes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date thereof, all handling of Irish potatoes grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said marketing agreement and order as follows:

The provisions of the proposed marketing agreement and order contained in the Recommended Decision issued by the Administrator on January 25, 1989 and published in the **Federal Register** on January 31, 1989 (54 FR 4805) shall be and are the terms and provisions of this order and are set forth in full herein. Those sections identified with an asterisk (*) apply only to the proposed marketing agreement and not to the proposed marketing order.

It is proposed that Title 7, Chapter IX be amended by adding Part 949 to read as follows:

PART 949—IRISH POTATOES GROWN IN THE HIGH PLAINS AREA OF TEXAS AND NEW MEXICO

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Authority: Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Definitions

§ 949.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department of Agriculture who has been delegated, or who may hereafter be delegated the authority to act for the Secretary.

§ 949.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601 *et seq.*).

§ 949.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 949.4 Production area.

"Production area" means the counties of: Bailey, Briscoe, Castro, Cochran, Dallam, Donley, Deaf Smith, Floyd, Gaines, Hale, Hall, Hartley, Hockley, Lamb, Lubbock, Motley, Oldham, Parmer, Swisher, Terry, and Yoakum located in the State of Texas, and the countries of Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Roosevelt, Torrance, Union, and Quay located in the State of New Mexico.

§ 949.5 Potates.

"Potatoes" means and includes all varieties of *Solanum tuberosum,* commonly known as Irish potatoes, grown in the production area.

§ 949.6 Seed potatoes.

"Seed potatoes" or "seed" means any potatoes which have been certified by the official seed certification agency of the States of Texas or New Mexico, or other seed certification agencies recognized by the Secretary, and which bear the official tags, seals, or other appropriate identification indicating such certification.

§ 949.7 Handler.

"Handler" is synonymous with "shipper" and means any person, except a common or contract carrier of potatoes owned by another person, who handles potatoes or causes potatoes to be handled.

§ 949.8 Handle or ship.

"Handle" or "ship" means to grade, package, sell, transport, or in any other way to place potatoes grown in the production area, or cause such potatoes to be placed, in the current of commerce within the production area or between the production area and any point

outside thereof. Such term shall not include the transportation, sale, or delivery within the production area of field-run potatoes to storage or to a person for the purpose of having such potatoes prepared for market.

§ 949.9 Producer.

"Producer" is synonymous with "growers" means any person engaged in a proprietary capacity in the production of potatoes for market.

§ 949.10 Fiscal period.

"Fiscal period" means the 12-month period beginning on June 1 and ending May 31 of the following year, or such other period that may be recommended by the committee and approved by the Secretary.

§ 949.11 Committee.

"Committee" means the administrative committee known as Texas-New Mexico Potato Committee established pursuant to § 949.20.

§ 949.12 Grade, size and maturity.

"Grade" means any of the officially established grades of potatoes, "Size" means any of the officially established sizes of potatoes , and "Maturity" means any of the stages of development or condition of the outer skin (epidermis) of potatoes, as defined in the United States Standards for Potatoes issued by the United States Department of Agriculture (§ § 51.1540 to 51.1556, inclusive of this title), including amendments, modifications, or variations thereof, or, such other grades, sizes, and maturities as may be recommended by the committee and approved by the Secretary.

§ 949.13 Varieties.

"Varieties" means all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 949.14 Pack.

"Pack" means a quantity of potatoes in any type of container, which falls within specific weight limits, numerical limits, grade limits, size limits, or any combination of these recommended by the committee and approved by the Secretary.

§ 949.15 Container.

"Container" means a sack, bag, crate, box, basket, barrel, or bulk load or any other receptacle used in the packaging, transportation, sale or other handling of potatoes.

§ 949.17 District.

"District" means each of the geographic divisions of the production area initially established pursuant to § 949.23 or as reestablished pursuant to § 949.24.

§ 949.18 Export.

"Export" means the shipment of potatoes to any destination which is not within the 50 States, or the District of Columbia, of the United States.

Committee

§ 949.20 Establishment and membership.

(a) There is hereby established a committee, consisting of 11 members, to administer the terms and provision of this part. Six members shall be producers, four members shall be handlers, and one shall be a public member. Each committee member shall have an alternate who shall have the same qualifications as the member.

(b) Each member, other than the public member, shall be an individual who is, prior to selection and during such term of office a resident of the production area, and a producer or handler, or an officer or employee of a producer or handler.

(c) Four members shall be producers from District 1 and two members shall be producers from District 2. Three members shall be handlers from District 1 and one member shall be a handler from District 2. Any person who operates in more than one district or is engaged in both producing and handling potatoes shall elect one classification, and one district from which to be represented on the committee.

(d) The public member shall be a resident of the production area and be neither a producer nor a handler and shall have no direct financial interest in the commercial production, financing, buying, packing or marketing of potatoes, except as a consumer, nor shall such person be a director, officer or employee of any firm so engaged.

§ 949.21 Alternates.

An alternate member of the committee shall act in the place and stead of the member for whom such person is an alternate, during such member's absence or when designated to do so by such member. In the event both a member of the committee and that member's alternate are unable to attend a committee meeting, the member, the alternate, or the committee, in that order, may designate another alternate from the same district and the same classification (handler or producer) to serve in such member's stead. In the event of the death, removal, resignation, or disqualification of a member, that member's respective alternate shall serve until a successor of such member is selected and has qualified. The Committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ 949.22 Term of office.

(a) Except as otherwise provided in paragraph (b) of this section, the term of office of committee members and their respective alternates shall be for three years and shall begin as of January 1 and end the last day of December or for such other three-year period as the committee may recommend and the Secretary approve. Members and alternates shall serve in such capacity for the portion of the term of office for which they are selected, and until their respective successors are selected. No member or alternate may serve more than two consecutive terms on the committee unless specifically exempted from this requirement by the Secretary.

(b) The term of office of the initial members and alternates shall begin as soon as possible after the effective date of this subpart. As determined by the Secretary, approximately one-third of the initial committee members and alternates shall serve for a one-year term and approximately one-third of the initial committee members and alternates shall serve for a two-year term. The remainder of the initial committee members and alternates shall serve for a three-year term. Those members serving initial terms of one year or less may serve two additional, consecutive three-year terms.

§ 949.23 Districts.

To determine a basis for selecting committee members, the following districts of the production area are hereby initially established:

(a) District 1: All production area counties located within the State of Texas;

(b) District 2: All production area counties located within the State of New Mexico.

§ 949.24 Redistricting and reapportionment.

At least every five years the committee shall review the geographic distribution of potato production in the production area and, if warranted, recommend to the Secretary the reapportionment of members among districts, and the reestablishment of districts within the production area. In recommending any such changes, the Committee shall give consideration to:

(a) Shifts in potato acreage within the districts and within the production area during recent years;

(b) The importance of new production in its relation to existing districts;

(c) The equitable relationship of committee membership and districts; and

(d) Other relevant factors. No change in districting or in apportionment of members within districts may become effective less than 30 days prior to the date on which terms of office begin each year and no recommendations for such redistricting or reapportionment may be made less than 6 months prior to such date.

§ 949.25 Nominations.

(a) *Initial members.* The nomination process for the initial committee shall be conducted by the Secretary. The nominations for each of the 6 initial producer and 4 initial handler members of the committee, together with the nominations for the initial alternate members for each position, shall be made as soon as practicable after the effective date of this subpart. The nominee for the initial public member shall be submitted to the Secretary not later than 90 days after the first meeting of the committee.

(b) *Successor members.* (1) The committee shall hold or cause to be held not later than October 1 of each year, or such other date as may be specified by the Secretary, a meeting or meetings of producers and handlers in each district for the purpose of designating at least one nominee for each position as member and for each position as alternate member of the committee. In the alternative, the committee may conduct nominations by mail in a manner recommended by the committee and approved by the Secretary.

(2) The names of nominees shall be submitted to the Secretary at such time and in such manner and form as may be prescribed;

(3) Only producers may participate in designating producer nominees and only handlers may participate in designating handler nominees to the committee;

(4) Only producers and handlers who are present at such nomination meetings, or represented at such meetings by a duly authorized employee, may participate in the nomination and election of nominees for members and their alternates.

(5) Any person who operates in more than on district or is engaged in both producing and handling potatoes shall elect the classification, and the district in which to participate in designating nominees.

(6) Regardless of the number of districts in which a person produces or handles potatoes, such persons are entitled to cast only one vote for each position to be filled in the district and classification in which the person is eligible and elects to vote in designating nominees for committee members and alternates. Such vote would be cast on behalf of the voter, the voter's agents, subsidiaries, affiliates, and representatives.

(c) The public member shall be nominated by the members of the committee. The committee may establish procedures for receiving names of persons to be considered for nomination as the public member. The name of the person nominated as the public member shall be submitted by the incumbent committee to the Secretary by November 1, or such other date recommended by the committee and approved by the Secretary, of the year the term expires together with information deemed pertinent by the committee or as requested by the Secretary.

§ 949.26 Selection.

Committee members and alternates shall be selected by the Secretary on the basis of representation provided for in § 949.20 or as modified pursuant to § 949.24.

§ 949.27 Failure to nominate.

If nominations are not made within the time and manner prescribed in § 949.25, the Secretary may, without regard to nominations, select the members and alternates on the basis of the representation provided for in § 949.20 or as modified pursuant to § 949.24.

§ 949.28 Acceptance.

Any person prior to selection as a member or alternate member of the committee shall qualify by filing with the Secretary a written acceptance within the time period specified by the Secretary of the person's willingness to serve.

§ 949.29 Vacancies.

To fill any vacancy caused by the death, removal, resignation, or disqualification of a member or alternate, a successor for the unexpired term may be selected by the Secretary from nominations made pursuant to § 949.25, from previously unselected nominees on the current noninee list, or from other eligible persons.

§ 949.30 Expenses.

Members and alternates, when serving as members of the committee, shall serve without compensation but shall be reimbursed for such expenses authorized by the committee and necessarily incurred by them in attending committee meetings and in the performance of their duties under this part: Provided, that the committee at its discretion may request the attendance of one or more alternates at an or all meetings notwithstanding the expected, or actual, presence of the respective members and may pay expenses as aforesaid.

§ 949.31 Procedure.

(a) A majority of all members of the committee shall be necessary to constitute a quorum or to pass any motion or approve any committee action.

(b) The committee may provide for the members thereof, including the alternate members when acting as members, to vote by mail, telegraph, telephone, or other means of communication, provided that any such vote cast orally shall be confirmed promptly in writing. If any assembled meeting is held all votes shall be cast in person.

§ 949.32 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this subpart as specified herein;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 949.33 Duties.

The committee shall have, among others, the following duties:

(a) As soon as practicable after the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees, to adopt such rules, regulations, and bylaws for the conduct of its business as it deems necessary, and to recommend nominees for the public member and alternate;

(b) To act as intermediary between the Secretary and any producer or handler;

(c) To furnish to the Secretary such available information as may be requested;

(d) To appoint such employees, agents, and representatives as it may deem necessary, to determine the compensation and define the duties of each such person, and to protect the handling of committee funds.

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes;

(f) To recommend research and development projects to the Secretary in accordance with this part;

(g) To notify handlers of each meeting of the committee to consider recommendations for regulations and of all regulatory actions taken, and to provide such notification to producers through appropriate news releases or such other means as may be available to the committee;

(h) To give the Secretary the same notice of meetings of the committee and its subcommittee(s) as is given to its members;

(i) To prepare a marketing policy;

(j) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee. Such minutes, books, and records shall be subject to examination at any time by the Secretary or the Secretary's authorized agent or representative. Minutes of each committee meeting shall be reported promptly to the Secretary;

(k) Prior to the beginning of each fiscal period, to submit to the Secretary a budget of projected income and expenses for such fiscal period, together with a report thereon;

(l) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to producers and handlers for examination at the office of the committee;

(m) To prepare and submit to the Secretary, an annual report, and make a copy available to each producer and grower who requests it. This annual report shall contain at least:

(1) A complete review of the regulatory operations during the fiscal period;

(2) An appraisal of the effect of such regulatory operations upon the potato industry; and

(3) Any recommendations for changes in the program.

(n) To cause the books of the committee to be audited by a certified public accountant at least once each fiscal period and at such other times as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part. Two copies of such report shall be furnished to the Secretary. A copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; however, confidential information shall be removed from the report; and

(o) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper activities and objectives under this part.

Expenses and Assessments

§ 949.40 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for purposes determined to be appropriate for administration of this part. Handlers shall share expenses upon the basis of a fiscal period. Each handler's share of such expenses shall be proportionate to the ratio between the total quantity of potatoes handled by such handler as the first handler thereof during a fiscal period and the total quantity of potatoes handled by all handlers as first handlers thereof during such fiscal period.

§ 949.41 Budget.

Sixty days prior to the beginning of each fiscal period, or at such other time as may be specified by the Secretary, the committee shall prepare an estimated budget of income and expenditures necessary for its administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall submit such budget to the Secretary with an accompanying report showing the basis for its calculations. An amended budget may be submitted as provided in § 949.42(c).

§ 949.42 Assessments.

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart or from voluntary contributions for projects pursuant to § 949.48. Each person who first handles potatoes under this part shall pay assessments to the committee which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's budget, recommendations, and other available information. Such rates may be applied to specified containers used in the production area.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the established rate of assessment.

(d) The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(e) The committee may impose a late payment charge or an interest charge on any handler who fails to pay any assessment in a timely manner. Such time and the rates shall be recommended by the committee and approved by the Secretary.

(f) In order to provide funds for the administration of this part before sufficient operating income is available from assessments, the committee may accept advance assessments and may also borrow money for such purpose. Advance assessments received from a handler shall be credited toward assessments levied against that handler during the fiscal year.

§ 949.43 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, it shall be refunded proportionately to the persons from whom it was collected.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided,* That the reserves are less than approximately two fiscal period's expenses. Such reserve funds may be used to:

(i) Defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses;

(ii) Cover deficits incurred during any fiscal period when assessment income is less than expenses;

(iii) Defray expenses incurred during any period when any provisions of this part are suspended or are inoperative;

(iv) Cover necessary expenses of liquidation in the event of termination of this part.

Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate. To the extent practical,

such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified herein. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in such member's possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

(d) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and, upon determining such action is appropriate, the Secretary may direct that such person or persons shall act as trustee or trustees for such committee.

Research and Development.

§ 949.48 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research, and development projects, not including paid advertising, design to assist, improve, or promote the marketing, distribution, consumption, or efficient production of potatoes. The expense of such projects shall be paid from funds collected pursuant to § 949.42.

Regulation

§ 949.50 Marketing policy.

Prior to beginning of each fiscal year, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing season. Additional reports shall be submitted if it is deemed advisable by the committee to adopt a new marketing policy because of changes in the demand or supply situation with respect to potatoes. The committee shall publicly announce the submission of each such marketing policy report and copies thereof shall be available at the committee's office for inspection by any producer or any handler. In determining each such marketing policy the committee shall give due consideration to the following:

(a) Supply of potatoes by grade, size, quality, and maturity in the production area;

(b) Estimates of supplies of potatoes in the production area and in competing areas;

(c) Estimates of supplies of other competing commodities;

(d) Market prices by grades, sizes, containers, and packs;

(e) Anticipated marketing problems;

(f) Level and trend of consumer income; and

(g) Other relevant factors.

§ 949.51 Recommendations for regulations.

(a) Whenever the committee's marketing policy considerations deem it advisable to regulate the handling of any variety or varieties of potatoes in a manner provided in §§ 949.53, 949.54, or 949.55 it shall recommend to the Secretary grade, size, quality, maturity, or pack regulation, or any combination thereof, or amendment thereto, or modification, suspension, or termination thereof.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for potatoes during the period or periods when it is proposed that such regulations should be effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

§ 949.53 Issuance of regulations.

(a) The Secretary shall issue regulations on the handling of potatoes whenever the Secretary finds from recommendations and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit the handling of particular grades, sizes, qualities, maturities, or packs of any or all varieties of potatoes, or any combination of the foregoing during any period.

(2) Limit the handling of particular grades, sizes, qualities, maturities or packs of potatoes differently, for different varieties, for different containers, for different packs, for different purposes under § 949.55, or for any combination of the foregoing, during any period.

(3) Fix the size, capacity, weight, dimensions, pack or marking of the container or containers which may be used in the packaging or handling of potatoes, or both.

(4) Establish in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level.

(b) The Secretary shall notify the committee of each regulation issued pursuant to this section. The committee shall give reasonable notice thereof to handlers.

(c) Nothing in this subpart shall authorize any regulation eliminating shipment of potatoes in bulk.

§ 949.54 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 949.53 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments in order to effectuate the declared policy of the act, the Secretary shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, the Secretary shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ 949.55 Handling for special purposes.

(a) Upon the basis of recommendations and information submitted by the committee, or other available information, the Secretary, may modify, suspend, or terminate requirements in effect pursuant to § 949.42 or §§ 949.51 to 949.53 inclusive, or § 949.60 or any combination thereof, to facilitate handling of potatoes for:

(1) Relief or charity;

(2) Livestock feed;

(3) Export;

(4) Seed;

(5) Potatoes, other than certified seed, sold to a producer exclusively for planting within specific geographic limits;

(6) Other purposes recommended by the committee and approved by the Secretary.

(b) The committee, with the approval of the Secretary, shall prescribe rules and regulations to prevent potatoes handled pursuant to this section from entering trade channels other than those authorized by regulations and by such rules as may be necessary and incidental thereto.

Inspection

§ 949.60 Inspection and certification.

(a) During any period in which the handling of potatoes is regulated pursuant to §§ 949.53 through 949.55, inclusive, no handler shall handle potatoes unless such potatoes are inspected by an authorized representative of the Federal or a Federal-State Inspection Service and are covered by a valid inspection certificate, except when relieved of such requirements by §§ 949.54, 949.55, or 949.60(b).

(b) The committee may, with the approval of the Secretary, issue rules requiring inspection on regraded, resorted or repacked lots, or providing for special inspection requirements or relief therefrom. Such rules may provide distinctions, insofar as practical, between handling at shipping point and handling in receiving markets within the production area.

(c) Upon recommendation of the committee and approval by the Secretary, any or all potatoes so inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to the container by the handler under the direction and supervision of a Federal or Federal-State Inspector or the committee. Master containers may bear the identification instead of the individual containers within said master container.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When potatoes are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(f) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of potatoes by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or other evidence of inspection acceptable to the Secretary such as a Positive Lot Identification stamp, to indicate that such inspection has been performed. Such certificate or document shall be surrendered to such authority as may be designated.

Reports and Recordkeeping

§ 949.80 Reports and recordkeeping.

Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and form and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to, the following:

(1) The quantities of potatoes received by variety by a handler during any or all periods of a season;

(2) The quantities disposed of by the handler, segregated as to quantities subject to regulation, and where necessary, segregated as to types of outlets and special or modified regulations applicable to alternative outlets, and including quantities not subject to regulation;

(3) The date of each such disposition and the identification of the carrier transporting such potatoes;

(4) Information essential to identification of any or all specific quantities, lots, and disposition or potatoes handled under §§ 949.53 to 949.55, inclusive, which may include identification of inspection certificates, exemption certificates, certificates of privilege, or other appropriate identification, including the destination of each special shipment, where necessary.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition of disclosure of an individual handler identity or operations.

(c) Each handler shall maintain for at least 2 succeeding years such records and documents on potatoes received by such handler as may be necessary to verify reports submitted to the committee pursuant to this section.

(d) For the purpose of assuring compliance with recordkeeping requirements and verifying reports of handlers, the Secretary and the committee, through their duly authorized employees or agents, shall have access to any premises where applicable records are located, and where potatoes are handled, and at any time during reasonable business hours shall be permitted to inspect such handler's premises and any potatoes held by such handler and examine any and all records of such persons with respect to matters within the purview of this part.

Compliance

§ 949.81 Compliance.

No person shall handle potatoes except in conformity with the provisions of this subpart and the regulations issued thereunder.

Miscellaneous Provisions

§ 949.82 Right of the Secretary.

The members of the committee (including successors and alternates) and any agent or employee appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 949.84 Termination or suspension.

(a) The Secretary may terminate or suspend the operation of any or all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

(b) Producer referendum.

(1) The Secretary shall terminate in accordance with section 8(c)(16)B of the Act, the provisions of this part at the end of any fiscal period whenever the Secretary finds that such termination is favored by a majority of producers, who during a representative period, as determined by the Secretary have been engaged in the production of potatoes for market: *Provided*, That such majority has, during such representative period, produced for market more than fifty percent of the volume of such potatoes produced for market: *Provided further*, That termination shall be announced before the beginning of the ensuing fiscal period.

(2) The Secretary shall conduct a referendum every sixth fiscal year with the first such referendum to be conducted within 6 years from the effective date of this section, to ascertain whether continuance of this subpart is favored by producers. The

Secretary may terminate the provisions of this part at the end of any fiscal year in which the Secretary has found that continuance of this subpart is not favored by producers who, during a representative period determined by the Secretary, have been engaged in the production for market of potatoes in the production area. Such termination of the part shall be announced on or before the end of the fiscal year.

(c) The provisions of this part shall in any event terminate whenever the provisions of the Act authorizing them cease to be in effect.

§ 949.85 Proceedings after termination.

(a) Upon the termination of the provisions of this part the then functioning members of the committee shall continue as joint trustees for the purpose of liquidating the affairs of the committee of all funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustee.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of said committee and of the trustees, to such person as the Secretary may direct; and shall upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in said committee or the trustees pursuant to this part.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members pursuant to this section shall be subject to the same obligations imposed upon the members of the committees and upon the said trustees.

§ 949.86 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart or the issuance of any amendments to either thereof, shall not affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart; or release or extinguish any violation of this subpart or of any regulations issued under this subpart; or affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

§ 949.87 Duration of immunities.

The benefits, privileges and immunities conferred upon any person by virtue of this part shall cease upon the termination of this part, except with respect to acts done under and during the existence of this part.

§ 949.88 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the United States, or name any agency in the United States Department of Agriculture, to act as the Secretary's agent or representative in connection with any of the provisions of this part.

§ 949.89 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the Act or otherwise, or in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 949.90 Personal liability.

No member or alternate of the committee or any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willfull misconduct or gross negligence.

§ 949.91 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstances or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstances or thing shall not be affected thereby.

§ 949.92 Amendments.

Amendments to this subpart may be proposed from time to time by the committee or by the Secretary.

Marketing Agreement

*** § 949.97 Counterparts.**

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

*** § 949.98 Additional parties.**

After the effective date thereof, any handler may become a party to this agreement if a counterpart is executed by such handler and delivered to the Secretary. This agreement shall take effect as to such new contracting part at the time such counterpart is delivered to the Secretary, and the benefits, privileges and immunities conferred by this agreement shall then be effective as to such new contracting party.

*** § 949.99 Order with marketing agreement.**

Each signatory hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of potatoes in the same manner as is provided for in the agreement.

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Farmers Home Administration

7 CFR Parts 1933 and 1944

Self-Help Technical Assistance Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise and redesignate its regulation for Self-Help Housing Technical Assistance Grants. This action is necessary to comply with OMB circulars and Departmental regulations. The intended effect is to encourage more communities to participate in the program by permitting an organization with fewer employees to participate. It also permits the use of a predevelopment agreement to test the feasibility of the program in a community before making a major commitment of resources. It requires that organizations have a local membership base, and increases the amount of family labor in the building of homes. It references or directly quotes, Departmental regulations that significantly affect participating grantees.

DATE: Comments must be received on or before June 26, 1989.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written

comments will be available for public inspection during regular work hours at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Submit any comment to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 22053.

FOR FURTHER INFORMATION CONTACT: Cliff Herron, Senior Loan Officer, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5346, South Agriculture Building, Washington, DC 20250, Telephone 202–382–1484.

SUPPLEMENTARY INFORMATION: This action was reviewed under USDA procedures established on Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be nonmajor, because the annual effect on the economy is less than $100 million. There is no major increase in cost or prices for consumers, individual industries, Federal, State, or local competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This program/activity is listed in the Catalog of Federal Domestic Assistance under number 10.420. This program/activity is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See 7 CFR 3015, Subpart V (48 FR 291115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (Available in any FmHA Office).

This proposed rule replaces proposed rule, "Self-Help Technical Assistance Grants," which was published in the **Federal Register** on pages 6532–6549 on February 13, 1989. The proposed rule published on Feruary 13, 1989, is withdrawn because it was an earlier version that the Office of Management and Budget reviewed and required several significant modifications. It was inadvertently published without those modifications.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this 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.

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354), the Administrator of the Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities because fewer than 100 rural communities will be affected annually.

The proposed changes to the regulation decrease the role and involvement of the National Office by placing more decision making authority at the state and district level. The proposal also requires a greater level of involvement by the communities being served than previously required. It further directs the program to assist those most in need of houses, who generally are families below 50 percent of area median income, living in substandard housing and/or otherwise lack the skills to be good homeowners. It requires a greater amount of family participation in the construction of their own homes. It is anticipated that this change will increase the amount of borrower labor by more than 30 percent over what was previously required.

It changes the method used for accounting for borrower labor. The current regulation accounts for borrower labor by the number of hours contributed. The new method accounts for labor by the number of tasks performed. This method permits the use of modern construction techniques whereas the current regulation discourages their use because it could reduce the number of hours contributed.

It restricts the families who can participate in this program only to those who are approved for a section 502 loan. Previously, they could obtain other assistance as well; however, virtually everyone participating in this program in the past has done so by obtaining a section 502 loan. Therefore, it was decided to drop the reference to other sources of credit.

It gives the State Director more flexibility in directing the program to communities that may best benefit. The current method of determining the success of the program is based on the amount of saving as the difference between the cost of a contract built house and the cost of a self-help built house. This method has many flaws. It is difficult to establish the benchmark value, thereby, permitting generous funding of grantees in high cost areas and inadequate funding in low cost areas. As proposed, the State Director has greater flexibility in the use of the program and in determining the value to be placed on the self-help effort. The State Director can negotiate with the grantee on the method, amount of borrower contribution, and level of grant funding which will permit the program to be useful in rehabilitation and repair of dwellings.

The proposed regulation strengthens the supervision of the grantee by requiring the grantee to report quarterly on progress and for FmHA to determine whether their quarterly progress is on schedule. It requires FmHA to put delinquent grantees on notice and to offer them assistance so they will be successful. If after a 90 day period, the grantee is still unsuccessful, they will be terminated. This proposed change should assist more grantees to be successful.

List of Subjects 7 CFR Parts 1933 and 1944

Grant program—Housing and community development; Indians; Low and moderate income housing; Nonprofit organizations; and Rural housing.

PART 1933—LOAN AND GRANT PROGRAM (GROUP) [REMOVED AND RESERVED]

PART 1944—HOUSING

1. The authority citation for Part 1944 continues to read as follows:

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

2. As proposed, Part 1933 is removed and reserved; and in Part 1944, Subpart I, consisting of §§ 1944.401–1944.450 and Exhibits A–G, is added to read as follows:

Subpart I—Self-Help Technical Assistance Grants

Sec.

§ 1944.401 Objective.
§ 1944.402 Grant purposes.
§ 1944.403 Definitions.
§ 1944.404 Eligibility.
§ 1944.405 Authorized use of grant funds.
§ 1944.406 Prohibited use of grant funds.
§ 1944.407 Limitations.
§ 1944.408 [Reserved]
§ 1944.409 Executive Order 12372.
§ 1944.410 Processing preapplications, applications and completing grant dockets.
§ 1944.411 Conditions for approving a grant.
§ 1944.412 Docket preparation.
§ 1944.413 Grant approval.
§ 1944.414 [Reserved]
§ 1944.415 Grant approval and other approving authorities.
§ 1944.416 Grant closing.
§ 1944.417 Servicing actions after grant closing.
§ 1944.418 [Reserved]
§ 1944.419 Final grantee evaluation.

Sec.

§ 1944.420 Extension or revision of the grant agreement.
§ 1944.421 Refunding of an existing grantee.
§ 1944.422 Audit and other report requirements.
§ 1944.423 Loan packaging and 502 RH application submittal.
§ 1944.424 Dwelling construction and standards.
§ 1944.425 Handling and accounting for borrower loan funds.
§ 1944.426 Grant closeout, suspension, and termination.
§ 1944.427 Grantee self-evaluation.
§ 1944.428–1944.450 [Reserved]

Exhibits to Subpart I

Exhibit A Self-Help Technical Assistance Grant Agreement.
Exhibit B Mutual Self-Help Housing Guidelines.
Exhibit B–1 Association Membership Agreement.
Exhibit C Evaluation Report of Self-Help Technical Assistance (TA) Grants.
Exhibit C–1 Instructions for Preparation of Evaluation Report of Self-Help Technical Assistance Grants.
Exhibit C–2 Breakdown of Construction Development for Determining Percentage Construction Completed.
Exhibit C–3 Pre-Construction and Construction Phase Breakdown.
Exhibit D Amendment to Self-Help Technical Assistance Grant Agreement.
Exhibit E Self-Help Technical Assistance Grant Predevelopment Agreement.
Exhibit F Guidance for Recipients of Self-Help Technical Assistance Grants.
Exhibit G Site Option Loan to Technical Assistance Grantees.

Subpart I—Self-Help Technical Assistance Grants

1944.401 Objective.

This subpart sets forth the policies and procedures and delegates authority for providing Technical Assistance (TA) funds to eligible applicants to finance programs of technical and supervisory assistance for self-help housing as authorized under section 523 of the Housing Act of 1949. This financial assistance may pay part or all of the cost of developing, administering, or coordinating programs of technical and supervisory assistance to aid needy very low- and low-income families in carrying out self-help housing efforts in rural areas. The primary purpose is to fund organizations that are willing to locate and work with families that otherwise do not qualify as homeowners. Generally these are families below 50 percent of median incomes, living in substandard housing, and/or lacking the skills to be good homeowners. Grantees will comply with the nondiscrimination regulation Subpart E of Part 1901 of this chapter which states that no person in the United States shall, on the grounds of race, color, national origin, sex, religion, marital status, mental or physical handicap, or age be excluded from participating in, be denied the benefits of, or be subject to discrimination in connection with the use of grant funds.

§ 1944.402 Grant purposes.

FmHA may contract or make a grant to an organization to:

(a) Give technical and supervisory assistance to eligible very low- and low-income families as defined in Exhibit C of Subpart A of this part, in carrying out self-help housing efforts.

(b) Assist other organizations to provide technical and supervisory assistance to eligible families,

(c) Develop a final application, recruit families and related activities necessary to participate under paragraph (a) of this section.

§ 1944.403 Definitions.

(a) *Agreement.* The Self-Help Technical Assistance Agreement which is a document signed by Farmers Home Administration (FmHA) and the grantee which sets forth the terms and conditions under which TA funds will be made available. (Exhibit A of this subpart).

(b) *Agreement period (or grant period).* The period of time for which an agreement is in force.

(c) *Date of completion.* The date when all work under a grant is completed or the date in the TA grant agreement, or any supplement or amendment to it, when Federal assistance ends.

(d) *Disallowed costs.* Those charges to a grant which FmHA determines cannot be authorized.

(e) *Equivalent units.* Equivalent units represent the "theoretical number of units" arrived at by adding the equivalent percentage of completion figure for each family in the self-help program (pre-construction and actual construction) together at any given date during program operations. The sum of the percentage of completion figures for all participant families represent the total number of "theoretical units" completed at any point in time. Equivalent units are useful in measuring progress during the period of the grant and are not a measurement of actual accomplishments.

(f) *Equivalent value of modest housing.* The equivalent value of modest housing is the typical cost of recently constructed (within the last 12 months) FmHA financed homes in the area plus the actual or projected cost of the site and site development. If no construction has taken place during the last twelve months, the value will be established by use of the Marshall and Swift cost handbook or a similar type of handbook. This value is established by FmHA.

(g) *Mutual self-help.* The construction method by whcih participating families organized in groups of 4 to 10 families utilize their own labor to reduce the construction cost of their homes. Participating families complete construction work on their homes by an exchange of labor with one another. The mutual self-help method must be used for new construction unless an exception is obtained from the National Office under § 1944.427 of this subpart.

(h) *Organization.*

(1) A State, political subdivision, or public nonprofit corporation (including Indian Tribes or Tribal corporations); or

(2) A private nonprofit corporation that is owned and controlled by private persons or interests and is organized and operated for purposes other than making gains or profits for the corporation and is legally precluded from distributing any gains or profits to its members.

(i) *Paticipating family.* Individuals and/or their families who agree to build homes by the mutual self-help method. Participants are families with low incomes who qualify for and will receive interest credits. Participating families must have the ability to furnish their share of the required labor input regardless of the age or sex of the head of household. The participating family must be approved for a section 502 RH Loan before the start of construction, have sufficient time available to assist in building their own homes, and show a desire to work with other families. Each family in the group must contribute labor on each other's homes to accomplish the mandatory tasks plus at least 20 percent of the other tasks values listed in Exhibit C–2 of this subpart.

(j) *Self-Help.* The construction method by which an individual family utilize their labor to reduce the construction cost of their home without an exchange of labor between participating families. Unless otherwise authorized by the District Director, this method is only funded for repair and rehabilitation type construction.

(k) *Sponsor.* An existing entity that is willing and able to assist an applicant, with or without charge, in applying for a grant and in carrying out responsibilities under the agreement. Examples of sponsors are local rural electric cooperatives, institutions of higher education, community action agencies and other self-help grantees. Also, when available, regional technical and management assistance contractors may

qualify to serve as a sponsor at no charge.

(l) *Termination of a grant.* The cancellation of Federal assistance, in whole or in part, at any time before the date of completion.

(m) *Technical assistance.* The organizing and supervising of groups of families in the construction of their own homes including:

(1) Recruiting families who are interested in sharing labor in the construction of each other's homes and assisting such families in obtaining housing loans.

(2) Conducting meetings of the families to explain the self-help program and subjects related to home ownership, such as loan payments, taxes, insurance, maintenance, and upkeep of the property.

(3) Helping families in planning and developing activities that lead to the acquisition and development of suitable building sites.

(4) Assisting families in selecting or developing house plans for homes which will meet their needs and which they can afford.

(5) Assisting families in obtaining cost estimates for construction materials and any contracting that may be required.

(6) Providing assistance in the preparation of loan applications.

(7) Providing construction supervision and training for families while they construct their homes.

(8) Providing financial supervision to individual families with section 502 Rural Housing (RH) loans which will minimize the time and effort required by FmHA in processing borrower expenditures for materials and contract services.

(9) Assisting families in solving other housing problems.

§ 1944.404 Eligibility.

To receive a grant, the applicant must:

(a) Be an organization as defined in § 1944.403(h) of this subpart.

(b) Have the financial, legal, administrative, and actual capacity to assume and carry out the responsibilities imposed by the Agreement. To meet the requirement of actual capacity it must either:

(1) Have necessary background and experience with proven ability to perform responsibly in the field of mutual self-help or other business management or administrative ventures which of mutual self-help; or

(2) Be sponsored by an organization with background, experience, ability, which agrees in writing to help the applicant to carry out its responsibilities.

(c) Legally obligate itself to administer TA funds, provide adequate accounting of the expenditure of such funds, and comply with the Agreement and FmHA regulations.

(d) If the organization is a private nonprofit corporation, meet the following conditions:

(1) Be a corporation organized for the primary purpose of assisting very low- and low-income families to obtain adequate housing.

(2) Have a local membership base of at least 30 people.

(3) Adopt, if it is being newly organized, Articles of Incorporation and Bylaws, which include the purposes and powers of an eligible applicant under this subpart.

(4) Have a Board of Directors which consist of not less than five but generally not more than nine members.

(5) If currently engaged or plan to become engaged in activities other than the operation of the TA grant, provide documentation as to the percentage of salaries, cost of space, phones, etc., that will be charged to each activity.

§ 1944.405 Authorized use of grant funds.

(a) Payment of salaries of personnel as authorized in the Agreement.

(b) Payment of necessary and reasonable office expenses such as office rental, office utilities, and office equipment rental. The purchase of office equipment is permissible when the grantee determines it to be more economical than renting.

(c) Purchase of office supplies such as paper, pens, pencils, and trade magazines.

(d) Payment of necessary administrative costs including but not limited to items such as Worker's Compensation, liability insurance, audit reports, travel and training, and employer's share of social security and health benefits.

(e) Purchase, lease, or maintenance of power or specialty tools such as a power saw, electric drill, sabre saw, ladders, and scaffolds, which are needed by the participating families. The participating families, however, are expected to provide their own hand tools such as hammers and handsaws.

(f) Funding a tax deferred pension plan for permanent employees. The organization's contribution, in any year, may not exceed 5 percent of the employee's salary or $2,000, whichever is less.

(g) Payment of reasonable fees for training of grantee personnel including board members. This may include the cost of travel and per diem to attend in or out-of-State training as authorized by the board of directors and, when necessary, for the employee to do the current job.

(h) Payment of services rendered by a sponsor or other organization after the grant is closed and when it is determined the sponsor can provide the necessary services which will result in an overall reduction in the cost of assistance. Typically, this will be limited to new grantees and an existing grantee for the period of time that its size or activity does not justify a full staff. A full staff is a full or part-time director, project worker, secretary-bookkeeper, and a construction supervisor.

(i) Payment of certain consulting and legal costs required in the administration of the grant if such service is not available without cost. This does not include legal expenses for claims against the Federal Government. (Legal costs that may be incurred by the organization for the benefit of the participating families may be paid with prior approval of the State Director).

(j) Payments of the cost of an accountant to set up an accounting system and perform audits that may be required.

(k) Payments of reasonable expenses of board members for attending regular or special board meetings.

§ 1944.406 Prohibited use of grant funds.

(a) Hiring personnel specifically for the purpose of performing any of the construction work for participating families in the self-help projects.

(b) Buying real estate or building materials or other property of any kind for participating families.

(c) Paying any debts, expenses, or costs which should be the responsibility of the participating families in the self-help projects.

(d) Paying for training of an employee which is beyond what is necessary for the employee to perform his or her current job or that would give him or her an advantage for future advancement.

(e) Paying costs (including salaries) that are not directly related to helping very low- and low-income families obtain housing consistent with the objectives of this program.

§ 1944.407 Limitations.

The amount of the TA grant depends on the experience and capability of the applicant and must be justified based on the number of families to be assisted. As a guide, the maximum grant amounts for any grant period will be limited to:

(a) An average TA cost per unit of no more than 12 percent of the cost of equivalent value of modest homes built in the area. (Upon request, the County Supervisor will provide the grantee the

average cost of modest homes for the area); or

(b) An average TA cost per unit that does not exceed the difference between the equivalent value of modest homes in the area and the average mortgage of the participating families plus $1,000; or

(c) A TA cost that does not exceed an amount established by the State Director. The State Director may authorize a greater TA cost than paragraph (a) or (b) of this section when needed to accomplish a particular objective, such as requiring the grantee to serve very low-income families, remote areas, or similar situations; or

(d) A negotiated amount for repair and rehabilitation type proposals.

§ 1944.408 [Reserved]

§ 1944.409 Executive Order 12372.

The Self-Help Program is subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under Subpart J of Part 1940 of this chapter, "Intergovernmental Review of Farmers Home Administration Program Activities," (available in any FmHA office), new applicants for the Self-Help Program must submit their Statement of Activities to the State single point of contact prior to submitting their preapplication to FmHA. The name of the point of contact is available from the FmHA State Office.

§ 1944.410 Processing preapplications, applications, and completing grant dockets.

(a) *Form SF–424, "Application for Federal Assistance."* Form SF–424 in an original and one copy must be submitted by the applicant to the District Director. It will be used to establish communication between the applicant and FmHA, determine the applicant's eligibility, determine how well the project can compete with similar applications from other organizations and eliminate any proposals which have little or no chance for Federal funding before applicants incur significant expenditures for preparing an application. In addition, the following information will be attached to and become a part of the preapplication:

(1) Complete information about the applicant's previous experience and capacity to carry out the objective of the agreement.

(2) If the applicant is already formed, a copy of or an accurate reference to the specific provisions of State law under which the applicant is organized; a certified copy of the applicant's Articles of Incorporation and Bylaws or other evidence of corporate existence; certificate of incorporation for other than public bodies; evidence of good standing from the State when the corporation has been in existence 1 year or more; the names and addresses of the applicant's members, directors, and officers; and, if another organization is a member of the applicant-organization, its name, address, and principal business. If the applicant is not already formed, attach copies of the proposed organizational documents as outlined in § 1944.404(d)(3) of this subpart.

(3) A current (less than 6 months) dated and signed financial statement showing the amounts and specific nature of assets and liabilities together with information on the repayment schedule and status of any debt owed by the applicant. If the applicant is being sponsored by another organization, the same type of financial statement also must be provided by the applicant's sponsor.

(4) A narrative statement which includes information about the amount of the grant funds being requested, area(s) to be served, need for self-help housing in the area(s), the number of self-help units proposed to be buit, rehabilitated or repaired during the agreement period, housing conditions of low-income families in the area and reasons why families need self-help assistance. Evidence should be provided that the communities support the activity and that there are low-income families willing to contribute their labor in order to obtain adequate housing. The pre-application may contain information such as census materials, local planning studies, surveys, or other readily available information which indicates a need in the area for housing of the type and cost to be provided by the proposed self-help TA program.

(5) A plan of how the organization proposes to reach very low-income families living in houses that are deteriorated, dilapidated, overcrowded, and/or lack plumbing facilities.

(6) A proposed budget which will be prepared on SF–4244 "Budget Information—Non-Construction Programs" will be completed to address applicable assurances as outlined in § 3015.205 of 7 CFR Part 3015. State and local Government will include an assurance that the grantee shall comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. The State and Local governments shall also comply with 7 CFR 3016.

(7) A preliminary survey as to the availability of lots and projected cost of the sites.

(8) A list of other activities the applicant is engaged in and expects to continue and a statement as to other sources of funding and whether it will have sufficient funds to asssure continued operation of the other activities for at least the period of the agreement.

(9) Whether assistance under paragraph (d) of this section is requested and a brief narrative identifying the need, amount of funds needed, and projected time period.

(b) *Preapplication review.* (1) The District Director, within 30 days of receipt of the preapplication, Form SF–424 and all other required information and material will complete a thorough review for completeness, accuracy, and conformance to program policy and regulations. Incomplete preapplications will be returned to the applicant for completion. The applicant should be given the name of the regional technical assistance contractor. The County Supervisor in the prospective county will be contracted as to the need for the program in the proposed area and if the necessary resources are available to the grantee. This will include a discussion of the number of 502 and 504 units that will need to be committed to the grantee and the potential work impact on the office during the grant period. If it is determined that the county office lacks the resources (either personnel or funds) to process all loan requests in a timely manner, the District Director must communicate this need to the State Director along with a recommended solution. (Lack of resources at the county level are not grounds to deny a request). After the District Director has determined that the preapplication is complete and accurate, the District Director will assemble the material in an applicant case file and forward it to the State Director. The case file, as a minimum, must contain the following:

(i) Form SF–424, "Application for Federal Assistance",

(ii) Original and one copy of Form FmHA 1940–20, "Request for Environmental Information," and

(iii) Eligibility recommendations.

(2) The State Director may, if needed, submit the organizational documents with any comments or questions to OGC for a preliminary opinion as to whether the applicant is or will be a legal organization of the type required by these regulations and for advice on any other aspects of the preapplication.

(3) The State Director, if unable to determine eligibility or qualifications with the advice of the OGC, may submit the preapplication to the National Office for review. The preapplication will contain all memoranda from OGC giving the results of its review. The State

Director will identify in the transmittal memorandum to the National Office the specific problem and will recommend possible solutions and any information about the applicant which would be helpful to the National Office in reaching a decision.

(4) After an eligibility determination has been made—which should be completed within 30 days unless OGC is involved—the State Director will:

(i) If the applicant is eligible, contact the National Office as to the availability of funds or submit the proposal to the National Office for authorization if the requested amount exceeds the State Director's approving authority. If funds are available, the final review officer, either the State Director or the Assistant Administrator, Housing will issue a letter of conditions that the applicant must meet and direct the District Director to issue Form AD–622, "Notice of Preapplication Review Action."

(ii) If the applicant is determined not eligible, the State Director will direct the District Director to issue Form AD–622, "Notice of Preapplication Review Action."

(c) *Form AD–622, "Notice of Preapplication Review Action."* (1) If the applicant is eligible and after the State Director has returned the preapplication information and the executed original Form FmHA 1940–20 to the District Office, the District Director will, within 5 days, prepare and issue Form AD–622, "Notice of Preapplication Review Action." The original Form AD–622 will be signed and delivered to the applicant along with the letter of conditions, a copy to the applicant's case file, a copy to the County Supervisor, and a copy to the State Director.

(2) If the applicant is not eligible and after the State Director has returned the preapplication information, the District Director will within 5 days notify the applicant on Form AD–622. The notification will inform the applicant that an appeal of the decision may be made to the National Appeals Staff under Subpart B of Part 1900 of this chapter.

(3) If the applicant is eligible and no funds are available, the State Director will return the preapplication information to the District Director who will, within 5 days, notify the applicant on Form AD–622. The notification will explain the facts concerning the lack of funding and that FmHA will notify them when funding will be available. This is not an appealable decision.

(d) *Self-help technical assistance grant Predevelopment agreement.* If the grantee requested predevelopment assistance and the State Director determines that the applicant lacks the financial resources to meet the conditions of grant approval, a grant of up to $10,000 and for up to six months will be made in order for the applicant to provide what is required by paragraph (e) of this section. This is a one time grant and is available only after the letter of conditions has been issued. Denial of this assistance is an appealable decision under Subpart B of Part 1900 of this chapter.

(e) *Form SF–424, "Application for Federal Assistance."* The applicant will submit Form SF–424 in an original and one copy to the District Director. The application should provide a detailed proposal of its goals including:

(1) Names, addresses, number in household, and total annual household income of families who have been contacted by the applicant and are interested in participating in a self-help housing project. Community organizations including minority organizations may be used as a source of names of people interested in self-help housing.

(2) Proof that the first group of prospective participating self-help families have qualified for financial assistance from FmHA.

(3) Evidence that lots are optioned by the prospective participating self-help families for the first group. Evidence that lots are available for the remaining groups.

(4) Detailed cost estimates of houses to be built by the mutual self-help method. Plans and specifications should be submitted with the cost estimates.

(5) Proposed staffing need, including qualifications, experience, proposed hiring schedule, and availability of any prospective employees.

(6) Name, address, and official position of the applicant's representative or representatives authorized to act for the applicant and work with FmHA.

(7) Budget information including a detailed budget for the Agreement period based upon the needs outlined in the proposal. Standard Form 424A will be completed to furnish the budget information.

(8) Indirect or direct cost policy and proposed indirect cost rate developed in accordance with 7 CFR Part 3015, Uniform Federal Assistance Regulations, and 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

(9) Personnel procedures and practices that will be established or are in existence. Forms to be used should be submitted with the application.

(10) A proposed monthly activities schedule showing the proposed dates for starting and completing the recruitment, loan processing and construction phases for each group of participant families.

§ 1944.411 Conditions for approving a grant.

A grant may be approved for an eligible applicant when the conditions in the letter of conditions are met and the following conditions are present:

(a) The applicant has or can hire, or contract directly or indirectly with, qualified people to carry out its responsibilities in administering the grant.

(b) The applicant has met all of the conditions listed in § 1944.410(e) of this subpart.

(c) The grantee furnishes a signed statement that it complies with the requirements of the Departmental regulations found at 7 CFR Part 3015, Uniform Federal Assistance Regulations, and 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

(d) A resolution has been adopted by the board of directors which authorizes the appropriate officer to execute Exhibit A, "Self-Help Technical Assistance Grant Agreement," and Form FmHA 400–1, "Equal Opportunity Agreement."

(e) The grantee has fidelity bonding as covered in 7 CFR 3015 if a nonprofit organization, or, if a State and Local Government, to the extent required in 7 CFR 3016.

(f) The grantee has agreed by completing SF 424A, Assurances that it will establish a recordkeeping system that is certifiable by a certified public accountant that it adequately meets the Agreement.

(g) The grantee has established an interest bearing checking account on which at least two bonded officials will sign all checks issued and understands that interest earned in excess of $100 annually must be submitted to FmHA quarterly. (The use of minority depository institutions is encouraged.)

(h) The grantee has developed an agreement to be executed by the grantee and the self-help participants which clearly sets forth what is expected of each and has incorporated Exhibit C–2, "Breakdown of Construction Development," as a part of it which clearly shows what work is expected of the participating family.

§ 1944.412 Docket preparation.

When the application and all items required for the complete docket have been received, the District Director will thoroughly examine it to insure the

application has been properly and accurately prepared and that it includes the required dates and signatures. The docket items will be assembled and distributed by the District Director in the following order:

Form No.	Name of form or document	Total No. of copies	Signed by applicant	Number for agreement docket	Copy for applicant
SF-424	Application for Federal Assistance	3	1	1-O&1-C	1-C
AD-622	Notice of Preapplication Review Action.	2		1-C	1-O
FmHA 1940-1	Request for Obligation of Funds	4	2	3-O&2-C	1-C
FmHA 400-4	Assurance Agreement	2	1	1-O	1-C
	Certified Copy Authorizing Resolution	1	1	1-O	
	Self-Help Technical Assistance Grant Agreement (Exhibit A).	2	1	1-O	1-C
	Any Personnel Forms to be used	2		1-O	1-C

O=Original.
C=Copy.

§ 1944.413 Grant approval.

(a) *Approval of grant.* Within 30 days of the grantee meeting the conditions of § 1944.411 of this subpart, the approving official will:

(1) Execute and distribute Form FmHA 1940-1 in accordance with the Forms Manual Insert (FMI).

(2) Prepare and distribute Form FmHA 071-1, "Project Information Card," in accordance with FmHA Instruction 2015-C (available in any FmHA State Office.)

(3) After the Finance Office acknowledges that funds are obligated, request an initial advance of funds on Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request," in accordance with the FMI. The amount of this request should cover the applicant's needs for the remainder of the month in which the grant is closed plus the next month. Subsequent advances will cover only a one month period.

(b) *Cancellation of an approved grant.* An approved grant may be canceled before closing if the applicant is no longer eligible, the proposal is no longer feasible, or the applicant requests cancellation. Cancellation will be accomplished as follows:

(1) The District Director will prepare Form FmHA 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation," according to the (FMI) and send it to the State Director with the reasons for cancellation. If the State Director approves the request, Form FmHA 1940-10 will be returned to the District Office for processing in accordance with the FMI.

(2) The District Director will notify the applicant of the cancellation and the right to appeal under Subpart B of Part 1900 of this chapter. If the applicant requested the cancellation, no appeal rights are provided, but the applicant will still be notified of the cancellation.

(c) *Disapproval of grant.* If a grant is disapproved after the docket has been developed, the approving official will state the reason on the original Form FmHA 1940-1, or in a memorandum to the District Director. The District Director will notify the applicant in writing of the disapproval and the reason for disapproval. Also, the notification will inform the applicant of its appeal rights under Subpart B of Part 1900 of this chapter.

§ 1944.414 [Reserved]

§ 1944.415 Grant approval and other approving authorities.

(a) The State Director is authorized to approve or disapprove TA grants under this subpart. For a grant in excess of $300,000, or in the case of a grant amendment when the amount of the grant plus any unexpended funds from a previous grant will exceed $400,000, prior written consent of the National Office is required. In such cases, the docket along with the State Director's recommendations must be submitted to the National Office for review.

(b) The State Director may approve a grant not to exceed $10,000 to an eligible organization under § 1944.410(d) of this subpart. This grant must be limited to 6 months and funds must be used for the development of the final application, family recruitment, and related activities.

(c) The authority to contract for services is limited to the Administrator of FmHA.

(d) Monthly expenditures of the grantee will normally be approved by the District Director unless:

(1) The grantee operates in only one county, in which case the authority may be delegated to the County Supervisor.

(2) The grantee operates in more than one FmHA District, in which case the State Director will designate the approving official.

(3) The grantee operates in more than one State Director's jurisdiction, in which case the Administrator will designate the approving official.

(4) The expenditure is under contract authority, in which case the Contracting Official Representative will approve the monthly expenditure.

§ 1944.416 Grant closing.

The grant is closed on the date the Agreement is executed as defined in § 1944.403(a) by the applicant and the government. Funds may not be advanced prior to the signing of the Agreement. The District Director or Assistant District Director are authorized to execute the Agreement for the Farmers Home Administration. Person(s) authorized by resolution may sign for the applicant.

1944.417 Servicing actions after grant closing

FmHA has a responsibility to help the grantee be successful and help the grantee avoid cases of fraud and abuse. Servicing actions also include correlating activities between the grantee and FmHA to the benefit of the participating families. The amount of servicing actions needed will vary in accordance with the experience of the grantee, but as a minimum the following actions are required:

(a) Monthly, the grantee will provide the District Director with a request for additional funds on Form SF-270, "Request for Advance or Reimbursement." This request need only show the amount of funds used during the previous month, amount of unspent funds, projected need for the next 30 days, and written justification if the request exceeds the projected need for the next 30 days. This request must be in the District Director's office fifteen days prior to the beginning of the month. Upon receipt of the grantee's request, the District Director will:

(1) If the request appears to be in order, process Form FmHA 440-57 so that delivery of the check will be possible on the first of the next month.

(2) If the request does not appear to be in order, immediately contact the grantee to resolve the problem. After the contact:

(i) If the explanation is acceptable, process Form FmHA 440–57 so delivery may be possible by the first of the next month, or

(ii) If the explanation is not acceptable, request the amount of funds that appear reasonable for the next 30 days on Form FmHA 440–57. The unapproved funds request will be held in abeyance until further explanation is received and then either disapproved or added to the next month's request.

(b) Quarterly, the grantee will submit Exhibit C of this subpart (Evaluation Report of Self-Help Technical Assistance Grants) in an original and three copies to the County Supervisor on or before January 15, April 15, July 15 and October 15 which will verify its progress toward meeting the objectives stated in the Agreement and the application. The County Supervisor will immediately complete the County Office Review part and forward the report to the District Office. After Exhibit C is received in the District Office a meeting should be scheduled between the grantee, District Director, and the County Supervisor since this is an opportune time for both the grantee and FmHA to review progress to date and make necessary adjustments for the future. This meeting is required if the grantee was previously identified as a problem grantee or will be identified as a problem grantee at this time. Regardless of whether a meeting will be held, the following will be done:

(1) Exhibit C and other information will be evaluated to determine progress made to date. The District Director will comment on Exhibit C as to whether the grantee is ahead or behind schedule in each of the following areas:

(i) *Assisting the projected number of families.*

(ii) *Serving very low-income applicants.* Is the grantee reaching a minimum of 40 percent very low-income families with each group?

(iii) *Equivalent units (EUs).* Is the number of EUs completed representative of lapse in time of the grant? For example, if 25 percent of the grant period has elapsed, are 25 percent of the number of EUs completed?

(iv) *Labor contributions by the family.* Are the families working together and are they completing the labor tasks as established on Exhibit C–2?

(v) *Use of grant funds.* Are grant costs within the limits defined in § 1944.407 of this subpart?

(2) The District Director will submit Exhibit C to the State Director who will evaluate the quarterly report along with the District Director's comments. If the State Director determines the grantee is progressing satisfactorily, the State Director will sign and forward Exhibit C to the National Office. However, if the State Director determines the grantee is not performing as expected, the State Director will notify the grantee that they have been classified a "High Risk" grantee. The notice will specify the deficiencies and inform the grantee of proposed remedies for noncompliance. If the grantee is a nonprofit organization Subpart N, Grant and Subgrant Closeout, Suspension and Termination, of 7 CFR 3015 will apply and for State and Local Governments, §§ 3016.43 and 3016.44 of Subpart C, Post-Award Requirements, of 7 CFR 3016 will apply. The State Director will have to have the written authorization of the National Office prior to implementing any closeout, suspension and termination actions due to noncompliance. The notice will advise the grantee the FmHA is available to assist and provide the name and address of an organization that is under contract with FmHA to assist them. The State Director will forward a copy of Exhibit C, District Directors comments, and the reasons for classifying them as "High Risk" to the National Office, Single Family Housing, Special Programs Branch. When the period of time provided for corrective action has expired, an assessment will be made of the progress by the grantee toward correcting the situation. If the State Director determines:

(i) The situation has been corrected or reasonable progress has been made toward correcting the situation, the "High Risk" status will be lifted and the grantee so notified.

(ii) The situation has not been corrected but it is correctable if additional time is granted, an extension will be issued.

(iii) The situation has not been corrected and it is unlikely to be corrected if given additional time, the grant will be terminated under § 1944.426(b)(1) of this subpart.

§ 1944.418 [Reserved]

§ 1944.419 Final grantee evaluation.

Between the 18th and 24th month of the grant period, an evaluation of the grantee will be conducted by FmHA. The State Director may use FmHA employees or an organization under contract to FmHA to provide the evaluation. The evaluation is to determine how successful the grantee was in meeting goals and objectives as defined in the agreement, application, this regulation, and any amendments.

(a) This is a quantitative evaluation of the grantee to determine if it met its goals in:

(1) Assisting the projected number of families in obtaining adequate housing.

(2) Meeting the goal of assisting very low-income families.

(3) Meeting the family labor requirement in § 1944.411(h) and Exhibit C–2 of this subpart.

(4) Keeping costs within the guide set in § 1944.407, and

(5) Meeting other objectives in the Agreement.

(b) The evaluation is a narrative addressed to the State Director with a copy to the National Office, Single Family Housing Processing Division. It will be in 3 parts, namely; findings, recommendations, and an overall rating. The rating will be either unacceptable, acceptable, or outstanding, as follows:

(1) Outstanding if the grantee met or exceeded all of the goals in paragraph (a) of this section.

(2) Acceptable if the grantee met or exceeded all of the goals as defined in paragraph (a) except two, or

(3) Unacceptable if the grantee failed to obtain an acceptable rating.

(c) After the State Director has reviewed the evaluation, a copy will be mailed to the grantee. The grantee may request a review of the evaluation with the District Director. This review is for clarification of the material and to dispute the findings if they are known to be wrong. The rating is not open for discussion except to the extent it can be proven that the findings do not support the rating. If this is the case, the District Director will file an amendment to the State Director.

§ 1944.420 Extension or revision of the grant agreement.

The State Director may authorize the District Director to execute on behalf of the Government Exhibit D of this subpart, "Amendment to Self-Help Technical Assistance Grant Agreement," at any time during the grant period provided:

(a) The extension period is for no more than one year from the final date of the existing Agreement,

(b) The need for the extension is clearly justified,

(c) If additional funds are needed, a revised budget is submitted with complete justification, and

(d) The grantee is within the guidelines in § 1944.407 of this subpart or the State Director determines that the best interest of the government will be served by the extension.

§ 1944.421 Refunding of an existing grantee.

Grantees wishing to continue with self-help efforts after the end of the current grant plus any extensions should file Form SF–424, "Application For Federal Assistance," in accordance with § 1944.410(e). It is recommended that it be filed at least 6 months before the end of the current grant period. Funds from the existing grant may be used to meet the conditions of a new grant provided the area to be served is the same geographic area, as defined in the current grant. In addition to meeting the conditions of an applicant as defined in § 1944.411 of this subpart, the grantee must also have received or will receive an acceptable rating on its current grant unless an exception is granted by the State Director. The State Director may grant an exception to the rating if it is determined that the reasons causing the previous unacceptable rating have been removed or will be removed with the approval of this grant.

§ 1944.422 Audit and other report requirements.

The grantee must submit an audit to the appropriate FmHA District Office annually (or biannually if a State or local government with authority to do a less frequent audit requests it) and within 90 days of the end of the grant period or termination of the grant. The audit, conducted by the grantee's auditors, is to be performed in accordance with Generally Accepted Government Auditing Standards (GAGAS), using the publication, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions," developed by the Comptroller General of the United States in 1981, and any subsequent revisions. In addition, the audits are also to be performed in accordance with 7 CFR Part 3015, Uniform Federal Assistance Regulations and 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and FmHA requirements as specified in this subpart.

(a) *Nonprofit organizations and others.* These organizations are to be audited in accordance with FmHA requirements, and 7 CFR Part 3015, Uniform Federal Assistance Regulations. These requirements also apply to public hospitals, public colleges, and universities if they are excluded from the audit requirements of paragraph (b) of this section.

(1) An audit conducted by the grantee's auditor shall be supplied to the FmHA District Director as soon as possible but in no case later than ninety (90) days following the period covered by the grant agreement.

(2) Auditors shall promptly notify USDA OIG Regional Inspector General and the FmHA District Office, in writing, of any, indication of fraud, abuse, or illegal acts in grantees use of grant funds or in the handling of borrowers accounts.

(3) Nonprofit organizations that receive less than $25,000 a year in Federal financial assistance need not be audited.

(b) *State and local governments and Indian tribes.* These organizations are to be audited in accordance with this subpart and 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments of the audits being forwarded by the grantee to the FmHA District Director and the appropriate Federal cognizant agency. "Cognizant agency" means the Federal agency assigned by OMB Circular A–128. Within the Department of Agriculture (USDA), the OIG shall fulfill cognizant agency responsibilities. Smaller grantees not assigned a cognizant agency by OMB should contract the Federal agency that provided the most funds. When USDA is designated as the cognizant agency or when it has been determined by the borrower that FmHA provided the major portion of Federal financial assistance, the State Director will contact the appropriate USDA OIG Regional Inspector General. FmHA and the borrower shall coordinate all proposed audit plans with the appropriate USDA OIG.

(1) State and local governments and Indian tribes that receive $25,000 or more a year in Federal financial assistance shall have an audit made in accordance with 7 CFR Part 3016.

(2) State and local and Indian tribes that receive less than $25,000 a year in Federal financial assistance shall be exempt from 7 CFR Part 3016.

(3) Public hospitals and public colleges and universities may be excluded by the State Director from OMB Circular A–128 audit requirements. If such entities are excluded, audits shall be made in accordance with paragraph (a) of this section.

§ 1944.423 Loan packaging and 502 RH application submittal.

A grantee is required to assist 502 RH applicants in submitting their application for a rural housing loan. Loan packaging will be performed in accordance with Exhibit A of Subpart A of Part 1944 of this chapter, therefore, it is important that the grantee be trained at an early date in the packaging of rural housing loans. Typically this training should take place before the first applications are submitted to the County Office and before the grant is closed. A grantee should become very knowledgeable of FmHA's eligibility requirements but must understand that only FmHA can approve or deny an applicant assistance. A grantee should never place itself in a position where it appears to disagree with the eligibility decision of FmHA. However, the grantee may ask for clarification that may be helpful in working with future applicants. Grant funds may not be used to pay any expense in connection with an appeal that the applicant may file or pursue.

§ 1944.424 Dwelling construction and standards.

All construction will be performed in accordance with Subpart A of Part 1924 of this chapter. The planned work must meet the building requirements of Subpart A of Part 1944 of this chapter and meet the building codes as defined Subpart A of Part 1944 of this chapter and in any local codes. Building sites must conform to the requirements of Subpart C of Part 1924 of this chapter.

§ 1944.425 Handling and accounting for borrower loan funds.

Grantees will be required to administer borrower loan funds during the construction phases. The extent of their involvement will depend on the experience of the grantee and the amount of authority delegated to them by the District Director in accordance with § 1924.6(c) of Subpart A of Part 1924 of this chapter.

§ 1944.426 Grant closeout.

(a) *Grant purposes completed.* Promptly after the date of completion, grant closeout actions will be taken to allow the orderly discontinuance of grantee activity.

(1) The grantee will immediately refund to FmHA any balance of grant funds advanced that are not committed for the payment of authorized expenses as prescribed in § 1951.58(j) of FmHA Instruction 1951–B (available in any FmHA Office).

(2) The grantee will furnish Form SF–269A (Financial Status Report) to FmHA within 90 days after the date of completion of the grant. All other financial, performance, and other reports required as a condition of the grant also will be completed.

(3) After the grant closeout, FmHA retains the right to recover any disallowed costs which are discovered as a result of the final audit. Subpart M

of Part 1951 of this chapter will be used by FmHA to recover any unauthorized expenditures.

(4) The grantee will provide FmHA an audit conforming to those requirements established in this part, including audits of self-help borrower accounts.

(5) Upon request from the recipient, any allowable reimbursable cost not covered by previous payments shall be promptly paid by FmHA.

(b) *Grant purposes not completed.*

(1) *Notification of termination.* The State director will promptly notify the grantee and the National Office in writing of the termination action including the specific reasons for the decision and the effective date of the termination. The notification to the grantee will specify that if the grantee believes the reason for the proposed termination can be resolved, the grantee should, within 15 calendar days of the date of this notification, contact the State Director in writing requesting a meeting for further consideration. The meeting will be an informal proceeding at which the grantee will be given the opportunity to provide whatever additional information it believes should be considered in reaching a decision concerning the case. The grantee may have an attorney or any other person present at the meeting if desired. Within 7 calendar days of the meeting, the State Director will determine what action to take.

(i) If the State Director determines that termination is not necessary, the grantee will be informed by letter along with the District Director.

(ii) If the State Director determines that termination of the grant is appropriate, he/she will promptly inform the grantee by the use of Exhibit B–3 of Subpart B of Part 1900 of this chapter.

(2) *National Office review.* (i) Upon receipt of a request from a grantee that the decision of the State Director be reconsidered, the National Office will make a preliminary decision concerning the continued funding of the grantee during the appeal period. Written notification of the decision will be given to the State Director and grantee.

(ii) The National Office will then obtain a comprehensive report on the matter from the State Office. This information will be considered together with any additional information that may be provided by the grantee.

(c) *Grant Suspension.* When the grantee has failed to comply with the terms of the agreement, the District Director will promptly report the facts to the State Director. The State Director will consider termination or suspension of the grant. When the State Director determines that the grantee has a reasonable potential to correct deficiencies the grant may be suspended. The State Director will request written authorization from the National Office to suspend a grantee. The suspension will adhere to 7 CFR Part 3015, Uniform Federal Assistance Regulations and 7 CFR Part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

The grantee will be notified of the grant suspension in writing by the State Director. The State Director will also promptly inform the grantee of its rights to appeal the decision by use of Exhibit B–3 of Subpart B of Part 1900 of this chapter.

(d) *Grant Termination.* The State director may terminate the grant agreement whenever FmHA determines that the grantee has failed to comply with terms of the Agreement. The reasons for termination may include, but are not limited to, such problems as listed in paragraph (e)(3)(i) of the "Self-Help Technical Assistance Grant Agreement" (Exhibit A). The State Director may also withhold further disbursement of grant funds and prohibit the grantee from incurring additional obligations of grant funds with written approval of the National Office. FmHA will allow all necessary and proper costs which grantee could not reasonably avoid.

(1) *Termination for cause.* The grant agreement may be terminated in whole, or in part, at any time before date of completion, whenever FmHA determines that the grantee has failed to comply with terms of the Agreement. The State Director will notify the grantee in writing giving the reasons for the action and inform the grantee of its rights of appeal by use of Exhibit B–3 of Subpart B of Part 1900 of this chapter.

(2) *Termination for convenience.* FmHA or the grantee may terminate the grant in whole, or in part, when both parties agree that the continuation of the grant would not produce beneficial results. The two parties will agree in writing to the termination conditions including the effective date. No notice of rights of appeal will be issued by FmHA.

§ 1944.427 Grantee self-evaluation.

Annually or more often, the board of directors will evaluate their own self-help program. Exhibit F to this part is provided for that purpose. It is also recommended that they review their personnel policy, any audits that may have been conducted and other reports to determine if they need to make adjustments in order to prevent fraud and abuse and meet the goals in the current grant agreement.

§§ 1944.428–1944.450 [Reserved]

Exhibit A.—Self-Help Technical Assistance Grant Agreement

This Grant Agreement dated _____, 19____

is between_____

a nonprofit corporation ("Grantee"), organized and operating under_____

_____

(authorizing State statute)

and the United States of America acting through the Farmers Home Administration, Department of Agriculture ("FmHA").

In consideration of financial assistance in the amount of $_____ (called "Grant Funds") to be made available by FmHA to Grantee under section 523(b)(1)(A) of the Housing Act of 1949 to be used in (specify area to be served) _____ for the purpose of providing a program of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts, Grantee will provide such a program in accordance with the terms of this Agreement and FmHA regulations.

Definitions

"Date of Completion" means the date when all work under a grant is completed or the date in the TA Grant Agreement, or any supplement or amendment thereto, on which Federal assistance ends.

"Disallowed costs" are those charges to a grant which the FmHA determines cannot be authorized.

"Grant Closeout" is the process by which the grant operation is concluded at the expiration of the grant period or following a decision to terminate the grant.

"Termination" of a grant means the cancellation of Federal assistance, in whole or in part, under a grant at any time prior to the date of completion.

Terms of Agreement

(a) This Agreement shall terminate _____ years from this date unless extended or sooner terminated under paragraphs (e) and (f) of this Agreement.

(b) Grantee shall carry out the self-help housing activity described in the application docket which is attached to and made a part of this Agreement. Grantee will be bound by the conditions set forth in the docket, 7 CFR Part 1944, Subpart I, and the further conditions set forth in this Agreement. If any of the conditions in the docket are inconsistent with those in the Agreement or Subpart I of Part 1944, the latter will govern. A waiver of any condition must be in writing and must be signed by an authorized representative of FmHA.

(c) Grantee shall use grant funds only for the purposes and activities specified in FmHA regulations and in the application docket approved by FmHA including the approved budget. Any uses not provided for in the approved budget must be approved in writing by FmHA in advance.

(d) If Grantee is a private nonprofit corporation, expenses charged for travel or

per diem will not exceed the rates paid FmHA employees for similar expenses. If Grantee is a public body, the rates will be those that are allowable under the customary practice in the government of which Grantee is a part; if none are customary, the FmHA rates will be the maximum allowed.

(e) Grant closeout and termination procedures will be as follows:

(1) Promptly after the date of completion or a decision to terminate a grant, grant closeout actions are to be taken to allow the orderly discontinuation of Grantee activity.

(i) Grantee shall immediately refund to FmHA any uncommitted balance of grant funds.

(ii) Grantee will furnish to FmHA within 90 days after the date of completion of the grant a "Financial Status Report," Form SF–269 A. All financial, performance, and other reports required as a condition of the grant will also be completed.

(iii) Grantee shall account for any property acquired with technical assistance (TA) grant funds, or otherwise received from FmHA.

(iv) After the grant closeout, FmHA retains the right to recover any disallowed costs which may be discovered as a result of any audit.

(2) When there is reasonable evidence that Grantee has failed to comply with the terms of this Agreement, the State Director may determine Grantee as "high risk". "High risk" Grantee will be supervised to the extent necessary to protect the government's interest and to help Grantee overcome the deficiencies.

(3) Grant termination will be based on the following:

(i) *Termination for cause.* This grant may be terminated in whole, or in part, 90 days after a Grantee has been classified as "high risk" if the State Director determines that Grantee has failed to correct previous deficiencies and is unlikely to correct such items if additional time is allowed. The reasons for termination may include, but are not limited to, such problems as:

(A) Actual TA costs significantly exceeding the amount stipulated in the proposal.

(B) The number of homes being built is significantly less than proposed construction or is not on schedule.

(C) The cost of housing not being appropriate for the self-help program.

(D) Failure of Grantee to only use grant funds for authorized purposes.

(E) Failure of Grantee to submit adequate and timely reports of its operation.

(F) Failure of Grantee to require families to work together in groups by the mutual self-help method in the case of new construction.

(G) Serious or repetitive violation of any of the provisions of any laws administered by FmHA or any regulation issued thereunder.

(H) Violation of any nondiscrimination or equal opportunity requirement administered by FmHA in connection with any FmHA programs.

(I) Failure to establish an accounting system acceptable to FmHA.

(J) Failure to serve very low-income families.

(K) Failure to recruit families from substandard housing.

(ii) *Termination for convenience.* FmHA or Grantee may terminate the grant in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in case of partial termination, the portion to be terminated.

(4) To terminate a grant for cause, FmHA shall promptly notify Grantee in writing of the determination and the reasons for and the effective date of the whole or partial termination. Grantee will be advised of its appeal rights under 7 CFR Part 1900, Subpart B.

(f) An extension of this grant agreement may be approved by FmHA provided in its opinion, the extension is justified and there is a likelihood that the grantee can accomplish the goals set out and approved in the application docket during the period of the extension.

(g) Grant funds may not be used to pay obligations incurred before the date of this Agreement. Grantee will not obligate grant funds after the grant termination or completion date.

(h) As requested and in the manner specified by FmHA, the grantee must make quarterly reports, Exhibit C of this subpart (on 1/15, 4/15, 7/15 and 10/15 of each year,) and a financial status report at the end of the grant period, and permit on-site inspections of program progress by FmHA representatives. FmHA may require progress reports more frequently if it deems necessary. The Grantee must also comply with the audit requirements found in § 1944.422 of Subpart I of 7 CFR Part 1944, if applicable. Grantee will maintain records and accounts, including property, personnel and financial records, to assure a proper accounting of all grant funds. These records will be made available to FmHA for auditing purposes and will be retained by grantee for three years after the termination or completion of this grant.

(i) Title to personal property acquired with grant funds shall vest in the grantee, subject to the following: Grantee shall not sell, assign, lease, encumber, or otherwise dispose of such property or any interest in the property without the written consent of FmHA during the grant period. At FmHA's option if the grant is completed, terminated, or cancelled for any reason, Grantee may keep such personal property provided the State Director determines it is still needed to enable Grantee to continue a self-help housing program. Grantee may transfer all such personal property to another grantee approved by FmHA, convey the property manner approved by the State Director.

(j) Results of the program assisted by grant funds may be published by Grantee without prior review by FmHA, provided that such publications acknowledge the support provided by funds pursuant to the provisions of Title V of the Housing Act of 1949, 42 U.S.C. 1471, *et seq.*, and that five copies of each such publication are furnished to the local representative of FmHA.

(k) Grantee certifies that no person or organization has been employeed or retained to solicit or secure this grant for a commission, percentage, brokerage, or contingent fee.

(l) Grantee will comply with 7 CFR Part 1901, Subpart E which states that no person in the United States shall, on the grounds of race, religion, color, age, sex, marital status, national origin, or mental or physical handicap, be excluded from participating in, be denied the benefit of, or be subject to discrimination in connection with the use of grant funds.

(m) In all hiring or employment made possible by or resulting from this grant, grantee: (1) Will not discriminate against any employee or applicant for employment because of race, religion, color, sex, marital status, national origin, age, or mental or physical handicap, and (2) will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, marital status, national origin, or mental or physical handicap. This requirement shall apply to, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In the event Grantee signs a contract which would be covered by any Executive Order, law, or regulation prohibiting discrimination, Grantee shall include in the contract the "Equal Employment Clause" as specified by FmHA.

(n) It is understood and agreed by Grantee that any assistance granted under this Agreement will be administered subject to the limitations of Title V of the Housing Act of 1949 as amended, 42 U.S.C. 1471 *et seq.*, and related regulations, and that rights granted to FmHA in this Agreement or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the assistance, and protect FmHA's financial interest.

(o) Grantee will maintain a code or standards of conduct which will govern the performance of its officers, employees, or agents. Grantee's officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from suppliers, contractors, or others doing business with the grantee. To the extent permissible by State or local law, rules, or regulations such standards will provide for penalties, sanctions, or other disciplinary actions to be taken for violations of such standards.

(p) Grantee shall not hire or permit to be hired any person in a staff position or as a participant if that person or a member of that person's immediate household is employed in an administrative capacity by the organizaiton, unless waived by the State Director. (For the purpose of this section, the term "household" means all persons sharing the same dwelling, whether related or not).

(q) Grantee's board members or employees shall not directly or indirectly participate, for financial gain, in any transactions involving the organization or the participating families. This includes activities such as selling real estate, building material, supplies, and services.

(r) Grantee will retain all financial records, supporting documents, statistical records, and other records pertinent to this agreement for 3 years.

By _____
(Signature)

_____
(Title)

Grantee

By _____
(Signature)

_____
(Title)

Farmers Home Administration

Exhibit B.—Mutual Self-Help Housing Guidelines

Table of Contents

Introduction
Leadership and Supervision
Organization and Agreements
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Membership Agreement (Exhibit B–1)

Introduction

How to give low-income rural people an opportunity to have a decent home of their own is a major challenge in rural America. To help such persons have an adequate home at a cost they can afford, the Farmers Home Administration (FmHA) makes Rural Housing (RH) loans to individual persons to enable them to participate in a mutual self-help housing project. This program is designed to help families, that otherwise do not qualify as homeowners, work together to build modest homes of their own.

Eligible applicants may obtain rural housing loans to buy materials, pay for labor and contract costs required for work on their own homes, and if necessary, buy a building site. Families helping each other will provide most of the construction labor. The exchange of labor, without a cash cost to the families, is the key to the mutual self-help housing program. There also may be a savings in the cost of materials purchased. This use of family labor for cash can reduce the cost of homes enough to bring the price of a modest home within reach of very low-income rural families.

Leadership and Supervision

The grantee will provide the leadership and supervision of the families. FmHA will determine who is eligible to participate and receive a Rural Housing loan.

Rural housing loans will be made by FmHA to those who participate in a self-help housing group and who:

1. Meet the low or very low-income requirements in Exhibit C to (available in any FmHA office) Subpart A of part 1944 of this chapter.
2. Are creditworthy by FmHA standards and can comply with all other eligibility requirements for rural housing loans.
3. Desire to build a home of their own that is modest in design, structurally sound, and low in cost.

The following basic conditions are essential to the success of a self-help housing venture and must be provided by the grantee:

1. A sincere spirit of cooperation on the part of all participants.
2. Competent leadership and technical supervision.
3. A complete understanding of the responsibilities involved in Mutual Self-Help.
4. Adequate supervision of participants at times convenient for the families to do the work.
5. Development of sufficient skills among the members of the group to do the basic construction tasks as outlined in Exhibit C–2 of this subpart.
6. Four to 10 families who can and are willing to work together satisfactorily.

Organization and Agreements

An understanding must be reached on important items such as when the individuals in the group will be available to work, the amount of work to be performed, the number to be involved in the various work groups and the amount of time each will spend working on the homes. The group will develop a written agreement which is binding upon all members signing it. Exhibit B–1, Membership Agreement, is a suggested form of such an agreement. All participating members will sign the Membership Agreement and each applicant will be given a copy. If a document is used which is different than Exhibit B–1, it must be reviewed and approved by FmHA for legal adequacy and compliance with applicable State laws and FmHA regulations.

Preconstruction Meetings

The successful conduct of a mutual self-help housing program requires a series of meetings with those participating. These meetings are to discuss the planning, construction, and maintenance of a home, the responsibilities of home ownership, and the requirements for a FmHA rural housing loan. These meetings also familiarize the applicants with the self-help approach, develop mutual confidences among participants and develop the interest of community leaders in the project.

The actual number of meetings held will depend on the rate at which the group progresses toward reaching a full understanding of the responsibilities invloved. Experience indicates that from 8 to 10 meetings are needed. Local people should be used to discuss appropriate subjects in the meetings. This will help in making the local community aware of the self-help program, and also help obtain local acceptance and support for the project list of subjects to be discussed.

The first meeting should be explanatory in nature. The grantee should discuss the basic principles involved in mutal self-help housing, together with a brief explanation of the purposes and limitations of and the requirements for rural housing loans including loan payments, taxes, insurance, and maintenance. The members of the group should be considering a name for the organization and the persons best suited for the various positions in order that the officers and committees can be selected at the next meeting.

At the second meeting, an association should be formed and the officers and committees selected. They might include the following:

1. President
2. Vice-President
3. Secretary-Treasurer
4. Labor Manager
5. Purchasing Committee
6. Program Committee

Additional meetings are essential, but the order in which the subjects are presented or the number of subjects included in any meeting may vary. The following topics are suggested for a series of meetings.

1. *Site Planning and Building Codes.* An architect, code official, or a good builder could be invited to discuss factors in selecting house size, safety, and health code requirements.
2. *Plans and Specifications.* The group will probably have questions and need individual help in making decisions concerning plans and specifications for their homes. The construction supervisor should help each applicant develop suitable plans that will meet the household's individual need and the requirement of § 1944.16 of Subpart A of 7 CFR Part 1944.
3. *Cost of Materials.* The purchasing committee will review prices of materials and contract work. At one of the last meetings to be held before the construction starts, the purchasing committee should report on its recommendations for buying materials and awarding contracts.
4. *Taxes.* A discussion of the method of tax appraising could be given by the local tax assessor including an estimate of expected taxes on the proposed houses.
5. *Insurance.* A local insurance agent may be asked to speak on types of insurance policies available such as fire and extended coverage, household policies, and liability insurance.
6. *Mortage Requirements.* The grantee should discuss the FmHA mortgage and related requirements. A local attorney might be asked to discuss other legal aspects of the program.
7. *Maintenance Costs.* The construction supervisor should discuss the importance of proper maintenance for a home. They should emphasize how money spent for maintenance improves appearance, helps maintain value and saves money in the long run.
8. *Money Management.* The grantee discuss the necessity of following the basic principles of money management such as keeping records, following a budget, and not overspending on non-essentials.
9. *Labor Sharing Arrangement.* The group needs to reach an understanding as to how the members will share labor, how records will be kept of time worked, how to make sure that labor will be exchanged on a basis

that is fair to all members and how to evidence and record these decisions.

10. *Use of Tools.* One or more of the meetings should include demonstrations and training by the construction supervisor of the safe and proper use of tools. Special attention should be given to the use of basic tools such as level, square, rule, saw, and any power tools that might be used in the construction.

11. *Construction and Work Procedures.* The authority and duties of the construction supervisor will be discussed in detail. The procedures for actual construction will be discussed including labor sharing, work teams, order of development, function of committees, time reporting for work completed and future hours available.

12. *Ground Breaking Plans.* The final preconstruction meeting should be more of a social get-together than a business meeting. This is also the logical time to plan a ground breaking ceremony for the day the loans are closed.

Construction

The basic work is performed, largely on a labor exchange basis, by the participating families under the guidance of the construction supervisor.

The group may, depending on the skills of the individuals, plan to do as much of the work as possible such as installing kitchen cabinets and equipment, excavating for basements, and dry-wall finishing. Highly skilled or specialized jobs will be contracted when such services are not available in the group.

Work should start on all houses and each stage of construction be finished on all before starting the next stage of construction on any house, to the extent with good construction practices, except as provided in paragraph 3, Labor Exchange Agreement of the Membership Agreement (Exhibit B–1).

To effect savings, materials for all the houses may be purchased from the one or several suppliers who offer the lowest prices. Also, all contracts for members of the group may be awarded to the same contractors. To illustrate, the plumbing contractor offering the lowest price ordinarily should perform the plumbing for all of the dwellings.

Each borrower will pay the material supplier for materials used, and the contractor for work done, on his/her own home. All deliveries of materials will be itemized separately for each home. The grantee, after considering the suggestions of the purchasing committee, will recommend the suppliers from whom materials will be purchased and the contractors to whom the contracts will be awarded.

The construction supervisor will divide the group into work teams. Work teams should be organized on the basis of skills, compatability, and availability. For example, one team could lay out and pour footings and another team cold lay bricks. The third team could begin framing as soon as the foundation is ready.

A firm understanding will be reached that no changes in construction from the approved plans and specifications may be made without furnishing the County Supervisor with full cost figures and obtaining approval in advance. If any change results in a need for additional funds, they must be furnished by the borrower before approval. All homes should be finished at or about the same time and none should be occupied prior to completion of them all.

The Association should have brief meetings, at least once a week, to:

1. Report on performance and hours of work performed.
2. Settle any disagreements.
3. Plan work schedule and purchases for the coming week.

Exhibit B–1.—Association Membership Agreement

Association Membership Agreement

I/We understand that by signing this agreement I/we will become members in the _____ Association when we receive adequate credit to finance the home we intend to build. We have read the agreement or have had it read to us and agree to comply with all its provisions.

Purpose

The purpose of this association is to provide a way whereby each member can help his/herself and every other member to build his/her house.

Membership

Membership will be limited to those persons who:

1. Do not own an adequate home;
2. Are willing to work with the other members of the Association in building their homes;
3. Have a commitment to obtain financing for the cash cost of their home; and
4. Sign the Membership Agreement.

Applicants and co-applicants must both sign the Membership Agreement. As used in the agreement the term "Applicant" means both applicant or co-applicant when both sign the agreement, or the person signing when only one signs.

Voting Rights

Each household has one vote in the election of officers and all other matters involving a decision by the membership.

Officers

The officers of the Association will be a President, Vice-President and a Secretary-Treasurer. Each will be elected, at a meeting, by a majority vote and will continue to hold office unless the officer resigns, dies, is incapacitated, or is removed by vote of two-thirds of all the members at a called meeting for the purpose of considering such removal. The duties of the officers will be as follows:

The President will:

1. Call membership meetings and officers' meetings;
2. Preside over all meetings;
3. Work closely with the construction supervisor; and
4. See that committees and members carry out their responsibilities in connection with mutual self-help projects.

The Vice-President will:

1. Act for the President in the President's absence, and
2. Be chairman of the Program Committee.

The Secretary-Treasurer will:

1. Keep the minutes of each meeting.
2. Handle Correspondence of the Association.
3. Collect and handle, through a checking account in the Association's name, funds the organization may need. These may include items such as stationery, stamps, and record book.
4. Maintain other records of the Association at the direction of the President.

Appointed Committees and Positions

The Officers by majority vote will appoint the following from the membership:

1. A Labor Manager will assist the construction supervisor in keeping records of the tasks completed by each member and notify the construction supervisor as to the availability of members for work on the housing.
2. A Purchasing Committee of three members who will review prices and cost estimates obtained by the grantee for the houses to be built and recommend contractors and suppliers to be used by the members.
3. Two of the three members of the Program Committee. The third member will be the Vice-President, who will be chair-person. This committee will plan meetings and assist in obtaining outside speakers.

Meetings

Meetings of officers and meetings of members will be held as often as necessary to successfully complete the mutual self-help housing. Meetings may be called by the President when considered advisable and will be called by the President at the written request of not less than _____ member, at the request of the grantee or the Farmers Home Administration. Each officer or member will be notified at least three days before the meeting as to the time, date and place of each meeting by mail, telephone or by announcement at the preceding meeting.

Labor Exchange Agreement

Each member agrees to perform the task for the construction of houses of the other members of this Association in return for labor from other members in the actual construction of their house. The construction tasks to be performed are identified on a copy of Exhibit C–2 of this subpart and are part of this agreement.

The number of tasks performed by each member or by any other person for any applicant credit will be verified by the grantee. If any member because of death, illness, or injury is unable to make its full labor contribution personally or from other sources as required, that member may be excused to that extent from performing its labor agreement, if approved by a majority of the membership, and all the other members will assist such a member in completing its house and will contribute the additional amount of labor for all the houses which otherwise the stricken member would have furnished.

We agree to exchange labor on the following basis:

1. Equal time will be allowed for labor performed by members in the actual

construction of the homes regardless of the type of work involved.

2. Time allowances for labor performed by persons other than members, will be determined by the grantee with the approval of the grantee.

3. A member may not work alone on the member's own house unless the job can be done alone and the consent of the construction supervisor has been obtained. However, the grantee may authorize persons to work on their own house when only interior painting, landscaping and general cleanup remain to be done.

4. The task performed will be reported by each worker to the construction supervisor each day. The construction supervisor will verify in a worksheet and credit the percent of task completed to that member's account.

General Agreement

We agree that:

1. The Association, by majority vote, will determine the supplier of materials and contractors for any skilled work. However, each member shall pay the cost of materials and contractor in connection with its own home.

2. The Association will collect cost of operation of the Association from members, not to exceed $_____ from each member.

3. The Association will act for the group in other matters related to the project when authorized by a majority of the members.

4. Property insurance will be obtained by the members as required by the Farmers Home Administration. Members also will obtain worker's compensation insurance as required by State law and public liability insurance against claims of others.

Dissolution

After a determination is made by the officers that the last house is completed and that all obligations of the Association are paid, upon majority vote of the members and with the consent of the Farmers Home Administration the Association will terminate.

Amendments

Amendments to this agreement may be made by a majority vote of the members, at a meeting called for the announced purpose of considering amendments, to take effect upon approval by the Farmers Home Administration District Director; but no amendments may decrease the rights or increase the liability of any member without such member's consent.

Membership Termination

We understand that this membership may be terminated under the following conditions:

1. Failure to provide the required labor to perform the identified task.

2. Failure to comply with the terms of this agreement.

3. Failure to cooperate fully with other members of the association in the mutual self-help housing program.

4. Voluntary withdrawal from association.

Cause for termination may be recommended by:

1. The majority of the association members, or

2. The grantee.

However, a final termination must be in writing from the FmHA supervising official and will provide for an appeal pursuant to 7 CFR Part 1900, Subpart B. Upon the conclusion of the termination action FmHA may take action to liquidate the account.

Date _____
Signed _____
Date _____
Signed _____
Applicant
Co-applicant
Date _____
Signed _____
Date _____
Signed _____
Applicant
Co-applicant
Date _____
Signed _____
Date _____
Signed _____
Applicant
Co-applicant
Date _____
Signed _____
Grantee Representative

Exhibit C.—Evaluation Report of Self-Help Technical Assistance (TA) Grants

Evaluation for Quarter Ending: (1), 19_____

1. a. Name of Grantee: (2)
   b. Address: (3)
   c. Area the Grant serves: (4)
2. a. Date of Agreement: (5) Time Extended (6)
3. a. Equivalent unit increase during quarter:
   (7) _____
   First Month
   (8) _____
   Second Month
   (9) _____
   Third Month
   b. Cumulative total number of Equivalent Units since beginning of Grant:
   (10) _____
   Total to Date
4. a. Method of Construction:
   Stick built ____%, Manufactured _____%, Combined _____%
   b. Number of bedrooms per house built this Grant period:
   _____ 2 BR, _____ 3 BR, _____
   c. Household size this Quarter:
   1 person _____, 2 persons _____, 3 persons _____
   4 persons _____, 5 persons _____
   d. Number of houses under construction this Grant period but started during previous Grant period: _____
5. a. Number of houses proposed under this Grant: (11)
   b. Number of houses completed under this Grant: (12)
   c. Number of houses currently under construction: (13)
   d. Number of families in preconstruction: (14)
   e. Number of Construction Supervisors: (15)
   f. Number of TA employees: (16)
6. a. Average time needed to construct a single house: (17)
   b. Number of months between submission of Self-Help borrower's docket and approval/rejection: (18)
   c. Number of percentage of loan docket rejections during reporting period: _____ (19)
7. a. Did any of the following adversely affect the Grantee's ability to accomplish program objectives?

	Yes	No
TA Staff Turnover	_____	_____
FmHA Staff Turnover	_____	_____
Bad Weather	_____	_____
Loan Processing Delays	_____	_____
Site Acquisition and Development	_____	_____
Unavailable Loan/ Grant Funds	_____	_____
Lack of Participants	_____	_____
Communication between FmHA/ Grantee	_____	_____

8. Attach information concerning number of families contacted, number who have indicated a willingness to be a participating family, number of mutual self-help groups organized, progress on any construction started, and any problems relating to the operation of this grant.

I certify that the statements made above are true to the best of my knowledge and belief.

(20) _____
(Date)
(21) _____
(Title) GRANTEE
(22) _____
(Signature)

County Office Review

I have reviewed the above information which I have found to be substantially correct. Must be completed by County Office.

Comment: Must be completed (23)

Average appraisal value of units financed this Quarter: _____

Average amount loan per unit financed this Quarter: _____

(24) _____
(Date)
(25) _____
County Supervisor

District Office Review

Comment: Must be completed (26)

(27) _____
Date
(28) _____
District Director

State Office Review

Comments: Must be completed (29)

(30) _____
Date
(31) _____
State Office Representative

Exhibit C–1.—Instructions for Preparation of Evaluation Report of Self-Help Technical Assistance Grants

Exhibit C will be used by all Technical Assistance grantees obtaining self-help technical assistance grants. This attachment provides the grantee and FmHA a uniform method of reporting the performance progress of self-help projects. The TA Grantee will

prepare an original and 4 copies of the attachment. The TA Grantee will sign the original and 3 copies and forward it to the local FmHA County Office. The TA Grantee will keep the unsigned copy for its records.

The evaluation report will be completed in accordance with the following:

1. Enter the date the quarter ends either March 31, June 30, September 30, or December 31 and the year.

2. Enter the full name of the TA Grantee organization.

3. Enter the complete mailing address of the TA grantee organization.

4. Enter the area served by the Grant.

5. Enter the date of the initial self-help technical assistance grant agreement.

6. Enter the time of any extension self-help technical assistance grant agreement(s).

7. Insert the number of EU's completed the first month of the quarter using steps 1, 2, and 3 of this Exhibit.

8. Insert the number of EU's completed the second month of the quarter by using steps 1, 2, and 3 of this Exhibit.

9. Insert the number of EU's completed the third month of the quarter by using steps 1, 2, and 3 of Exhibit.

10. Add items (14), (15), and (16) to the total from the previous quarterly report to obtain the cumulative total number of EU's. This total is the cumulative total number of EU's for the project.

11. Enter the number of house planned in the TA Grantee proposal(s).

12. Enter the number of houses completed and occupied since the beginning of the grant.

13. Enter the number of houses that are under construction at the end of this quarter.

14. Enter the number of families in the preconstruction phase.

15. Enter the total number of construction supervisor(s) paid with TA grant funds.

16. Enter the number of employees paid with TA grant funds including those listed in item 28.

17 Insert the average elapsed time needed per house from excavation to final inspection by FmHA to complete construction of a house. If no self-help homes have been completed by this grantee, use other projects or your best estimate as a guide.

18. Enter the number of months it takes on average to approve or reject a borrowers docket once it's submitted.

19. Enter number and percent of docket submitted and rejected this quarter.

20. Enter date of Exhibit submittal.

21. Insert title of the grantee or their authorized representative.

22. Signature of grantee or his/her authorized representative.

23. County Supervisor must answer questions concerning market value and loan amount and also should insert comments concerning progress of constuction, success of the project and any problems that the organization may have.

24. Insert date of County Supervisor's review.

25. Signature of County Supervisor.

26. Distict Director representative should insert his/her comments concerning items listed in § 1944.417(b)(1) of 1944–I.

27. Insert date of District Director review.

28. Signature of Distict Director or representative.

29. Insert State Office review.

30. Insert date of State Office review.

31. Signature of State Office representative.

Exhibit C–2.—Breakdown of Construction Development for Determining Percentage Construction Completed

	With slab on grade (percent)	With crawl space (percent)	With basement (percent)	Selected self-help tasks (X)
1. Excavation	3	5	6	
2. Footing, foundations, columns	8	8	11	
3. Floor slab or framing	6	4	4	
4. Subflooring	0	1	1	
5. Wall framing sheathing	7	7	6	(X)
6. Roof and ceiling framing, sheathing	6	6	5	(X)
7. Roofing	5	5	4	(X)
8. Siding, exterior trim, porches	7	7	6	(X)
9. Windows and exterior doors	9	9	8	
10. Plumbing—roughed in	3	2	3	
11. Sewage disposal	1	1	1	
12. Heating—roughed in	1	1	1	
13. Electrical—roughed in	2	2	2	(X)
14. Insulation	2	2	2	(X)
15. Dry wall or plaster	8	8	7	
16. Basement or porch floor, steps	1	1	6	
17. Heating—finished	3	3	3	
18. Flooring	6	6	5	
19. Interior carpentry, trim, doors	6	6	5	(X)
20. Cabinets and counter tops	1	1	1	(X)
21. Interior painting	4	4	3	(X)
22. Exterior painting	1	1	1	(X)
23. Plumbing—complete fixtures	4	4	3	
24. Electrical—complete fixtures	1	1	1	(X)
25. Finish hardware	1	1	1	(X)
26. Gutters and downspouts	1	1	1	(X)
27. Grading, paving, landscaping	3	3	3	(X) [2]
Total percent	100	100	100	

[1] Unless prohibited by local ordinance.
[2] Landscaping only.
(X) Mandatory Self-Help Tasks.

Name of T/A Grantee _____
Association Name _____
Date _____

Exhibit C–3.—Pre-Construction and Construction Phase Breakdown

I. General

This Exhibit will be used by FmHA and the grantee in determining grantee performance as required in § 1944.417(b) of this subpart.

II. Determining Technical Assistance Cost Per Unit

A. Equivalent units are used to measure progress at any time during the period of the grant. It is necessary because self-help grantees have several groups of families in various stages of progress during the period of the grant. The following formula has been developed to provide a more accurate method of determining progress.

Formula		
Phase breakdown	Value of each phase (percent)	Cumulative (percent)
Pre-Construction:		
Phase I	10	10
Phase II	10	10
Construction:		
Phase III	80	21–100

B. Using the *Description of Phase Breakdown* as a guide, the project staff selects the total percentage pertinent to the stage and self-help group is in and multiplies that percentage by the number of families (units) in the group. The result is the *equivalent number of units completed.* No credit may be given for Phase I, if the application is rejected. When this computation has been completed for each group that falls within Phase I–III, the total number of equivalent units is divided into the total grant funds *expended* to that date. The result is the TA cost per unit at that stage of the program's progress.

C. The definition of pre-construction and construction phases described are follows:

Pre-Construction

Phase I: Hold community meetings; conduct interviews; obtain house plans; prepare cost estimates; begin search for land; submit family applications to the Farmers, Home Administration (FmHA); FmHA runs credit check; applications. FmHA either approves or rejects.

Phase II: Organize an association of Section 502 RH eligible families; association conducts weekly meetings at which required FmHA forms are discussed and completed; house plans and land sites are selected; outside speakers explain and discuss taxes, insurance, how to keep a checking account, how interest is computed, home maintenance, decorating, and landscaping; etc.; completed loan dockets for each family are submited to FmHA. Family loan dockets are reviewed and recommendations made as to the loan amounts requested; the FmHA County Supervisor reviews family loan dockets; preliminary title search of each proposed building site is begun; requests loan check from Finance Office; when check arrives, final title search is made, loan closed, checking accounts opened, and construction begun.

Construction

The grantee will utilize Exhibit C–2 which outlines 27 construction tasks to determine the percentage of completed construction activities.

D. The computation of equivalent units and TA costs will be computed as follows:

Exhibit C will be used for recording the following information and construction in this example which starts January 1.

Step 1

Both the grantee and FmHA review the FmHA loan application records to determine the percentage of completion for each family in the preconstruction phase of the program. These are Phases I–III. Total these percentages to find the number of "Equivalent Units" (EU's) completed at that date during preconstruction. For example, if there are eight families in Group #2 and all have completed the 20 percent phase of preconstruction, then there would be 1.6 EU's in the pre-construction phase of the program as of that date. Each phase must be completed before it is considered in the calculation.

Step 2

Refer to the records of construction progress for families in the construction Phase III. As of that date, the director totals the percentage of completion figures for each family as followings:

Askew	.45
Whited	.40
Martinez	.40
Conzalez	.38
Sherry	.34
Duran	.33
Johnson	.13
Harvey	.31
	2.92 EU's

Total production in the construction phase is therefore 2.92 EI's as of that date.

Step 3

Add the pre-construction and construction subtotals together:

Pre-construction	1.60
Construction	2.92
Total EU's	4.52

This provides the total EU's of production during the first two months of operation. Steps 1, 2, and 3 will be used to complete items 16, 17 and 18 of Exhibit C of this Subpart. (Evaluation Report of Self-Help Technical Assistance.)

III. Preparation

Compile Exhibit C of this Subpart in an original and four copies. The exhibit will be signed by the TA Grantee. Submit the original and three copies of the exhibit quarterly to FmHA County Office on or before January 15, April 15, July 15, and October 15, of each year for the quarters ending March 31, June 30, September 30, and December 31 of each year. The District Director will keep the original and forward two copies to the State Office. The State Office will forward one copy to the National Office. The State Office will prepare information concerning TA grants closed within 30 days of the end of a quarter on the next quarterly report.

Exhibit D—Amendment to Self-Help Technical Assistance Grant Agreement

This Agreement dated _____ 19 ____ between _____ a nonprofit corporation ("Grantee"), organized and operating under _____ (authorizing State Statute) and the United States of America acting through the Farmers Home Administration, Department of Agriculture ("FmHA"), amends the "Self-Help Technical Assistance Grant Agreement" between the parties dated _____ 19 ____, ("Agreement").

The Agreement is amended by providing additional financial assistance in the amount of _____ to be made available by FmHA to Grantee pursuant to section 523 of Title V of the Housing Act of 1949 for the purpose of assisting in providing a program of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts; or

The Agreement is amended by changing the completion date specified in convenant 1 from _____ to _____ and by making the following attachments to this amendment: (List and identify proposal and any other documents pertinent to the grant.)

Agreed to this n_____ day of _____ 19____.

_____

(Name of Grantee)

By _____

(Signature)

_____

(Title)

United States of America

By _____

(Signature)

_____

(Title)

Farmers Home Administration

Exhibit E—Self-Help Technical Assistance Grant Predevelopment Agreement

This Grant Predevelopment Agreement dated, _____ 19____, is between

_____

(authorizing State statute) and the United States of America acting through the Farmers Home Administration, Department of Agriculture ("FmHA").

In consideration of financial assistance in the amount of $_____ "Grant Funds") to be made available by FmHA to Grantee under section 523(b)(1)(A) of the Housing Act of 1949 to be used in (specify area to be served)

_____

for the purpose of developing a program of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts, Grantee will provide such a program in accordance with the terms of this Agreement and FmHA regulations.

Grant funds will be used for authorized purposes as contained in § 1944.410(d) of 7 CFR Part 1944, Subpart A, as necessary, to develop a complete program for a self-help technical assistance grant. This will include recruitment, screening, loan packaging and related activities for prospective self-help participants.

Agreed to this _____ day of _____ 19____.

_____

(Name of Grantee)

By _____

(Signature)

_____

(Title)

United States of America

By _____

(Signature)

_____

(Title)

Farmers Home Administration

Exhibit F.—Guidance For Recipients of Self-Help Technical Assistance Grants (Section 523 of Housing Act of 1949)

7 CFR Part 1944, Subpart I provides the specific details of this grant program. The following is a list of some functions of the grant recipients taken from this subpart. With the list are questions we request be answered by the recipients to reduce the potential for fraud, waste, unauthorized used or mismanagement of these grant funds. We suggest the Board of Directors answer these questions every six months by conducting their own review. Paid staff should not be permitted to complete this evalution.

A. Family Labor Contribution:

1. Does your organization maintain a list of each family and a running total of hours worked (when and on what activity)? Yes No
2. Are there records of discussions with participating families counselling them when the family contribution is falling behind? Yes No
3. Are there obstacles which prevent the family from performing the required tasks? Yes No

B. Use Use of Grant Funds:

1. Were grant funds used to pay salaries or other expenses of personnel not directly associated with this grant? Yes No
2. Were grant funds used to pay for construction work for participating families? Yes No
3. Were all purchases or rentals (item and cost) of office equipment authorized? Yes No
4. Are all office expenses authorized by Subpart I of Part 1944 of 7 CFR? Yes No
5. Was a record of long distance telephone calls maintained and was that log and telephone checked? Yes No
6. Was all travel and mileage incurred for official business properly authorized in advance? Yes No
7. Were mileage and per diem rates within authorized levels? Yes No
8. Were participating families charged for use of these tools, Yes No
9. Were grant funds expended to train grant personnel? Yes No
10. Was training appropriate for the individual trainee? Yes No
11. Were any technical or consultant services obtained for participating families? Yes No
12. Were the provided technical or consultant services appropriate in type and cost? Yes No

C. Financial Responsibilities:

1. Does each invoice paid by the grant recipient match the purchase order? Yes No
2. Does each invoice paid by the borrower and FmHA match the purchase order? Yes No
3. Were purchases made from the appropriate vendors? Yes No
4. Are the invoices and itemized statements totalled for materials purchased for individual families? Yes No
5. Is there a record of deposits and withdrawals to account for all loan funds? Yes No
6. Are checks from grant funds signed by the Board Treasurer and executive Director? Yes No
7. Are grant funds deposited in an interest bearing account? Yes No
8. Are checks from loan funds prepared by the grant recipient for the borrower's and FmHA's signature? Yes No
9. Are checks from loan funds accompanied by accurate invoices? Yes No
10. Are any borrower loan funds including interest, deposited in grantee accounts? Yes No
11. Are checks from loan funds submitted to FmHA more often than once every 30 days? Yes No
12. Is the reconciliation of bank statements for both grant and loan funds completed on a monthly basis? Yes No
13. If the person who issues the checks also reconciles them, does the Executive Director review this activity? Yes No
14. Are materials purchased in bulk approved by the Executive Director? Yes No
15. Was the amount of materials determined by both the Executive Director and Construction staff? Yes No
16. Were any participating families consulted about the purchase of materials? Yes No
17. Were savings accomplished by the bulk purchase method? Yes No
18. Did the Executive Director review the purchase order and the ultimate use of the materials? Yes No
19. Are materials covered by insurance when stored by grantee? Yes No

D. Reporting:

1. Are "Requests for Advance or Reimbursement" made once monthly to the FmHA District Office? Yes No
2. Has the grant recipient engaged a Certified Public Accountant (CPA) or CPA firm to review their operations on a regular basis: (Annually is preferable but every two years and at the end of the grant period are requirements)? Yes No
3. Are the quarterly evaluation reports submitted on time to the District Supervisor? Yes No

What, if any, problems exist that need to be corrected for effective management of the grant project?

Date _____

_____

President, Board of Directors

(Period covered by report _____)

ANSWER KEY

[The following answers should help you organization in assessing its vulnerability to fraud, waste, and abuse. You should take actions to correct practices that now generate an answer different from the key]

Question	Answer
A. 1	Yes.
A. 2	Yes.
A. 3	Yes.
B. 1	No.
B. 2	No.
B. 3	Yes.
B. 4	Yes.
B. 5	Yes.
B. 6	Yes.
B. 7	Yes.
B. 8	Yes.
B. 9	No.
B. 10	Yes.
B. 11	Yes.
B. 12	Yes.
C. 1	Yes.
C. 2	Yes.
C. 3	Yes.
C. 4	Yes.
C. 5	Yes.
C. 6	Yes.
C. 7	No.
C. 8	Yes.
C. 9	Yes.
C. 10	No.
C. 11	No.
C. 12	Yes.
C. 13	Yes.
C. 14	Yes.
C. 15	Yes.
C. 16	Yes.
C. 17	Yes.
C. 18	Yes.

ANSWER KEY—Continued

[The following answers should help you organization in assessing its vulnerability to fraud, waste, and abuse. You should take actions to correct practices that now generate an answer different from the key]

Question	Answer
C. 19	Yes.
D. 1	Yes.
D. 2	Yes.
D. 3	Yes.

Exhibit G.—Site Option Loan to Technical Assistance Grantees

I. Objectives

The objective of a Site Option (SO) loan under Section 523(b)(1)(B) of Title V of the Housing Act of 1949 is to enable Technical Assistance (TA) grantees to establish revolving fund accounts to obtain options on land needed to make sites available to families that will build their own homes by the self-help method. An SO loan will be considered only when sites cannot be made available by other means including a regular Rural Housing Site (RHS) loan.

II. Eligibility Requirements

To be eligible for an SO loan, the applicant must be a TA grantee that is currently operating in a satisfactory manner under a TA grant agreement. If the SO loan applicant has applied for TA funds but is not already a TA grantee and its appears that the TA grant will be made, the SO loan may be approved but not closed until the TA Grant is closed.

III. Loan Purposes

Loans may be made only as necessary to enable eligible applicants to establish revolving accounts with which to obtain options on land that will be needed as building sites by self-help families participating in the TA self-help housing program. Loans will not be made to pay the full purchase price of land but only for the minimum amounts necessary to obtain an option from the seller. The option should be for as long as necessary but in no case should the option be for less than 90 days.

IV. Limitations

(A) If the amount of an SO loan will exceed $10,000, the prior consent of the National Office shall be obtained before approval.

(B) The amount of the SO loan should not exceed 15 percent of the purchase price of the land expected to be under option at any one time, unless a higher percent is authorized by the State Director when other land is not available or the particular area requires more down payment than elsewhere or similar circumstances exist.

(C) Form FmHA 440–34, "Option to Purchase Real Property," will be used without modification in all cases for obtaining options under this subpart.

(D) The limitations of § 1822.266(b)(1) and (2) of Subpart F of Part 1822 of this chapter (FmHA Instruction 444.8, paragraph VI B(1) and (2)) concerning land purchase will apply to options purchased under this subpart.

V. Rates and Terms

(A) *Interest.* Loans will be made at an interest rate of 3 percent.

(B) *Repayment period.* Each SO loan will be repaid in one installment which will include the entire principal balance and accrued interest. The maximum repayment period for each SO loan will be the applicant's remaining TA grant funding period.

(1) A shorter repayment period will be established if SO funds will not be needed for the entire TA grant funding period.

(2) If a regular RHS loan is to be processed, the SO loan should be scheduled for repayment when RHS loan funds will be available to purchase the land and repay the amount of SO funds advanced on the option, unless SO loan funds will still be needed to purchase other options. Under no circumstances, however, will the repayment period exceed the applicant's remaining TA grant funding period.

VI. Processing Application

(A) *Form of application*: The application for assistance will be in the form of a letter to the Farmers Home Administration (FmHA) County Supervisor having jurisdiction over the area of the proposed site to be optioned. The letter will be signed by the applicant or its authorized representative and contain, as a minimum, the following information:

(1) A copy of the proposed option that shows a legal description of the land, option price, purchase price, and terms of the option. If more than one site is to be purchased, a schedule of the proposed options should be included.

(2) Information to verify that a regular RHS loan cannot be processed in time to secure the option.

(3) Proposed method repayment of the SO loan.

(4) Resolution from the applicant's governing body authorizing the application for an SO loan from FmHA.

(B) *Responsibility of the County Supervisor.* Upon receipt of an SO loan application, the County Supervisor will:

(1) Determine whether the applicant is eligible. If the applicant is not eligible, or the loan cannot be made for other reasons, the application may be rejected by the County Supervisor with the concurrence of the District Director. The reasons for the rejection should be clearly stated and provided, in writing to the applicant. The applicant will have the right to have the decision reviewed following the procedure established in Subpart B of Part 1900 of this chapter.

(2) Review and verify the accuracy of the information provided.

(3) Make an inspection and a memorandum appraisal of each proposed site "as is." The appraisal will include a narrative statement as to whether the site has been recently sold, verify that the seller is the owner of the property, and indicate whether the purchase price is acceptable based on the selling price of similar properties in the area.

(4) Indicate whether or not it appears that, considering the location and cost of development, adequate building sites can be provided at reasonable costs.

(5) If the option is for a tract of land on which 5 or more sites are proposed, the County Supervisor will forward to the District Director with recommendations as defined in § 1924.119 of Subpart C of Part 1924 of this chapter.

(6) If approval is recommended, prepare and have the applicant execute Form FmHA 1940–1, "Request for Obligation of Funds," for the amount needed. Copies of the form will be distributed as provided in the FMI.

(7) Forward the SO loan application and the applicant's TA application or TA docket to the State Director. The submission will include the appraisal report and the County Supervisor's comments and recommendations.

VII. Loan Approval Authority and State Office Actions

The State Director is authorized to approved SO loans developed in accordance with this Exhibit. The approval or disapproval of the loan will be handled in the same manner as provided in § 1822.272 of Subpart F of Part 1822 of this chapter (FmHA Instruction 444.8, paragraph XII). SO loans will be established in AMAS using Form FmHA 1944–51, "Multiple Family Housing Obligation Fund Analysis". The MIC transaction will be used to request a check for SO loans.

VIII. Loan Closing

(A) *General.* Loan closing instructions will be provided by the Office of the General Counsel (OGC) to assure that the Promissory Note is properly completed and executed. The County Supervisor may then close the loan.

(B) *Security for the loan.* The loan will be secured by a Promissory Note properly executed by the grantee using Form FmHA 440–16, "Promissory Note." A lien on the optioned real estate will not be taken.

(1) The "kind of loan" block on the note will read "SO loan."

(2) The note will be modified to show that the only installment on the loan will be the final installment.

(C) *Loan is closed.* The loan will be considered closed when the note is executed and the loan check delivered to the grantee.

IX. Establishment of SO loan Revolving Account

(A) Supervised bank accounts will not be used for SO loans.

(B) Grantee will deposit SO loan funds in a depository institution of its choice. The use of minority institutions is encouraged. Such funds will remain separate from any other account of the grantee and shall be established as as SO revolving account.

(C) Checks drawn on the revolving account will be for the sole purpose of purchasing land options and must be signed by at least two authorized officials of the grantee who have been properly bonded in accordance with §§ 1944.411 (e) and (g) of this subpart.

(D) Grantees will not expend funds for any options until the site and the option form have been reviewed and approved by the County Supervisor.

(1) Site option funds will not be left unused in the revolving account in excess of 60 days.

(2) If the funds are not used for the intended purpose within the 60 days specified above, the unused portion will be refunded on the account.

(E) When funds become available for repayment of the SO loan, such funds will be deposited in the revolving account for the purchase of additional site options if needed. If such funds are not needed to purchase more options, they will be applied on the SO loan.

X. Source of Funds

SO loans will be funded from the self-help housing land development fund.

Date: March 27, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89-9606 Filed 4-24-89; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1306

Prescriptions; Extension of Comment Period

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking; extention of comment period.

SUMMARY: This will extend the comment period for the notice of proposed rulemaking published on March 16, 1989, 54 FR 11006, regarding an amendment to the requirements for the issuance of prescriptions to patients in Long Term Care Facilities (LTCF) and to the terminally ill. The comment period will now extend to May 25, 1989.

DATE: Comments will be accepted until May 25, 1989.

ADDRESS: Written comments should be submitted in quadruplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, State and Industry Section, Office of Diversion Control, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, (202) 633-1216.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 16, 1989 (54 FR 11006), a notice of proposed rulemaking was published to amend certain provisions of the regulations relating to prescriptions for Schedule II controlled substances. The proposal was designed to facilitate the issuance and filling of Schedule II prescriptions for individuals in a LTCF and individuals who are terminally ill. Several comments have been received in response to this notice. In addition, two organizations, the American Psychiatric Association and the National Association of State Controlled Substances Authorities, have requested that the comment period be extended so that more of their members may comment on the proposal. The Drug Enforcement Administration has determined that an extension of the comment period would be in the public interest. Accordingly, the comment period is hereby extended to May 25, 1989.

Dated: April 18, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 89-9839 Filed 4-24-89; 8:45 am]

BILLING CODE 4410-09-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3560-6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA proposes to approve a site-specific revision to the Indiana State Implementation Plan (SIP) for ozone. The revision, if finally approved, will provide for a daily weighted-average for the American Can Company (American Can) facility located in Hammond, Lake County, Indiana. This SIP revision will allow American Can to demonstrate compliance with the food and beverage can's end sealing lines through the use of a daily weighted-average. USEPA's action is based upon a February 26, 1986, State submittal and several amendments.

DATE: Comments on this revision and on the proposed USEPA action must be received by June 26, 1989.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street—26th Floor, Chicago, Illinois 60604.

Air Management Division, Indiana Department of Environmental Management, 105 South Meridian Street, Indianapolis, Indiana 46225.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.)

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:

Uylaine E. McMahan, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On February 24, 1986, and in subsequent submittals, the Indiana Air Pollution Control Board (Board) submitted to USEPA a request for a site-specific revision revising its ozone SIP. This revision consists of a daily weighted-average for the can coating lines located at American Can in Lake County, Indiana, which is designated as an urban nonattainment area for ozone.

Under the existing federally approved SIP, each can coating line is subject to the VOC limitation contained in Rule 325 IAC-8-2-3. Rule 325 IAC-8-2-3 requires American Can to maintain compliance with a reasonably available control technology (RACT)[1] limit of 5.5 pounds of solvent per gallon of coating applied, excluding water, delivered to the coating applicator for three-piece can side-seam operations. USEPA approved this rule as meeting the RACT requirements of the Clean Air Act on February 10, 1988 (51 FR 4912).

USEPA's December 8, 1980, policy entitled "Compliance with VOC Emission Limitations For Can Coating Operations", (45 FR 80824), explains why a daily weighted-average in conjunction with a plantwide emission limitation can be approved as part of a SIP for can coaters. "This is because of the severe practical problems faced by can manufacturing plants where a number of lines apply as many as 50 different coatings, depending on the end uses of the cans". The 1980 policy suggested that compliance be determined by use of a standardized

[1] A definition of RACT is contained in a December 9, 1976, memorandum from Roger Strelow, former Assistant Administrator for Air and Waste Management. RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

equation expressing the weight of VOC per gallon of coating, less water, in terms of weight of VOC per gallon of solids to compare total actual emissions to total allowable emissions. This is the method that American Can must use to demonstrate its compliance with the limitations set forth herein.

American Can operates 5 varnish coating lines, 6 sheet coating lines and 10 food and beverage can end sealing lines. The VOC emissions from the varnish and sheet coating lines are controlled by afterburners with control efficiencies of 87 percent and 83 percent, respectively. The food and beverage can end sealing lines are presently uncontrolled and use noncomplying end sealing compounds. The food and beverage can end sealing lines are exceeding the limits required by Rule 325 IAC–8–2–3.

VOC Proposed Limits

It is USEPA's understanding that the facility is operating in compliance with the SIP Rule 325 IAC 8–2–3 by establishing emission limits based on total actual emissions calculated from daily units of production. This method of determining compliance is consistent with USEPA's 1980 policy memorandum referred to the above. The proposed actual emission limits are as follows:

VOC EMISSIONS (POUNDS PER DAY)

Source	Line number	Control efficiency	VOC emissions	
			Proposed limits	Under existing SIP
Varnish	3	87	38	124
	4	87	38	124
	5	87	38	124
	6	87	38	124
	7	87	38	124
Coating	21	83	153	499
	22	83	153	499
	23	83	153	499
	24	83	153	499
	25	83	153	499
	26	83	153	499
Food Ends	51	0	118	48
	52	0	118	48
Beer and	52	0	224	141
Beverage	55	0	224	141
Ends	56	0	224	141
	57	0	224	141
	59	0	224	141
	62	0	224	141
	63	0	224	141
	64	0	224	141
			3440	4995

In addition to the above line by line daily limits, and the overall plant daily limit (3440 pounds per day), the compliance method set forth in USEPA's December 8, 1980, policy memorandum must be used by American Can to demonstrate compliance with the SIP emission limits.

Conclusion

USEPA is proposing to approve this SIP revision because it represents a compliance alternative that is consistent with USEPA's December 8, 1980, policy memorandum. This proposed SIP revision will not increase the VOC emissions from the American Can Lake County facility.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do 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.

Authority: 42 U.S.C. 7401–7642.

Dated: March 18, 1987.

Valdas V. Adamkus,

Regional Administrator.

Editorial Note: This document was received by the Office of the Federal Register April 20, 1989.

[FR Doc. 89–9872 Filed 4–24–89; 8:45am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–87, RM–6637]

Television Broadcasting Services; Bessemer and Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Channel 17 Associates, Inc., licensee of UHF Television Station WDBB(TV), Channel 17, Tuscaloosa, Alabama, proposing to amend the Television Table of Allotments, § 73.606(b) of the Commission's Rules, by changing the community of license of Channel 17 from Tuscaloosa to Bessemer, Alabama, and to modify petitioner's license accordingly, in order to provide Bessemer with its first local television service. The site coordinates of petitioner's transmitter will remain as 33–28–51 and 87–24–03.

DATES: Comments must be filed on or before June 12, 1989, and reply comments on or before June 27, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Howard M. Weiss and Mark N. Lipp, Mullin, Rhyne, Emmons and Topel, P.C., 1000 Connecticut Avenue—Suite 500, Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–87, adopted April 3, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing premissible *ex parte* contact. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–9852 Filed 4–24–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–85, RM–6406]

Radio Broadcasting Services; El Dorado, AR and Bastrop, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Noalmark Broadcasting Corporation, licensee of Station KAYZ(FM), Channel 276A, El Dorado, Arkansas, seeking the substitution of Channel 277C1 for Channel 276A and modification of its license accordingly. Additionally, Channel 247A is proposed as a substitute for Channel 277A at Bastrop, Louisiana, to accommodate the El Dorado proposal. Reference coordinates utilized for Channel 277C1 at El Dorado are 33–14–01 and 92–56–27, while those used for channel 247A at Bastrop are 32–45–46 and 91–57–35.

DATES: Comments must be filed on or before June 12, 1989, and reply comments on or before June 27, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Dennis P. Corbett and Laura B. Humphries, Esqs., Leventhal, Senter & Lerman, Suite 600, 2000 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–85, adopted March 2, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–9796 Filed 4–24–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–86, RM–6604]

Radio Broadcasting Services; San Rafael, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Marin Broadcasting Company, Inc., licensee of Station KTID(FM), Channel 265A, San Rafael, California, seeking the substitution of Channel 264A for Channel 265A and modification of its license accordingly.

DATES: Comments must be filed on or before June 12, 1989, and reply comments on or before June 27, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Roy R. Russo and Lauren M. Bloom, Esqs., Cohn and Marks, 1333 New Hampshire Avenue, NW., Suite 600, Wash., DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–86, adopted April 3, 1989, and released April 19, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9851 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-504, RM-6444]

Radio Broadcasting Services; Ossian, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: The Commission dismisses the request of Mega Media, Ltd. to allot Channel 241A to Ossian, Iowa, since neither the petitioner nor any other party filed comments expressing a continuing interest in use of the channel. With this action, the proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-504, adopted March 28, 1989, and released April 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W. Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC. 20037.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9853 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-84, RM-6656]

Radio Broadcasting Services; Mason, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Roy E. Henderson, d/b/a Hill Country Communications, the sole applicant for Channel 250C2 at Mason, Texas, proposing the substitution of Channel 249C2 for Channel 250C2 at Mason, Texas. a site restriction of 28.2 kilometers (17.5 miles) southeast of the city has been suggested, at coordinates 30-31-00 and 99-07-00. Concurrence by the Mexican government must be obtained for the proposal.

DATES: Comments must be filed on or before June 9, 1989, and reply comments on or before June 26, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Roy E. Henderson, Hill Country Communications, 839 Timber Cove, Seabrook, Texas 77586 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-84, adopted April 3, 1989, and released April 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing precedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-9854 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 591

[Docket No. 89-5; Notice 1]

RIN 2127-AD00

Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to propose procedures that would govern the importation of motor vehicles and equipment subject to Federal safety standards on and after January 31, 1990. In most instances, these proposals are mandated by the Imported Vehicle Safety Compliance Act of 1988. The proposals would substantially modify the procedures and exemptions that have been in effect, relatively unchanged, since January 1, 1968. Requirements concerning declarations to be made to the U.S. Customs Service regarding vehicles and equipment that conform to the Federal safety standards, and regarding nonconforming equipment, would remain unchanged.

Exemptions from the statutory prohibition against importing noncomplying motor vehicles would still be provided for foreign diplomatic and military personnel. The 1988 amendments would remove some exemptions, while adding others. New exemptions would be provided for vehicles 25 years old or older, vehicles needing further manufacturing operations to perform their function, and vehicles imported solely for research, investigations, studies, demonstrations or training, or competitive racing events. Nonconforming vehicles imported by exempted persons need not be brought into conformance with the standards.

With one exception, if a nonexempted person offered a nonconforming vehicle for entry on and after January 31, 1990, that person would have to be either someone who has registered with NHTSA to undertake the obligation to bring the vehicle into compliance, or

someone who has a conformance contract with a NHTSA registrant. The exception would be that the present rule allowing entry and conformance of any motor vehicle by any non-registered person would continue in effect for vehicles imported for personal use not later than October 31, 1992, by any individual whose assigned place of employment was outside the United States on October 31, 1988, and who owned the vehicle (or had ordered it) as of October 31, 1988.

Nonconforming vehicles imported by nonexempted persons would have to be brought into conformance with the standards. Not all vehicles, however, would be eligible for importation by nonexempted persons. A vehicle cannot be imported at all by a nonexempted person unless NHTSA determines that it is capable of modification to meet the Federal safety standards.

DATES: Comment closing date for the proposal is June 26, 1989. The effective date of the final rule after publication in the **Federal Register** would be January 31, 1990.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh St., SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, (202–366–5263).

SUPPLEMENTARY INFORMATION: On October 31, 1988, the President signed Pub. L. 100–562, the Imported Vehicle Safety Compliance Act of 1988. Notice of its enactment was published by the agency in the **Federal Register** on December 5, 1988 (53 FR 49003). As the notice stated, the Safety Compliance Act amends those provisions of the National Traffic and Motor Vehicle Safety Act of 1966 ("the Vehicle Safety Act") that relate to the importation of motor vehicles subject to the Federal motor vehicle safety standards (section 108(b), 15 U.S.C. 1397(b)).

Specifically, the 1988 amendments revoke sections 108(b)(3), and (b)(4) of the Vehicle Safety Act, effective January 31, 1990. These sections authorized the issuance of regulations jointly by the Secretaries of Transportation and Treasury to prohibit the importation of motor vehicles and equipment not complying with the Federal motor vehicle safety standards, except under such terms and conditions as may appear to them appropriate to ensure that a noncomplying vehicle or equipment item will be brought into conformance or will be exported or abandoned to the United States. The temporary admission of nonconforming used vehicles and equipment items by exempted persons was also permitted. Pursuant to this authority, the two Secretaries issued an implementing regulation, 19 CFR 12.80, which has governed the importation of merchandise subject to Federal motor vehicle safety standards since 1968, and will continue to do so through January 31, 1990.

Under the 1988 amendments, new sections (c) through (j) are added to section 108 to replace revoked sections (b)(3) and (b)(4). The authority to issue joint regulations is replaced by a rulemaking authority vested alone in the Secretary of Transportation (and delegated to NHTSA through existing delegations of authority).

The purpose of this notice is explain how importation of motor vehicles and equipment will be affected by this new authority, and to propose a regulation that implements it. First of all, the existing regulation, 19 CFR 12.80, will continue to be a regulation under the joint authority of the two Departments with respect to the importation provisions of the Motor Vehicle Information and Cost Savings Act under which the Bumper Standard (49 CFR Part 581) was issued. With respect to the Vehicle Safety Act, however, the proposed new NHTSA regulation, 49 CFR Part 591, will become the primary importation regulation and 19 CFR 12.80, the conforming regulation of the U.S. Customs Service. In the future, substantive changes to importation procedures will be effected by NHTSA alone, through amendments to Part 591, and Customs will make conforming amendments to § 12.80, if necessary.

A similar relationship presently exists between regulations of the Environmental Protection Agency ("EPA") and Customs (See, respectively, 40 CFR 85. 1501 *et seq.* and 19 CFR 12.73). This relationship has established a precedent for Customs to amend it regulations without notice and opportunity for comment on the basis that full notice and opportunity had been offered by EPA in promulgating its regulations, and that the amendments by Customs were merely conforming in nature (See 53 FR 26240).

NHTSA is attempting in this rulemaking action to formulate a program that will ensure that all imported motor vehicles conform to the Federal motor vehicle safety standards without imposing unnecessary burdens on importers. Therefore, NHTSA has tried in this proposal to impose only those requirements that are mandated by the 1988 Act, with amplifications only where it appeared necessary to implement the safety intent of the statute. NHTSA encourages commenters to provide suggestions as to ways to reduce burdens without compromising safety, within the framework of the 1988 Act, in order to assist the agency in developing the final rule.

Importation of Motor Vehicles

Under existing § 12.80, a motor vehicle offered for importation into the United States is admitted pursuant to one of nine declarations regarding the status of the vehicle in relation to the motor vehicle safety and bumper standards. The requirements of the 1988 Act affect some of these declarations, and establish new exceptions. A discussion of these changes follows.

1. The Vehicle is Not a "Motor Vehicle"

Under 19 CFR 12.80(b)(1)(viii), a vehicle is not required to be brought into compliance if it is not a motor vehicle as defined by the Vehicle Safety Act, i.e., that it was not designed primarily for use on the public streets, roads, and highways. This exemption remains § 591.5(a)(i)) because this agency has no jurisdiction regarding non-motor vehicles under the Vehicle Safety Act and the 1988 Act makes no jurisdictional change.

2. The Vehicle Conforms and is so Certified.

A motor vehicle is allowed immediate entry without the posting of bond upon a declaration that it conforms to all applicable Federal motor vehicle safety standards and bears a certification label to that effect permanently affixed by the original manufacturer § 12.80(b)(l)(ii)). This same section also allows immediate entry if a vehicle is only technically noncompliant, i.e., because readily attachable equipment items such as windshield wipers and mirrors have been removed to facilitate shipping, but will be installed before the vehicle is offered for sale. The 1988 Act makes no change affecting these declarations, and they are provided in the proposed regulation § 591.5(b)).

The agency interprets the new amendments, however, as imposing new restrictions upon the importation of vehicles that may have been conformed prior to entry but bear a certification by a person other than the original manufacturer. The 1988 amendments amend Section 1397(a)(1)(A) to add the words "and is covered by a certification issued under section 114" as an addition to the existing requirement that a vehicle may not be imported "unless it is in conformity". A certification issued under section 114 is that of the original

manufacturer, and not a converter. To reflect this amendment, the agency is proposing a definition of the term "original manufacturer" so that it excludes converters outside the United States who certify and conform vehicles to the standards after the vehicles have been designed, engineered, and manufactured in fully assembled form by a person other than the converter. The agency believes that the 1988 amendments justify this interpretation. An interpretation that would allow free entry of a vehicle pursuant to a declaration of conformity and a certification by a person other than its original manufacturer could well result in the importation of vehicles for which the Administrator had made no determination of capability of modification to meet Federal standards, and defeat the purpose of the 1988 amendments. Further, under this interpretation, even if the converted vehicle is one that the Administrator has deemed eligible for entry and is certified as conforming by its converter, it can enter the country only through a registered importer, or one who has a contract with a registered importer. This also fulfills one of the purposes of the 1988 amendments. i.e., that there be a responsible party who provides NHTSA with certification of conformance of vehicles not originally manufactured in accordance with the standards, and who will assume notification and remedy responsibilities should the statutory preconditions occur. This means that a motor vehicle that has been modified after its manufacture and before entry, and which is certified by a party other than its original manufacturer, will be treated as a nonconforming motor vehicle, and subject to the same entry requirements.

3. The Vehicle is Intended Solely for Export

A nonconforming vehicle is allowed immediate entry without bond upon the declaration that the importation is solely for purposes of export, and bears a label to that effect (12.80(b)(1)(iv)). This declaration is allowed pursuant to a specific statutory exclusion in the Vehicle Safety Act, section 108(b)(5). Under the 1988 amendments, the section becomes 108(b)(3), but is otherwise unchanged, and the exclusion remains § 591.5(c)).

4. Nonresident Temporary Importations

If the importer is a nonresident of the United States and is importing the nonconforming vehicle primarily for personal use for a period of 1 year or less, the current regulations allow entry without bond and conformance, but the declaration must also state that the importer will not sell the nonconforming vehicle in the United States during that period (§ 12.80(b)(1)(v)).

This provison was intended to benefit two classes of importers. The first class is comprised of U.S. citizens who are between foreign work assignments, and need to use their noncomplying cars while in transit, on home leave, or on temporary assignment in the U.S. The second class of importer is comprised of non-U.S. citizens. They may be Mexican or Canadian residents who use the American roads on an infrequent basis, or citizens of other countries who bring their tour buses, campers, or cars with them to facilitate their vacations in the U.S.

One authority for the previously existing allowance was section 1397(b)(4) which authorized the adoption of regulations allowing the "temporary importation" of noncomplying vehicles or equipment items. This authority has been deleted by the 1988 amendments. However, a further authority has been deleted by the 1988 amendments. However, a further authority for the nonresident exemption was the existence of two international treaties to which the United States is a signatory that address the movement of vehicles among various countries (I. Customs Convention on the Temporary Importation of Private Road Vehicles opened for signature June 4, 1954, 8 U.S.T. 2097, T.I.A.S. No. 3943, entered into force December 15, 1957. II. Convention on the Regulation of Inter-American Automotive Traffic, opened for signature December 15, 1943, 61 Stat. 1129, T.I.A.S. No. 1567, entered into force October 29, 1946). NHTSA believes that elimination of the present allowance may be inconsistent with the intent of the treaties, and is retaining it in clarified form, allowing the temporary importation of any vehicle by a nonresident that is registered in a country other than the United States, provided it is for personal use, imported for a period not to exceed one year, will not be resold in the U.S. during that time, and will be exported at the end of that time (§ 591.5(d)).

5. The Vehicle Does Not Conform to Federal Safety Standards

This is the category of motor vehicle whose importation is most affected by the 1988 amendments. Under 19 CFR 12.80, a nonconforming vehicle is imported pursuant to a declaration that it will be brought into conformance within 120 days of entry. The importer gives a bond for the production of a statement, after conformance, certifying that the conformance work has been accomplished. The statement describes the conformance work, identifies the conformer, and certifies that the vehicle will not be sold until NHTSA has issued an approval letter to the district director of Customs that the bond may be released. The bond is for the dutiable value of the vehicle (§ 12.80(b)(1)(iii) and (e)).

The 1988 amendments impose criteria which motor vehicles must meet in order to be imported. Under new section 108(c)(3)(A), a vehicle cannot be imported at all (with certain exceptions set out below) unless NHTSA determines that it is capable of modification to meet the Federal safety standards. Determinations may be made on NHTSA's own initiative, or upon petition of any registered importer (see discussion below) or any motor vehicle manufacturer, and will be subject to public comment.

A nonconforming vehicle that is not offered for importation under one of the exemptions listed below may be imported under either of the following two scenarios. The first scenario, specified by section 108(c)(3)(A)(i)(I), will involve the making of two determinations: (1) That the nonconforming vehicle is substantially similar to a motor vehicle of the same model year originally manufactured for importation into and sold in the U.S., (and thus in compliance with the safety standards) and (2) that the vehicle is capable of being readily modified to conform.

The second scenario, specifed by section 108(c)(3)(A)(i)(II), will arise if the agency does not make a determination of substantial similarity regarding a vehicle. In that case, it will still be permissible to import the vehicle if the agency determines that the vehicle's safety features comply with the U.S. standards, or are capable of being modified to comply with those standards, "based on destructive crash data or such other evidence" as NHTSA determines is adequate.

Under either scenario, a positive determination regarding a vehicle will permit any registered importer to modify vehicles of the same model covered by the determination.

If the agency makes a negative determination regarding a model's ability to be modified, the agency will be temporarily prohibited from taking up the issue of that model's importability again. If the negative determination was made in response to a petition, section, 108(c)(3)(C)(ii) of the Act prohibits the agency from considering a petition regarding the same model of vehicle until at least 3 months after that

decision. If the negative determination was made in a proceeding begun at the agency's own initiative, the agency will not be able to make another determination regarding the same model of motor vehicle until at least 3 months after the negative one (section 108(c)(3)(C)(iii)). The agency addresses these matters in companion notices of proposed rulemaking published simultaneouly with this one, Part 592, *Registered Importers of Noncomforming Vehicles*, and Part 593, *Determinations That a Nonconforming Vehicle is Eligible for Importation.*

Once a vehicle has been determined eligible for importation, it may then be imported by a registered importer who will undertake to conform it with the safety standards (§ 591.5(f)(i)). The importer is required by section 108(c)(2) to give a bond to ensure conformance or alternatively that the vehicle will be exported or abandoned to the United States. The bond is to be not less than the dutiable value of the vehicle as determined by the Secretary of the Treasury, and not more than 150 per cent of the dutiable value. Both NHTSA and the U.S. Customs Service view this bond as one that is separate from the general importation bond, which will continue to be required. Further, the statute is interpreted as requiring a separate bond for each vehicle imported. This means that the 1988 Act requires an individual bond to be given for each vehicle imported. A bond is not blanket in nature, covering any vehicle that may be imported by a registered importer. In other words, the required bond will be of a single entry nature, and not of a continuous nature.

6. The Vehicle Requires Further Manufacturing Operations

Under new section 108(e), a vehicle may be imported without violating section 108(a)(1)(A) if it requires further manufacturing operations to perform its intended function. Currently, pursuant to § 12.80(b)(1)(ix), a vehicle may be imported without bond or conformance documentation if it is an "incomplete vehicle" as defined by 49 CFR Part 568 *Vehicles Built in Two or More Stages.* The justification for this exception is that the vehicle must conform, and be certified as conforming, upon completion by its final stage manufacturer, and that this is an obligation that exists independent of the importation process. Under Part 568, an incomplete vehicle must be accompanied by a document listing the standards that will apply to the completed vehicle, and containing representations of the incomplete vehicle manufacturer with respect to the status of the incomplete vehicle vis-a-vis each standard. Section 108(e) of the Vehicle Safety Act includes this exception but broadens it to apply to any motor vehicle that "requires further manufacturing to perform its intended function (as determined under regulations prescribed by the Secretary)", and is accompanied by a written statement of the manufacturer indicating the applicable safety standard(s) with which the unfinished vehicle does not comply. The question of the type and extent of manufacturing required for performance of intended function, will, of course, vary. However, the existing requirements for alterers of certified vehicles (§ 568.8) afford a basis for proposing criteria that distinguish between completed vehicles and those that require further manufacturing. Accordingly, if a vehicle requires more than the addition of readily attachable equipment components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, its importer may enter it pursuant to proposed § 591.5(e).

Instances have arisen in the past in which an importer offered for importation a motor vehicle without its engine, or other running gear parts, claiming that the merchandise is, in fact, equipment to which no standard applies, and the importer separately imported the engine or parts. The agency has treated these cases as de facto importations of noncomplying motor vehicles, and required them to be entered as nonconforming motor vehicles and evidence of conformity to be subsequently submitted. This type of importation will now be covered by section 108(e).

7. The Importer has a Contract With a Registered Importer

The primary eligibility requirements placed by the 1988 amendments on persons importing nonconforming vehicles are that they will have to be, subject to certain exceptions, registered as importers, or they will have to have contracts with registered importers to conform the vehicles. The latter, at the time of entry, will have to furnish an appropriate bond (which, under the 1988 amendments, is not less than 100 percent of the dutiable value of the vehicle and not more than 150 percent; this directive will become part of 19 CFR 12.80), a copy of the contract or other agreement with a registered importer, and certification that an affirmative decision has been made regarding the eligibility of the vehicle for importation. For good cause shown, the importer may be allowed additional time to furnish a copy of the contract, but not more than 30 days after the date on which the vehicle was offered for importation. These matters, specified in section 108(f), are covered in the proposals published as § 591.5(f)(ii). Under § 591.6(c), a copy of the contract or agreement would be submitted with the declaration, or, alternatively, a copy of a letter from the Administrator finding good cause shown for affording a period of up to 30 days from the date of declaration in which to provide the contract copy. Under § 591.7(b) an importer seeking permission for delayed submission must present reasons in justification in advance of the arrival of the vehicle. The purpose of the new requirements is to increase the likelihood that nonconforming vehicles will be properly modified and actually brought into compliance with the safety standards.

8. The Importer is Eligible to Import Under Present Requirements

Nonresidents are affected in another way by the 1988 amendments. Under certain circumstances, and for a limited time, section 108(g) of the Vehicle Safety Act permits a nonresident (including any member of the Armed Forces) to continue to import a vehicle under the present regulation, that is, to have it conformed by a person other than a registered importer. This exception applies to a single vehicle imported, for personal use and not for resale, between January 31, 1990, and October 31, 1992, by an individual whose assigned place of employment was outside the United States for the total period between October 31, 1988, and the date of importation, provided that the vehicle was acquired (or was subject to a binding contract to acquire) before October 31, 1988, and that the individual has not previously imported a nonconforming motor vehicle. This amendment is reflected in proposed § 591.5(g).

9. Importation by Diplomats and Foreign Military Personnel

Any person who is a member of the armed forces of a foreign country on assignment in the U.S., or any person who is a member of the Secretariat of a public international organization so designated under the International Organization Immunities Act and who is within the class of persons for whom free entry of motor vehicles has been authorized by the Secretary of State currently may import a nonconforming vehicle for the duration of their stay pursuant ot the declaration that the vehicle is for personal use only § 12.80(b)(1)(vi)). Section 108(h) of the Vehicle Safety Act specifically retains

this exclusion, but in addition requires NHTSA to ensure that any such vehicle will be exported or abandoned when the importer ceases to reside in the U.S. It also forbids the sale while within the United States or any motor vehicle imported under this provision.

The enforcement of this provision would appear to rest with the Office of Foreign Missions of the Department of State. NHTSA understands that foreign personnel in the exempted categories who import nonconforming vehicles into the United States, are required to register their vehicles with this Office. Under the registration process, the Office takes possession of the foreign title of the vehicle, and issues registration plates to the importer after verifying that the vehicle is insured. The importer does not take repossession of the title until the registration plates are returned to the Office. At that time, the Office asks for an explanation. The usual reason is that the importer's assignment in the United States has ended, and that s(he) is leaving the country. Documentary proof is required, such as a copy of the importer's orders. Heretofore, however, no documentary proof has been required that the vehicle is being, or has been, exported. Thus, it is possible that a nonconforming vehicle could be sold between the time the importer repossesses the title and actually leaves the country, but the Office believes that this is only an infrequent occurrence. NHTSA has informally approached the Office as to the possibility that it could require proof of exportation of diplomatic vehicles, and has found the Office amenable to that suggestion. This approach appears less cumbersome than requiring a bond for the exportation of diplomatic vehicles. Accordingly, NHTSA is proposing that one of the declarations an importer make under § 595.5(h) is that s(he) will provide the Office of Foreign Missions, at the conclusion of a tour of duty and before depature from the United States, with documentary proof that the vehicle is being, or has been, exported.

Under the existing law and regulations, it has been the practice to allow an exempted diplomatic importer to sell his nonconforming vehicle to another person in one of the exempted categories. The justification for this practice is that the exempted buyer is himself eligible to import a nonconforming vehicle. The agency does not construe the 1988 Act as forbidding this type of sale between exempted importers.

However, the 1988 amendments do affect another practice. Heretofore, sale of a nonconforming vehicle has been permitted, provided that the importer undertook to conform it to applicable Federal safety standards before the sale. If this practice is to continue, it will have to be greatly modified. If an exempted importer wishes to sell a nonconforming vehicle in the United States, NHTSA proposes that (s)he be prohibited from doing so unless (1) the vehicle is one which the Administrator has determined is modifiable to conform to the safety standards, and (2) the vehicle will be conformed through a registered importer. NHTSA believes that this type of transaction is also within the intent of the 1988 Act, and that otherwise, a nonconforming vehicle may not be sold if imported pursuant to this type of exemption. However, if NHTSA determines during the pendency of this proposal, or on the basis of comments received, that this type of transaction is administratively infeasible, the final rule may forbid any sale other than between exempted importers.

10. The Vehicle is 25 or More Years Old

A motor vehicle is allowed immediate entry under 12.80(b)(1)(i) if it were manufactured on a date when no applicable Federal motor vehicle safety standards were in effect. All motor vehicles, other than motorcycles, manufactured on or after January 1, 1968, have been covered by safety standards. Accordingly, this declaration has been used only for the entry of vehicles manufactured before January 1, 1968. Under section 108(i), added by the 1988 Act, a motor vehicle may be allowed entry without the necessity of conformance if it is 25 years old or older. Thus, after January 1, 1993, vehicles that were manufactured on or after January 1, 1968, will be relieved of the necessity to conform as they reach 25 years of age. The existing declaration will be retained until January 1, 1993, although clarified by specifying the January 1, 1968 date (§ 591.5(i)). This is necessary to prevent the importers of vehicles which are less than 25 years old but manufactured before January 1, 1968, from being inadvertently required to enter their vehicles pursuant to the 1988 amendments. During 1992, the agency will amend § 591.5(i) to implement the 25-year old exclusion effective January 1, 1993.

11. Importation for Research, Investigation, Studies, etc.

Importation of nonconforming vehicles without bond is presently allowed if the importation is solely for the purpose of show, test, experiment, competition, repair, or alteration (§ 12.80(b)(1)(vii)). If the vehicle is imported for test or experiment, it may be licensed for use on the public roads for a period not to exceed one year, extendable for two successive year periods, or a period of three years in all. Importation for show, etc., has been permitted pursuant to the implied statutory authority that motor vehicle safety would not be affected by the temporary importation of noncomplying motor vehicles not generally used on the public roads, and whose appearance on them would be limited.

Section 108(j) of the Vehicle Safety Act modifies these categories. It provides NHTSA with authority to exempt a vehicle upon such terms and conditions as may be necessary solely for the purpose of research, investigations, studies, demonstrations or training, or competitive racing events. It does not include the terms "show" and "repair" currently in use. Prospective importers ought not to be unduly concerned at this. In NHTSA's experience, importation for repair has averaged, perhaps, one vehicle every two years. Manufacturers who have imported nonconforming products for display at auto shows to gauge public reaction to new styling or engineering features will not be precluded from declaring that such importation is for "research" or "demonstrations." And museums will be able to bring in nonconforming vehicles under the 25-year exception. NHTSA is proposing to allow importation for the statutory purposes specified, provided that the declaration is accompanied by certain information and statements. If this information indicates that on-road use for a period that is greater than 1 year is required for these purposes, the importer will not be required to petition NHTSA for yearly extensions, as is presently the case. At the end of 3 years, the importer is subject to termination of the Customs Temporary Importation Bond under which the vehicle entered. At that point, the vehicle may be conformed, destroyed, exported, or permanently entered if duties are paid. If permanently entered, the vehicle remains subject to the original declaration under which it entered, and under the proposed regulation its importer must inform NHTSA of the option chosen for the vehicle at the end of the 3-year period. The proposed regulation would also prohibit an importer of a vehicle imported for competitive racing events from licensing it for use on the public roads, unless it has been brought into conformance with applicable standards.

NHTSA envisions that a registered importer who intends to file a petition under Part 593 for a determination that a vehicle is eligible for importation because it is capable of modification could avail itself of the demonstration exception to import such vehicles as may be necessary in order to develop the documentation needed to demonstrate the vehicle's capability for modification.

Importation of Motor Vehicle Equipment

Under 19 CFR 12.80, the first seven of the nine declarations applicable to motor vehicles also apply to motor vehicle equipment. The primary focus of the 1988 amendments is upon motor vehicles, however, and some of the new exceptions do not apply to motor vehicle equipment. An analysis of the equipment provisions and proposals follows.

The 25-year old exception for motor vehicles does not extend to motor vehicle equipment. This means that equipment covered by an equipment standard continues to be importable without the necessity for conformance (absent other exceptions) only if manufactured on a date before a standard applied to it.

An equipment item that is certified as conforming to applicable equipment standards continues to be admissible without the necessity for bond.

A nonconforming equipment item is not subject to the registered importer and determinations of substantial similarity provisions. The present requirements will continue to apply to it.

Because the importation for export exception is provided for by the Vehicle Safety Act, and not affected substantively by the 1988 Act, noncomforming equipment may continue to be imported for export, provided that it or its container bears a label or tag to that effect at the time of importation. (See section 108(b)(5) of the Vehicle Safety Act, redesignated as 108(b)(3) by the 1988 amendments.)

Under new section 108(e), an equipment item need not comply upon importation if it requires further manufacturing to perform its intended function.

The new provisions regarding importation for purposes of research, investigation, studies, demonstrations or training, or competitive racing events (section 108(j)) expressly include motor vehicle equipment as well as vehicles, and thus supersede existing requirements.

Impacts

NHTSA has considered the impacts of this rulemaking action and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation." It implements Pub. L. 100-562 under which primary authority to establish regulations governing the importation of motor vehicles and equipment into the United States is shifted to NHTSA, rather than being jointly shared with the U.S. Customs Service. As such, it establishes the rights and duties of those who may import nonconforming motor vehicles, and the types of nonconforming motor vehicles that may be imported. It is not significant under Department of Transportation regulatory policies and procedures. Less than 3000 motor vehicles a year are currently imported, and it is anticipated that this number will not increase. There is no substantial impact upon a major transportation safety program, and the action does not involve any substantial public interest or controversy. There is no substantial effect on state and local governments. The impact upon the Federal government is that certain present obligations of the U.S. Customs Service are transferred to the Department of Transportation. As discussed previously, many of the new requirements are specified by the 1988 amendments, and thus do not reflect any exercise of agency discretion. These include not only importation through or by contract with a registered importer, but also importation of vehicles and equipment requiring further manufacturing to perform their intended function, importation of vehicles by specified foreign diplomatic and military personnel, importation of vehicles more than 25 years old, and importation of vehicles for the purpose of research, investigations, studies, demonstrations or training, or competitive racing events, and importation under a separate performance bond.

The agency has also considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic impact upon a substantial number of small entities. Although entities that currently modify nonconforming vehicles may be small businesses within the meaning of the Regulatory Flexibility Act, there is no restriction prohibiting them from registering as importers under the proposal. Although a registered importer will have to pay a fee or fees to the agency, as required by statute, the agency does not view this requirement as resulting in a significant impact. Further, small organizations and governmental jurisdictions would not be significantly affected as they are not generally importers and purchasers of nonconforming motor vehicles. However, a Regulatory Flexibility Analysis has been prepared covering all regulations proposed to implement the 1988 Act, and will be placed in the public docket.

NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported under the rule would not vary significantly from that existing before promulgation of the rule. However, to the extent that a rule would result in a larger number of vehicles being brought into compliance with the standards, the use of materials used in conforming vehicles would increase.

The declaration requirements in this proposal are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 Part 1320. Although they are modifications of declarations presently existing in agency form HS-7, these proposed declarations are being submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on the proposed information collection requirements should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attn: Desk Officer for NHTSA. It is requested that comments sent to the OMB also be sent to the NHTSA rulemaking docket for this proposed action.

The proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 "Federalism", and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief

Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512.).

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 591

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that a new Part 591 *Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards* be added to Title 49, Chapter V, to read as follows:

PART 591—IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Sec.

591.1 Scope.
591.2 Purpose.
591.3 Applicability.
591.4 Definitions.
591.5 Declarations required for importation.
591.6 Documents accompanying declarations.
591.7 Restrictions of importations; entry bond.

Authority: Pub. L. 100–562, delegations of authority at 49 CFR 1.50 and 501.8.

§ 591.1 Scope.

This part establishes procedures governing the importation of motor vehicles and motor vehicle equipment subject to the Federal motor vehicle safety standards.

§ 591.2 Purpose.

The purpose of this part is to ensure that motor vehicles and motor vehicle equipment permanently imported into the United States conform with, or are brought into conformity with, all applicable Federal motor vehicle safety standards issued under Part 571 of this chapter, and to ensure that vehicles and equipment items imported on a temporary basis, are ultimately either exported or abandoned to the United States.

§ 591.3 Applicability.

This part applies to any person offering a motor vehicle or item of motor vehicle equipment into the United States. Regulations prescribing further procedures for importation of motor vehicles and items of motor vehicle equipment into the Customs territory of the United States, as defined in 19 USC 1202, are set forth in 19 CFR 12.80.

§ 591.4 Definitions.

All terms used in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration.

"NHTSA" means the National Highway Traffic Safety Administration.

"Original manufacturer" means the entity responsible for the original design, engineering, and manufacture of a motor vehicle, and does not include any person other than such manufacturer who converts the motor vehicle after its manufacture to conformance with the Federal motor vehicle safety standards.

§ 591.5 Declarations required for importation.

No person shall import a motor vehicle or item of motor vehicle equipment into the United States unless, at the time it is offered for importation, its importer files a declaration, in duplicate, which declares or affirms one of the following:

(a)(1) The vehicle was not manufactured primarily for use on the public roads and thus is not a motor vehicle; or

(2) The equipment item is not a system, part, or component of a motor vehicle.

(b) The vehicle or equipment item conforms with all applicable safety standards (or the vehicle will conform when readily attachable equipment items carried within it are attached), and bears a certification label or tag to that effect permanently affixed by the original manufacturer to the vehicle or to the equipment item or its delivery container.

(c) The vehicle or equipment item does not comply with all applicable Federal motor vehicle safety standards, but is intended solely for export, and the vehicle or equipment item, and the outside of the container of the equipment item, if any, bears a label or tag to that effect.

(d) The vehicle item does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because (s)he is a nonresident of the United States and the vehicle is registered in a country other than the United States, and the importer is temporarily importing the vehicle for personal use for a period not to exceed one year, will not sell it during that time, and will export it at the end of that time.

(e) The vehicle or equipment item requires further manufacturing operations to perform its intended function, other than the addition of readily attachable equipment items, or minor finishing operations.

(f) The vehicle does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because:

(1) The importer has registered with NHTSA pursuant to Part 592 of this chapter, and such registration has not been revoked or suspended, and the Administrator has determined pursuant to Part 593 of this chapter that the model and model year of the vehicle to be imported is eligible for importation into the United States; or

(2) The importer has executed (or will within 30 days of the date of the declaration execute) a contract (or other agreement) with an importer who has registered with NHTSA pursuant to Part 592 of this chapter and whose registration has not been suspended or revoked; the Administrator has determined pursuant to Part 593 of this chapter that the model and model year of the vehicle to be imported is eligible for importation into the United States; and the vehicle is being imported for personal use and not for purposes of resale.

(g) The vehicle does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because:

(1) The importer's assigned place of employment has been outside the United States at all times between October 31,

1988, and the date the vehicle is entered into the United States;

(2) The importer has not previously imported a motor vehicle into the United States that was subject to the Federal motor vehicle safety standards;

(3) The importer had acquired (or entered into a binding contract to acquire) the vehicle before October 31, 1988; and

(4) The vehicle will be entered into the United States not later than October 31, 1992.

(h)(1) The vehicle does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because (s)he is a member of:

(i) The armed forces of a foreign country on assignment in the United States; or

(ii) The Secretariat of a public international organization so designated under the International Organizations Immunities Act (22 USC 288), as listed in 19 CFR 148.47, on assignment in the United States; or

(iii) The personnel of a foreign government for whom free entry of vehicles has been authorized by the Department of State;

(2) Will not sell the vehicle to any person in the United States, except to a person eligible to import a vehicle under this subsection; and

(3) Will provide the Office of Foreign Missions of the State Department, before departing the United States at the conclusion of a tour of duty, with documentary proof that the vehicle is being, or has been, exported.

(i)(1) The vehicle was manufactured before January 1, 1968; or

(2) The equipment item was manufactured on a date when no applicable safety standards were in effect.

(j) The vehicle or equipment item does not conform with all applicable Federal motor vehicle safety standards, but is being imported for a temporary period solely for:

(1) research;

(2) investigations;

(3) studies;

(4) demonstrations or training; or

(5) competition racing events;

and will not be licensed for use on the public roads.

§ 591.6 Documents accompanying declarations.

Declarations of eligibility for importation made pursuant to § 591.5 must be accompanied by the following certification and documents, where applicable.

(a) A declaration made pursuant to § 591.5(a) shall be accompanied by a statement substantiating that the vehicle was not manufactured for use on the public roads, or that the equipment item was not manufactured for use on a motor vehicle or is not an item of motor vehicle equipment.

(b) A declaration made pursuant to § 591.5(e) shall be accompanied by a written statement issued by the manufacturer of the vehicle or equipment item which states the applicable Federal motor vehicle safety standard(s) with which the vehicle or equipment item is not in compliance, and describing the further manufacturing required for the vehicle or equipment item to perform its intended function.

(c) A declaration made pursuant to § 591.5(f) by an importer who is not a Registered Importer shall be accompanied by a copy of the contract or other agreement that the importer has with a Registered Importer to bring the vehicle into conformance with all applicable Federal motor vehicle safety standards, or, alternatively, a copy of a letter from the Administrator granting such importer a period not more than 30 days from the date of the declaration in which to provide the Administrator with a copy of the contract (or other agreement).

(d) A declaration made pursuant to § 591.5(g) shall be accompanied by certification, including appropriate documentary proof that the vehicle for which declaration is made had been acquired by the importer as of October 31, 1988, or, if not so acquired, by a copy of a contract to acquire the vehicle, dated before October 31, 1988, which was binding upon the importer.

(e) A declaration made pursuant to § 591.5(h) shall be accompanied by a copy of the importer's official orders, or, if a qualifying member of the personnel of a foreign government on assignment in the United States, the name of the embassy to which the importer is accredited.

(f) A declaration made pursuant to § 591.5(j) shall be accompanied by a full and complete statement identifying the specific purpose(s) of importation, describing the use to be made of the vehicle or equipment item, and stating the estimated period of time necessary to use the vehicle or equipment item on the public roads, if any, and the disposition to be made of the vehicle or equipment item after completion of the purpose for which it is imported. If the importer does not intend to conform, export or destroy the vehicle or equipment item not later than 3 years after its entry, the importer shall request permission in writing from the Administrator for the vehicle or equipment item to remain in the United States for an additional period of time, subject to the limitations of § 591.7(c).

§ 591.7 Restrictions on importations; entry bond.

(a) A vehicle for which entry is sought under a declaration made pursuant to § 591.5(e) is a vehicle that requires further manufacturing operations to perform its intended function, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting.

(b) A vehicle for which entry is sought under a declaration made pursuant to § 591.5(f) may not be entered into the United States without a copy of a contract (or other agreement) with a Registered Importer, unless the Administrator has found, for good cause shown, that a copy of such contract (or other agreement) may be submitted to the Administrator within 30 calendar days after entry of the vehicle. Any person seeking such a finding should inform NHTSA in writing at least 10 days before a vehicle is offered for importation.

(c) A vehicle or equipment item which has entered the United States under a declaration made pursuant to § 591.5(j), and for which a Temporary Importation Bond has been provided to the Secretary of the Treasury, shall not remain in the United States for a period that exceeds 3 years from its date of entry, unless it has been conformed to meet all applicable Federal motor vehicle safety standards, or unless the conditions of the Bond have been satisfied.

(d) A vehicle or equipment item which has entered the United States under a declaration made pursuant to § 591.5(j), and for which duty has been paid, shall not remain in the United States for a period that exceeds 5 years from its date of entry, unless it has been conformed to meet all applicable Federal motor vehicle safety standards.

(e) An importer of a vehicle which has entered the United States under a declaration made pursuant to § 591.5(j) may license it for use on the public roads only if such use is an integral part of the research, investigations, studies, demonstration or training for which it is imported. An importer of a vehicle imported for competitive racing events shall not license it for use on the public roads, unless it has been brought into conformance with all applicable Federal motor vehicle safety standards.

(f) In the case of any vehicle imported pursuant to a declaration made under § 591.5(f), the importer of the vehicle shall furnish to the Secretary of the

Treasury (acting on behalf of the Administrator) an appropriate performance bond.

Issued on April 19, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-9828 Filed 4-24-89; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 592

[Docket 89-6; Notice 1]

RIN 2127-AC97

Registered Importers of Nonconforming Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: With certain exceptions, the National Traffic and Motor Vehicle Safety Act, as amended by the Imported Vehicle Safety Compliance Act of 1988, will permit a motor vehicle not conforming to Federal motor vehicle safety standards to be imported only by a person who has registered with this agency, or by an individual who has a contract with a Registered Importer for making the modification necessary for bringing the vehicle into conformance with applicable safety standards.

In partial implementation of the 1988 amendments, this notice proposes procedures and requirements regarding the registration of importers and the duties and obligations of registered importers. In most instances, the particular provisions of these procedures and requirements are mandated by the 1988 amendments.

The notice proposes eligibility requirements for persons wishing to acquire and maintain registration. Among the requirements are ones regarding recordkeeping, allowance of inspection of records and facilities relating to the motor vehicles which the importer has imported and/or modified, certification to the Administrator that the vehicles have been brought into compliance, and insurance that the importer will be able technically and financially to carry out noncompliance and defect notification and remedy responsibilities should they arise. It also proposes procedures for persons to apply for registration and procedures for this agency's revocation or suspension of registration (and reinstatement) for failures to pay required fees or comply with regulations, or for filing a misleading or false certification. The notice also sets forth proposed inspection and bond release procedures.

Regulations intended to implement the remaining portions of the 1988 Act are being proposed simultaneously with this one. They are Part 591, *Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards*, and Part 593, *Determinations That a Nonconforming Vehicle is Eligible for Importation*, and Part 594 *Schedule of Fees Authorized by the Imported Vehicle Safety Compliance Act.*

DATES: Comment closing date for the proposal is June 26, 1989. The effective date of the final rule would be 30 days after publication of the final rule in the Federal Register.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202-366-5263).

SUPPLEMENTARY INFORMATION: On October 31, 1988, the President signed Pub. L. 100-562, the Imported Vehicle Safety Compliance Act of 1988. Notice of its enactment was published by the agency in the Federal Register on December 5, 1988 (FR 49003). As the notice stated, the Compliance Safety Act amends those provisions of the National Traffic and Motor Vehicle Safety Act of 1966 ("the Vehicle Safety Act") (15 U.S.C. 1381, at 1397) that relate to the importation of motor vehicles subject to the Federal motor vehicle safety standards. Specifically, the amendments strike paragraphs (3) and (4) of subsection (b) of 15 U.S.C. 1397. (Section 1397 may also be cited as section 108 of the Vehicle Safety Act), redesignates paragraph (5) as paragraph (3), redesignates subsection (c) of 15 U.S.C. 1397 as subsection (k), and adds new subsections (c) through (j).

The category of importer primarily affected by the amendments is the importer of a motor vehicle that does not conform, at the time of importation, to the Federal motor vehicle safety standards that applied to vehicles of its type at the time of its original manufacture. Under the current regulation, 19 CFR 12.80(b)(1)(iii), a nonconforming vehicle may be imported by any person. Under the 1988 amendments, an importer will have to be, subject to certain exceptions, a "Registered Importer" (one who meets the statutory criteria and has registered with the agency pursuant to the terms and conditions of the regulation that this notice proposes), or an individual who has contracted with a Registered Importer. The principal obligations of the Registered Importer with respect to the nonconforming vehicles it imports are (1) to bring those vehicles into compliance, either directly or through agents, (2) to provide the Administrator with certification that it has done so, and (3) in the event that noncompliances or safety related defects occur in vehicles it certifies, to notify owners, and provide a remedy. With respect to those vehicles it imports for resale, a Registered Importer falls within the long-standing definition of "manufacturer" under the Vehicle Safety Act and is responsible for notification of purchasers and remedy of noncompliances and safety related defects determined to exist in those vehicles. The 1988 amendments add a further responsibility; it makes the Registered Importer responsible for notification and remedy covering any vehicle covered by its certificate of conformity to the standards, whether or not it imported or modified the vehicle, if a noncompliance or defect is determined to exist in substantially similar vehicles originally manufactured and certified for sale in the United States. However, the manufacturer or Registered Importer would be afforded an opportunity to demonstrate to NHTSA that the vehicles covered by the certification do not contain the noncompliance or defect.

NHTSA is attempting in this rulemaking action to formulate a program that will ensure that all imported motor vehicles conform to the Federal motor vehicle safety standards without imposing unnecessary burdens on importers. Therefore, NHTSA has tried in this proposal to impose only those requirements that are mandated by the 1988 Act, with amplifications only where it appeared necessary to implement the safety intent of the statute. NHTSA encourages commenters to provide suggestions as to ways to reduce burdens without compromising safety, within the framework of the 1988 Act, in order to assist the agency in developing the final rule.

Requirements for Registration as Importer

Under the regulation proposed by this notice, any person who wishes to become a Registered Importer, and who has not previously had a registration revoked, may file an application with the Administrator (new section 108(c)(3)(D)(i)). This section also provides that registration may be denied "to any person who is or was, directly or indirectly, owned or controlled by, or under common ownership or control

with, a person who has had a registration revoked * * *." Therefore, as part of the application, an applicant would be required to disclose the names of its owners, shareholders, or partners. The agency does not construe the statute as requiring a Registered Importer to be the person who also physically conforms the vehicles, but the Registered Importer, and not its agent for such work, must conform to all requirements imposed by this regulation. Thus, if an applicant intends to contract with an agent for the performance of conformance work, it must identify such third parties.

Chief among the registration requirements stated in section 108(c)(3)(D)(ii) is proof of financial ability to carry out notification and remedy responsibilities should a noncompliance or safety related defect be found in any vehicle the Registered Importer has imported and/or for which it has furnished the Administrator a certificate of conformity. Implementation of this complex provision is discussed in full later in the notice. The 1988 Act also requires that the regulation contain "provision for ensuring that the importer (or any successor in interest) will be able * * * to carry out the importer's responsibilities * * * relating to discovery, notification, and remedy of defects". The agency proposes that the applicant show that it will maintain a system of VINs, and names and addresses of owners of vehicles for which it provides certifications. With respect to "successors in interest", the regulation makes clear that registrations are not transferable, and that a Registered Importer must notify NHTSA upon any change in its status, such as ownership interest. As required by the 1988 amendments, a registration regulation shall include requirements for "recordkeeping, inspection of records, and facilities, relating to the motor vehicles for which such person has imported, modified, or both". NHTSA has proposed appropriate requirements for each of these, and has specified that it may choose to inspect facilities while an application is pending. Such a provision is included, as well as the applicant's obligation to ensure that representatives of NHTS have equal access to the facilities of third parties with which it contracts to perform conformance work. NHTSA also proposes that such records be kept for a minimum of 8 years, the period specified in the National Traffic and Motor Vehicle Safety Act for which a manufacturer is obliged to remedy a noncompliance or safety related defect at no cost to the vehicle owner. A registration would continue indefinitely until revoked or suspended. However, a registrant, in order to maintain its registration, would be required to affirm annually that there has been no change in previously provided information. This should ensure that the financial ability of a Registered Importer can be monitored, and that fees are received in a timely manner.

Section 108(c)(3)(D)(iii) requires the Secretary to establish procedures for revoking or suspending the registration of any registered importer for failure to comply with any requirement of section 108 of the Vehicle Safety Act or of any regulation issued under that section. Those procedures are also required to provide for automatically suspending the registration of a registered importer which knowingly files a false or misleading certification, or fails to pay a required fee in a timely manner. To cover the expenses of the registration program and certain other activities, the statute provides that each Registered Importer will have to pay an annual fee; this fee will be established on a fiscal year basis. A Registered Importer under suspension may be reinstated when the cause giving rise to the suspension ceases to exist. In determining revocation and suspension, other than automatic suspension as provided by section 108(c)(3)(D)(iii) for nonpayment of fees or for knowingly filing a false or misleading certification, the Administrator would provide notice in writing to the Registered Importer, affording it an opportunity to present data, views, and arguments as to why its registration should not be suspended or revoked. Other than its provision for automatic suspension, the 1988 amendments does not distinguish suspension from revocation; either may be invoked for failure to comply with any requirement of section 108 or the regulations issued under section 108. The agency interprets the 1988 amendments as leaving the decision whether to suspend or to revoke to the discretion of the Administrator, with the exception of the automatic suspension provisions discussed above.

As is currently required, an importer of record, whether a Registered Importer or one who has a conformance contract with a Registered Importer, would have to furnish the Secretary of the Treasury (the U.S. Customs Service, acting for NHTSA), a bond for each vehicle it imports to ensure that the vehicle is brought into compliance with the safety standards. When the modifications of an imported vehicle are completed, the Registered Importer would have to attach its label to the vehicle stating that it complies with the safety standards, and certify that conformance to NHTSA. If the vehicle is one that the Administrator determined to be substantially similar to one certified by its original manufacturer for sale in the U.S., the Registered Importer could rely in making its certification on the original manufacturer's certification with respect to identical safety features if it certified to the Administrator that its modifications did not affect compliance of the vehicle's safety features. In substantiation of certification, the agency proposes that the initial certification submitted by a Registered Importer for a specific model and model year be accompanied by complete substantiating documentation and photographs. A submission would not be required to substantiate certifications for the same specific model and model year, but a Registered Importer would prepare and retain in its files documentation packages for these vehicles which could be inspected by the agency upon demand. This should shorten the certification review process, and enhance the ability of the agency to authorize release of vehicles in a relatively short period of time after certification was received. The Registered Importer would be able to license the vehicle, or release the vehicle from its custody for licensing 30 days after its submission of the certification to NHTSA. NHTSA, however, could demand an inspection of the vehicle within the 30-day period, or ask for certification verification. In that event, the vehicle could be released only upon the agency's written notice of its acceptance of the certification or written notice of its completion of an inspection that does not show any failure to comply. The vehicle and the bond could be released immediately upon issuance of either notification. Section 108(c)(3)(E)(v), added by the 1988 amendments, provides that any release of bond, however, does not constitute a determination under section 152 of the Vehicle Safety Act that the vehicle conforms with all applicable standards.

In developing a provision addressing the financial ability of a Registered Importer to carry out its notification and remedial obligations, the agency has been guided by the experience of the Environmental Protection Agency ("EPA") in developing and promulgating regulatory provisions addressing the financial ability of Independent Commercial Importers ("ICI"s) to honor emissions warranties. (40 CFR 85.1510(b)(2)(i), 52 FR 36136). ICIs are importers of motor vehicles and engines,

who have registered with the EPA, some of whom may be importers who will be registering with NHTSA. Thus, a NHTSA requirement that parallels the EPA one is not likely to add significantly to the regulatory burden of those who import nonconforming vehicles subject to Federal regulations.

Commenters on EPA's regulations at the proposal stage, principally original equipment vehicle and engine manufacturers, and the State of California, suggested that ICIs acquire prepaid insurance and/or bonds to cover ICI warranty and recall liability for the useful life of each vehicle. There was no opposition from ICIs regarding this concept. Based on its experiences under the California emissions standards for motor vehicles, the California Air Resources Board (CARB) noted that the modification industry is composed of small businesses, and argued that it is likely that a number of firms will fall over time. Without a requirement for an insurance policy or bond to cover warranty and recall repairs, owners of vehicles obtained from firms that are no longer in business would have to bear the warranty costs. CARB offers modifiers a choice between obtaining insurance or a bond.

EPA decided to require a prepaid mandatory service insurance policy that, in effect, assures effective warranty coverage. That agency reasoned that it was unnecessary to require a bond to assure an effective recall and warranty program. Because the prepaid mandatory service insurance policy seemed acceptable to modifiers as a means of assuring their performance regarding recalls and warranties, NHTSA is proposing that Registered Importers be required to have a similar insurance policy, to assure fulfillment of the notification and remedial duties imposed by the 1988 amendments. As part of a registration application, a copy of a policy, or a contract to acquire such insurance, would be submitted, which would become effective upon grant of the application. However, NHTSA has no knowledge of the burden the insurance requirement might impose upon an applicant, and requests comments on this point. NHTSA also requests comments upon alternate appropriate means of assuring financial ability to carry out notification and remedial activities.

Finally, NHTSA requests comments on the amount of insurance that would be necessary to demonstrate "sufficient financial responsibility." (section 108(d)(2)). The premium paid for such a policy would appear to encompass the relatively low costs of notification (i.e., discerning through records or R.L. Polk the names and addresses of vehicle owners), and the somewhat higher costs of remedy (through repair, repurchase, or replacement), as affected by the yearly number of vehicles for which the registered importer estimates it will submit certification. NHTSA understands that only one company is currently insuring ICI's under EPA's program, but given the difference between Federal safety and emission standards the cost experience is not directly comparable.

Impacts

After considering the impacts of this rulemaking action, NHTSA has determined that the action is not major within the meaning of Executive Order 12291 "Federal Regulation", because it will not have an impact upon the economy in excess of $100 million. Nor is it significant under Department of Transportation regulatory policies and procedures. The proposed action involves no substantial public interest or controversy. It has no substantial effect on state and local governments. There is no substantial impact on a major transportation safety program. The number of vehicles to be processed through Registered Importers is estimated to be less than 3000.

NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported through registered importers would not vary significantly from that existing before promulgation of the rule. However, to the extent that a rule would result in a higher percentage of vehicles being brought into compliance with the standards, the materials added to bring the vehicles into conformance would increase.

The agency has also considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant effect upon a substantial number of small entities. Although entities that currently modify nonconforming vehicles may be small businesses within the meaning of the Regulatory Flexibility Act, the agency has no reason to believe that a substantial number of these companies could not qualify. However, small businesses currently conforming vehicles may not choose to register as importers because of the recordkeeping and other requirements, and the obligation to notify/remedy in the event of the occurrence of a noncompliance or safety related defect, and these businesses would no longer be able to perform conformance work after January 31, 1990. The cost to owners or purchasers of modifying nonconforming vehicles to conform with the safety standards may be expected to increase to the extent necessary to reimburse the registered importer for the fees payable to the agency for the cost of administering the registration program and to compensate Customs for its bond processing costs. Governmental jurisdictions would not be affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles. However, a Regulatory Flexibility Analysis covering all regulations proposed to implement the 1988 Act has been prepared, and will be placed in the public docket.

The agency has analyzed the proposed rule in accordance with the principles and criteria contained in Executive Order 12612 "Federalism" and determined that the proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The registration requirements in this proposal are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these proposed requirements are being submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on the proposed information collection requirements should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attn: Desk Officer for NHTSA. It is requested that comments sent to the OMB also be sent to the NHTSA rulemaking docket for this proposed action.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including

purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 592

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that a new Part 592, *Registered Importers of Nonconforming Vehicles*, be added to Title 49, Chapter V, to read as follows:

PART 592—REGISTERED IMPORTERS OF NONCONFORMING VEHICLES

Sec.

592.1 Scope.
592.2 Purpose.
592.3 Applicability.
592.4 Definitions.
592.5 Requirements for registration and its maintenance.
592.6 Duties of a registered importer.
592.7 Revocation, suspension and reinstatement of registration.
592.8 Inspection; release of vehicle and bond.

Authority: Pub. L. 100-562; delegations of authority at 49 CFR 1.50 and 501.8.

§ 592.1 Scope.

This art establishes procedures under section 108(b)(3)(D) of the National Traffic and Motor Vehicle Safety Act, as amended (15 U.S.C. 1397(b)(3)(D)), for the registration of importers of motor vehicles that do not comply with all applicable Federal motor vehicle safety standards at the time the vehicles are offered for entry into the United States. This part also establishes the duties of Registered Importers.

§ 592.2 Purpose.

The purpose of this part is to provide content and format requirements for persons who desire to register with the Administrator as importers of nonconforming motor vehicles, to provide procedures for the registration of importers and for the suspension, revocation and reinstatement of registration, and to set forth the duties required or Registered Importers.

§ 592.3 Applicability.

This part applies to any person who wishes to register with the Administrator as an importer of nonconforming vehicles, and who has not previously had a registration revoked by the Administrator, and to any person who is registered as an importer.

§ 592.4 Definitions.

All terms in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391) are used as defined therein.

"Administrator" means the Administrator, National Highway Traffic Safety Administration.

"NHTSA" means the National Highway Traffic Safety Administration.

"Registered Importer" means any person that the Administrator has registered as an importer pursuant to § 592.5(b).

§ 592.5 Requirements for registration and its maintenance.

(a) Any person wishing to register as an importer of noncomplying motor vehicles must file an application which:

(1) Is headed with the words "Application for Registration as Importer", and submitted in three copies to: Administrator, National Highway Traffic Safety Administration, Washington, DC 20590, Attn: Importer Registration.

(2) Is written in the English language.

(3) Sets forth the full name, address, and title of the person preparing the application, and the name, address, and telephone number of the person for whom application is made.

(4) Sets forth, as applicable, the names of all owners, including shareholders, partners, or sole proprietors, of the person for whom application is made.

(5) If any of the owners listed in paragraph (a)(4) of this section are corporations, sets forth the names of all shareholders of such corporation whose ownership interest is 10 percent or greater.

(6) Contains a statement that the applicant has never had a registration revoked pursuant to § 592.7, nor is it or was it, directly or indirectly, owned or controlled by, or under common ownership or control with, a person who has had a registration revoked pursuant to § 592.7.

(7) Contains a certified check payable to the Treasurer of the United States, for the amount of the initial annual fee established pursuant to Part 594 of this chapter.

(8) Contains a copy of a contract to acquire, effective upon its registration as an importer, a prepaid mandatory service insurance policy underwritten by an independent insurance company, in an amount sufficient to ensure that the applicant will be able financially to remedy any noncompliance or safety related defect determined to exist in any vehicle for which it has furnished a certificate of conformity to the Administrator, through repair, replacement, or repurchase of such vehicle, in accordance with Part 573 and Part 577 of this chapter.

(9) Sets forth in full data, views, and arguments of the applicant sufficient to establish that the applicant will be able, through a records system of acquiring and maintaining names and addresses of owners of vehicles for which it furnishes a certificate of conformity, and VINs of such vehicles, to notify such owners that a noncompliance or safety related defect exists in such vehicles, and that it will be financially able to remedy a noncompliance or safety related defect through repurchase or replacement of such vehicles, or technically able through repair of such vehicles, in accordance with Part 573 and Part 577 of this chapter.

(10) Segregates and specifies any part of the information and data submitted under this part that the applicant wishes to have withheld from public disclosure in accordance with Part 512 of this chapter.

(11) Contains a statement whether the applicant will modify the vehicles for which it will furnish certificates of conformity to the Administrator.

(12) If the answer to (11) is negative, provides the name and address of all agents who will modify the vehicles.

(13) Contains a statement that the applicant will fully comply with all duties of a registered importer as set forth in § 592.6, and will ensure that any agent with whom it may contract to perform modifications will also fully comply with such duties as if it were the applicant.

(14) Has the applicant's signature acknowledged by a notary public.

(b) If the information submitted is incomplete, the Administrator notifies the applicant of the areas of insufficiency, and that the application is in abeyance.

(c) If the Administrator deems it necessary for a determination upon the application, NHTSA conducts an inspection of the applicant and/or its agents. Subsequent to the inspection, NHTSA calculates the costs attributable to such inspection, and notifies the applicant in writing that such costs comprise a component of the initial annual fee and must be paid before a determination is made upon its application.

(d) When the application is complete (and, if applicable, when a sum representing the inspection component of the initial annual fee is paid), it is reviewed and a determination made whether the applicant should be granted the status of Registered Importer. Such determination may be based, in part, upon an inspection by NHTSA of the conformance, storage, and recordkeeping facilities of the applicant and agents, if any. If the Administrator determines that the application is acceptable, (s)he informs the applicant in writing that its application is approved, and issues it a Registered Importer Number. If the information is not acceptable, the Administrator informs the applicant in writing that its application is not approved. No refund is made of those components of the initial annual fee representing the costs of processing the application, and conducting an inspection. Refund is made of that component of the initial annual fee representing the remaining costs of administration of the registration program.

(e) In order to maintain its registration, a Registered Importer shall provide an annual statement that affirms that all information provided under subsection (a) of this section remains correct. Such statement shall be titled "Yearly Statement of Registered Importer", and shall be filed not later than October 31 of each year. A Registered Importer shall also pay such annual fee or fees as the Administrator may from time to time establish under Part 594 of this chapter. An annual fee shall be paid not later than October 31 of any calendar year, and shall be the annual fee for the fiscal year that began on October 1 of that calendar year. Any other fee shall be payable not later than 30 calendar days after the date that the Administrator has notified the Registered Importer of it in writing.

(f) A Registered Importer shall notify the Administrator in writing of any change that occurs in the information which it submitted in its application, not later than the end of the 30th calendar day after such change.

(g) A registration granted under this part is not transferable.

§ 592.6 Duties of a registered importer.

(a) Each Registered Importer shall:

(1) With respect to each motor vehicle that it imports into the United States, furnish to the Secretary of the Treasury (acting on behalf of the Administrator) a bond in an amount not less than the dutiable value of the vehicle, as determined by the Secretary of the Treasury, nor more than 150 per cent of such value to ensure that such vehicle either will be brought into conformity with all applicable Federal motor vehicle safety standards prescribed under Part 571 of this chapter within 120 calendar days after such importation, or will be exported (at no cost to the United States) by the importer or the Secretary of the Treasury, or abandoned to the United States.

(2) Establish, maintain, and retain for 8 years from the date of entry of any nonconforming vehicle for which it furnishes a certificate of conformity pursuant to paragraph (a)(5) of this section, organized records, correspondence and other documents relating to the importation, modification, and substantiation of certification of conformity to the Administrator, including but not limited to:

(i) The declaration required by § 591.5 of this chapter, and 19 CFR 12.80.

(ii) All vehicle or equipment purchase or sales orders or agreements, principal or agent agreements, conformance agreements with importers other than Registered Importers, and correspondence between the Registered Importer and (1) any agent who performs conformance work on its behalf, and (2) the owner or purchaser of each vehicle for which it has furnished a certificate of conformity.

(iii) The last known name and address of the owner or purchaser of each motor vehicle for which it has furnished a certificate of conformity, and the VIN number of such vehicle.

(iv) Records, both photographic and documentary, reflecting the modifications made and submitted to the Administrator pursuant to subsection (5).

(v) Records, both photographic and documentary, sufficient to substantiate each subsequent certificate furnished to the Administrator for a vehicle of the same model and model year for which documentation has been furnished NHTSA in support of the initial certificate.

(3) Permanently affix to each motor vehicle, upon completion of modifications, a label that meets the requirements of Sec. 567.4 of this chapter, which identifies the Registered Importer, and provide to the Administrator a photocopy of the label attesting that such vehicle has been brought into conformity with all applicable Federal motor vehicle safety and bumper standards.

(4) Certify to the Administrator, upon completion of modifications, that the vehicle has been brought into conformity with all applicable Federal motor vehicle safety and bumper standards, and that it is the person legally responsible for bringing the vehicle into conformity.

(5) In substantiation of the initial certification provided for a specific model and model year, submit to the Administrator photographic and documentary evidence of conformance with each applicable Federal motor vehicle safety and bumper standard, and with respect to subsequent certifications of such model and model year, such information, if any, as the Administrator may request.

(6) With respect to any motor vehicle for which it has furnished a certificate of conformity to the Administrator, provide notification and remedy according to Part 573 and Part 577 of this chapter, upon any determination that a vehicle to which it is substantially similar, as determined under Part 593 of this chapter, incorporates a safety related defect or fails to conform with an applicable Federal motor vehicle safety standard. However, this obligation does not exist if the manufacturer of the vehicle or Registered Importer demonstrates to the Administrator that the defect or noncompliance is not present in such vehicle.

(7) In order to allow the Administrator to determine whether a Registered Importer is meeting its statutory responsibilities, admit representatives of NHTSA during operating hours, upon demand, and upon presentation of credentials, to copy documents, or to inspect, monitor, or photograph any of the following:

(i) Any facility, whether or not owned or controlled by the Registered Importer,

where any vehicle, for which a Registered Importer has the responsibility of providing a certificate of conformity to applicable safety standards, is being modified, tested, or stored;

(ii) Any facility, whether or not owned or controlled by the Registered Importer, where any record or other document relating to modification, testing, or storage of vehicles being conformed, is filed;

(iii) Any part or aspect of activities relating to the modification, testing, and/or storage of vehicles, by the Registered Importer or any agent.

(iv) Any motor vehicle for which it has provided a certification of conformity to the Administrator, and which remains in its custody or under its control.

(8) With respect to any vehicle that it imports, provide notification and remedy pursuant to Part 573 and Part 577 of this chapter, upon any determination that the vehicle incorporates a safety related defect or fails to conform with an applicable Federal motor vehicle safety standard, without reference to whether such may exist in a vehicle to which it is substantially similar.

(9) Maintain in effect a prepaid mandatory service insurance policy underwritten by an independent insurance company as a guarantor of its performance under paragraph (a) (6) and (8) of this section.

§ 592.7 Revocation, suspension and reinstatement of registration.

(a) If the Administrator has not received any fee assessed and owing by the end of the 30th calendar day after such fee is due and payable, a registration is automatically suspended at the beginning of the 31st calendar day, and the Registered Importer is immediately notified in writing of the suspension at the address contained in its most recent annual statement or amendment thereof.

(b) If the Administrator has reason to believe that a Registered Importer has knowingly filed a false or misleading certification, and that its registration should be automatically suspended or revoked, (s)he notifies the Registered Importer in writing of the facts giving rise to such reason to believe, affording an opportunity to present data, views, and arguments, either in writing or in person, within 30 calendar days after receipt of the Administrator's letter, as to whether it has submitted false or misleading certification, and as to why the registration ought not to be revoked or suspended. The Administrator then makes a decision after the 30-day period on the basis of all information then available. If, after consideration of all the data available, the Administrator determines that the Registered Importer has knowingly filed a false or misleading certification, the registration is automatically suspended or revoked, and the Registered Importer notified in writing. Any suspension or revocation is effective as of the date of the Administrator's determination. The Administrator shall state the period of any suspension in the notice to the Registered Importer.

(c) The Administrator may suspend a registration if a Registered Importer fails to comply with any requirement set forth in 15 U.S.C. 1397(c)(3)(D), § 592.5(c), or § 592.6, or if s(he) denies an application filed under § 592.5(d). The Administrator may revoke a registration after any failure to comply with any such requirement, or if (s)he denies an application filed under § 592.5(d). If the Administrator has reason to believe that there has been such a failure to comply and that the Registered Importer's registration should be revoked or suspended, (s)he notifies the Registered Importer in writing, affording an opportunity to present data, views, and arguments, either in writing or in person, within 30 calendar days after receipt of the Administrator's letter, as to whether there has been a failure to comply and as to why the registration ought not to be revoked or suspended. The Administrator then makes a decision after the 30-day period on the basis of all information then available. If the Administrator determines that a registration should be revoked or suspended, (s)he notifies the Registered Importer in writing. A revocation is effective immediately. A suspension is effective beginning with a date specified in the written notification.

(d) A Registered Importer whose registration has been revoked or suspended may request reconsideration of the revocation or suspension if the request is supported by factual matter which was not available to the Administrator at the time the registration was suspended or revoked.

(e) If its registration has been revoked, a Registered Importer is ineligible to apply for reregistration under this part. No refund is provided of any annual or other fees the Registered Importer has paid for the fiscal year in which its registration is revoked. If its registration has been suspended, it may file an application for reinstatement of its registration.

(f) The Administrator shall reinstate a suspended registration if the cause that led to the suspension no longer exists, as determined by the Administrator, either upon the Administrator's motion, or upon the submission of further information or fees by the Registered Importer.

§ 592.8 Inspection; release of vehicle and bond.

(a) With respect to any motor vehicle for which it is obligated to provide a certificate of conformity to the Administrator as requested by § 592.6(a)(4), a Registered Importer shall not obtain licensing or registration of the motor vehicle for use on the public roads, or release custody of it for such licensing and registration, except in accordance with the provisions of this section.

(b) When conformance modifications to a motor vehicle have been completed, a Registered Importer shall submit the certification required by § 592.6(a)(4) to the Administrator. In certifying a vehicle that the Administrator has determined to be substantially similar to one that has been certified by its original manufacturer for sale in the United States, the Registered Importer may rely on any certification by the original manufacturer with respect to identical safety features if it also certifies that any modification that it undertook did not affect the compliance of such safety features. Each submission shall either be mailed by certified mail, return receipt requested, to: Administrator, National Highway Traffic Safety Administration, Washington, DC, 20590 ATTN: NEF-32, or be submitted electronically in a manner to be specified by NHTSA. Each submission shall identify the location where the vehicle will be stored and is available for inspection, pending NHTSA action upon the submission.

(c) Before the end of the 30th calendar day after receipt of certification of a motor vehicle pursuant to § 592.6(a)(4), the Administrator may inform the Registered Importer in writing that an inspection of the vehicle is required to ascertain the veracity of the certification. Written notice includes a proposed inspection date, which is as soon as practicable. If inspection of the vehicle indicates that the vehicle has been properly certified, at the conclusion of the inspection the Registered Importer is provided an instrument of release, and the Administrator provides a copy of the instrument to the Department of Treasury as soon as practicable in order to effect release of bond. If inspection of the vehicle shows that the vehicle has not been properly certified, the

Registered Importer shall either make the modifications necessary to substantiate its certification, and provide a new certification for the standard(s) in the manner provided for in subsection (b), or export the vehicle. Before the end of the 30th calendar day after receipt of new certification, the Administrator may require a further inspection in accordance with the provisions of this subsection.

(d) The Administrator may by written notice request certification verification by the Registered Importer before the end of the 30th calendar day after the date the certification was received by the Administrator. If the basis for such request is that the certification is false or contains a misrepresentation, the Registered Importer shall be afforded an opportunity to present written data, views, and arguments as to why the certification is not false or misleading or does not contain a misrepresentation. The Administrator may require an inspection pursuant to paragraph (c) of this section. The motor vehicle and bond involved shall not be released unless and until the Administrator is satisfied with the certification.

(e) If a Registered Importer has received no written notice from the Administrator by the end of the 30th calendar day after it has furnished a certification to the Administrator, the Registered Importer may release the vehicle from custody that is covered by the certification, or have it licensed or registered for use on the public roads.

(f) If the Administrator accepts a certification without requiring an inspection, (s)he notifies the Department of Treasury in writing that it may release the bond on the vehicle covered by the certification, as of a date certain, and provides a copy to the importer of record. Such notification shall be provided not later than the 25th calendar day after the Administrator has received such certification.

(g) Release of bond shall constitute acceptance of certification or completion of inspection of the vehicle concerned, but shall not preclude a subsequent determination by the Administrator pursuant to section 152 of the Act (15 USC 1451) that the vehicle fails to conform to any applicable Federal motor vehicle safety standard.

Issued on April 19, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-9829 Filed 4-24-89; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 593

[Docket No. 89-7; Notice 1]

RIN 2127-AC99

Determinations That a Nonconforming Vehicle is Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Effective January 31, 1990, the National Traffic and Motor Vehicle Safety Act, as amended by the Imported Vehicle Safety Compliance Act of 1988, will place new limits on the importation of foreign motor vehicles not manufactured to meet Federal motor vehicle safety standards. In most instances, these vehicles will be allowed to be imported into the United States only by an importer that has registered with the Department of Transportation and who will subsequently certify to NHTSA that the vehicle has been modified to conform with the standards, or by a private individual who has a contract with a Registered Importer for such certification.

The 1988 amendments prohibit, with certain exceptions, the importation of a vehicle that does not meet Federal motor vehicle safety standards unless it belongs to a model that meets specified eligibility criteria. The criteria is that the model is determined by this agency to be substantially similar to one that was originally manufactured for importation and sale into the United States, and that it is capable of being readily modified to conform to the Federal safety standards. Alternatively, for a model for which there is not a substantially similar vehicle, the agency must determine that the safety features of the model comply or are capable of being modified to comply with the safety standards. This notice proposes procedural regulations for making determinations regarding the meeting of these criteria. Most details of the proposal are dictated by the 1988 amendments.

Other notices proposing regulations to implement the amendments are being published simultaneously with this one. They are Part 591, *Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards* and Part 592, *Registered Importers of Nonconforming Vehicles*, and Part 594, *Schedule of Fees Authorized by the Imported Vehicle Safety Compliance Act.*

DATES: Comment closing date is June 26, 1989. The effective date of the final rule would be 30 days after publication of the final rule in the Federal Register.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202-366-5263).

SUPPLEMENTARY INFORMATION: On October 31, 1988, the President signed into law the Imported Vehicle Safety Compliance Act of 1988, Pub. L. 100-562. The Act amends those provisions of the National Traffic and Motor Vehicle Safety Act of 1966 ("the Vehicle Safety Act") that relate to the importation of motor vehicles subject to the Federal motor vehicle safety standards (section 108(b), 15 U.S.C. 1397(b)). The 1988 amendments impose restrictions upon the eligibility of motor vehicles for importation. The principal restriction upon a motor vehicle is that it cannot be imported at all unless NHTSA determines that the motor vehicle model is capable of modification to meet the Federal safety standards. Determinations will be made on NHTSA's own initiative, or upon petition of any registered importer (see discussion below) or any motor vehicle manufacturer, and will be subject to public comment.

A nonconforming vehicle may be imported under either of the following two scenarios. The first scenario will involve the making of two determinations by the agency: that the nonconforming model is substantially similar to a model of the same "model year" which was originally manufactured for importation into and sale in the United States and was certified as conforming to the Federal safety standards, and that a vehicle belonging to the model is capable of being readily modified to conform fully with the applicable standards.

The second scenario will arise if the agency has not made a substantial similarity determination regarding a model. In that case, it will still be permissible to import a vehicle of that model if the agency determines that its safety features comply with the United States standards, or are capable of being modified to comply with those standards, "based on destructive crash data or such other evidence" as NHTSA determines is adequate.

Under either scenario, a positive determination regarding a model will permit any Registered Importer to import vehicles of the same model that are covered by that determination.

If the agency makes a negative determination regarding a model's ability to be modified, the agency will be temporarily prohibited from taking up the issue again. If the decision was made in response to a petition, the 1988 amendments prohibit the agency from considering a petition regarding the same model of vehicle until at least 3 months after that decision. If the negative determination was made in a proceeding begun at the agency's own initiative, the agency will not be able to make another determination regarding the same model of motor vehicle until at least 3 months after the negative one.

NHTSA is attempting in this rulemaking action to formulate a program that will ensure that all imported motor vehicles conform to the Federal motor vehicle safety standards without imposing unnecessary burdens on importers. Therefore, NHTSA has tried in this proposal to impose only those requirements that are mandated by the 1988 Act, with amplifications only where it appeared necessary to implement the safety intent of the statute. NHTSA encourages commenters to provide suggestions as to ways to reduce burdens without compromising safety, within the framework of the 1988 Act, in order to assist the agency in developing the final rule.

Petitions for Determinations

Section 108(c)(3)(C)(i)(I) requires the Administration to make eligibility determinations "on the petition of any Registered Importer or any manufacturer". Under the National Traffic and Motor Vehicle Safety Act, a "manufacturer" is defined to include any person who imports motor vehicles for resale. Thus, "manufacturer" excludes the individual who imports a vehicle, through a Registered Importer, for his or her own use. It also excludes the general public and trade associations.

This notice proposes basic procedural requirements for a petition that are similar to those the agency specifies for other petitions: that they be in the English language, state the full name and address of the petitioner, be submitted in 3 copies to the Administrator, and state the basis upon which petition is made.

The agency does not intend to specify by regulation the number and types of components that must be identified as capable of modification in order to demonstrate compliance. (The petitioner must, of course, show that a vehicle is readily modifiable, or capable of modification, as the case may be, so that it will comply with all applicable safety standards.) The Federal motor vehicle safety standards are performance standards and the NHTSA believes that registered importers, like original manufacturers, should be free to reach individual design solutions. Whether a petitioner's arguments are persuasive will be reflected in the agency's eventual determination, and NHTSA's conclusions will be discussed in a notice of determination published in the **Federal Register**. The agency will encourage arguments that reflect a performance orientation. To the extent that a petition contains information relating to the specific methodology by which that petitioner intends to achieve conformity, the agency will consider a request for confidentiality on the basis that it is a trade secret or otherwise subject to confidentiality under 49 CFR Part 512.

Specifically, if the basis of the petition is that the model for which a determination is sought is substantially similar to one that was originally manufactured for importation into and sale in the United States, and which bore a certification of compliance affixed by its original manufacturer, the petitioner must identify the original manufacturer of the certified vehicle, and the model and model year of the vehicle to be compared. It must also submit data, views, and arguments, with respect to each applicable Federal motor vehicle safety standard, that the vehicle is capable of being readily modified to meet that standard. The phrases "substantially similar" and "capable of being readily modified" are not defined by the 1988 amendment. However, NHTSA begins with the assumption that a vehicle that is "substantially similar" to one that was originally manufactured for importation and sale in the United States which bore its original manufacturer's certification is one whose visual appearance and structural details are "substantially similar" to the certified model. Under this hypothetical, a Renault 21 manufactured in France would be viewed as "substantially similar" to the Renault/Eagle Medallion, manufactured in France and certified by Renault for sale in the United States because its exterior sheetmetal appears virtually identical. On the other hand, a Renault 25 manufactured in France would not be viewed as substantially similar to the Eagle Premier manufactured in Canada and certified by Chrysler for sale in the United States, even though Chrysler purchases the platform and drive train of the Premier from Renault. Both its exterior and interior appearance and components differ from that of the Premier. There is no common exterior sheetmetal, different dash panels and seats are provided, and there is no interchangeability between doors and glazing. Comments are requested on the degree of interior and exterior similarity of appearance and structural details, and on the extent of parts interchangeability necessary to support a determination of substantial similarity. What parts are most critically related to compliance with the standards, particularly those standards which specify dynamic vehicle crash testing or other types of destructive testing?

Obviously, if a vehicle already conforms to a safety standard, the question of modification capability is not reached. To substantiate that no modifications are required with respect to that standard, a petition may be supported by a letter from the vehicle's original manufacturer confirming that the vehicle model under consideration was manufactured to comply with the standard. This method of substantiation would be appropriate for petitions based on substantial similarity as well as for petitions which are not so based.

As for whether a vehicle is "capable of being readily modified", as the first level of decision, NHTSA suggests that many components that are visible when the vehicle is fully assembled may be considered capable of being readily modified when they may be easily replaced with parts intended as replacement for conforming parts on substantially similar certified vehicles. For passenger cars, these components would include, but are not limited to, tires Standard No. 109), rims (Standard No. 110), and wheel covers (Standard No. 211), glazing marking (Standard No. 205), reflecting surfaces (Standard No. 107), controls and displays (Standard No. 101), and lighting devices (Standard No. 108). Other components, not readily visible, are also easily replaced with conforming parts. These include brake hoses (Standard No. 106), and brake fluid (Standard No. 116). In this event, the petitioner could provide in its petition the part numbers of the components that would be substituted to achieve conformance.

However, this first level of decision, based upon replacement of parts, could not determine conformance with vehicle rather than equipment standards. Visual inspection would not indicate whether the steering column would need to be replaced so that the vehicle would comply with Standard No. 204, or whether the interior fabrics (other than leather) would meet the flammability resistance required by Standard No. 302,

because these tests incorporate destructive demonstration procedures. The second level of decision then rests upon the question whether the modifications necessary for conformance are "readily" achievable. In this instance, a petitioner would be expected to submit data showing that conformance can be achieved without extensive modifications, i.e. information demonstrating that compliance can be achieved without major structural modifications or destructive component testing. A major structural modification could mean, for example, strengthening of the rear frame bars in order to achieve conformance with Standard No. 301. A non-major structural modification could be installation of windshield retaining clips for conformance with Standard No. 212. On the assumption that a "substantially similar" vehicle may be more likely to incorporate structural features of certified vehicles, than vehicles for which there is no U.S. certified model, the Administrator may be more willing to accept data other than crash data to indicate that a vehicle is readily modifiable to achieve conformance. On the other hand, a vehicle would not appear to be capable of being readily modified if major structural modifications are required for compliance, though such modifications might be acceptable to demonstrate capability of modification. Although each petition for substantial similarity determinations will be decided on the merits of the arguments presented, it does not appear that the following components can be readily modified to achieve conformance with the applicable standards: automatic restraints (Standard No. 208), seat belt anchorages (Standard No. 210), roof structure (Standard No. 216), windshield intrusion (Standard No. 219), and fuel system components (Standard No. 301).

NHTSA requests comments on its assumptions and tentative interpretations of "substantially similar" and "capable of being readily modified". In addition, NHTSA is concerned about the possibility that vehicles which appear "substantially similar" to the eye are much less so under the exterior sheetmetal. Therefore, NHTSA also requests comments on the similarity of structural components in such vehicles, such as similarity of dimensions behind the dashboard, roof rails, engine compartment, trunk space, and other structural areas for vehicles that are visually similar. Further, it would like comments on the degree of similarity in the dynamic crush and crush pulse signature of the imported vehicles in front and rear end impacts. At the present time, the agency is not fully sure about the degree of the under-skin similarity of vehicles, and these factors may have to be taken into account in petitions and determinations. The agency is particularly concerned with these issues as they relate to passenger cars manufactured by Mercedes-Benz, BMW, and Jaguar during the past 10 years. On the basis of past experience, NHTSA anticipates that well over 90 percent of vehicles to be imported under the new requirements will be products of these manufacturers.

Similar considerations apply if a vehicle is not substantially similar to any vehicles that have been or are being certified as complying with the FVMSSs and imported into the United States. For such a vehicle, the basis of a petition would be that its safety features comply with, or are capable of being modified to comply with the safety standards to which it would have been subject at the time of its manufacture had it been originally intended for importation into the United States. Because there is no substantially similar model certified for sale in the United States, the statute does not specify that determinations be made with reference to model years. Cognizant of the fact that foreign vehicles may be produced for a number of years without major changes, the Administrator could make a determination applicable to vehicles produced within a model year, or manufactured during a stated inclusive period. Tentatively choosing a conservative approach, the agency is proposing that "capability of modification" determinations also be made on a model year basis.

With respect to the alternative basis of petitions, as with "substantially similar" vehicles, a determination "that the vehicle's safety features comply"could be made on the basis of a letter of confirmation from the vehicle's original manufacturer, or through visual inspection. However, the Act assumes that full conformance with the safety standards may be more difficult to achieve for a non-similar vehicle than for a vehicle that is "substantially similar" to a certified one, as it states that NHTSA's determination shall be "based on destructive test data or such other evidence as the [Administrator] determines to be adequate". In this instance, it would appear that far more detailed information might be required to demonstrate capability of modification with those standards listed at the end of the prior discussion on substantially similar vehicles. Crash test data may be preferable to demonstrate that vehicles are capable of being modified to conform with those standards that incorporate barrier impact demonstration procedures (Standards Nos. 201, 204, 208, 212, 219, and 301). NHTSA contemplates that a registered importer, or a group of registered importers, planning to import a large number of a particular model might sacrifice one or more such vehicles to crash tests in order to generate data to file with a petition. If a petitioner did not wish to conduct a crash test, then the question arises as to the "adequacy" of alternate means of demonstration that the vehicle is capable of modifications to achieve conformance. NHTSA therefore requests specific comments as to the adequacy of computer simulations, engineering analysis, and mathematical calculations as alternative bases of demonstrating compliance with the six safety standards listed above, as well as others, such as Standard No. 105 *Hydraulic brake systems.* It calls attention to the fact that, in the final rule, with respect to these standards, it may be satisfied with nothing less than crash data, or a letter from the vehicle's original manufacturer confirming compliance.

The agency also requests comments with respect to alternate types of evidence of compliance, and their suitability with respect to each of the other standards with complex laboratory demonstration procedures. For example, are computer simulations or mathematical calculations acceptable with respect to the ability of components such as door latches and hings (Standard No. 206) or seat anchorages (Standard No. 207) to withstand certain specified minimum forces? Neither method would appear to be acceptable as a demonstration of the lack of flammability of interior materials (Standard No. 302). For demonstrations of compliance with Standard No. 302, it might be necessary to submit an analysis or the fabric, or to test fabric actually from the vehicle, for example. The Administrator would determine the adequacy of the alternative types of evidence.

The proposed petition requirements are drafted in somewhat general terms, so as to afford petitioners flexibility in presenting arguments and solutions of a performance, rather than of a design nature in keeping with the definition of the Federal motor vehicle safety standards. It is possible that, on the basis of comments, the final rule will be more detailed as to the types of data required to substantiate compliance with each of the safety standards.

If a petition is filed on the basis that the vehicle is "substantially similar" to a certified one, and the Administrator cannot make such a determination, that does not mean that the petition is automatically denied. In that event, the Agency may inform the petitioner that it cannot make a determination on the basis petitioned for, but is willing to proceed to a consideration on the alternative basis, and make a determination on conformance, or capability of conformance, of the vehicle's safety features, on the basis of such further supporting information as the petition may care to submit. A petition for a determination of "substantial similarity" would identify the model and model year of the vehicle for which a determination is sought, and a "capability" determination, the model year. At this time, the agency does not find it necessary to propose a definition of "model". It believes that petitioners will identify with sufficient clarity the vehicles that it wishes to import, and that comparable U.S. models will have comparable designations. For example, Mercedes and BMW use the same series designations for both U.S. and European models, though secondary nomenclature may differ in minor respects, reflecting variations in the type of engines. Although the agency has defined the term "model year" in regulating contents of VINs (49 CFR Part 565), it does not find that definition adequate for purposes of determinations of "substantial similarity". In Part 565 "model year" means "the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced so long as the actual period is less than two calendar years". It is to be noted in the first instance that Part 565 does not apply to vehicles imported under bond for the production of a conformance statement, the types of vehicles that will be the subject of similarity petitions. In the second instance, the Part 565 definition requires a manufacturer to have determined a model year, and such a determination may not have been made by manufacturers not subject to its jurisdiction.

More specifically, the "model year of the vehicle to be compared" should be easily ascertainable, as it is the practice in the United States for manufacturers to designate their products by model years. Further, that has been the practice of foreign manufacturers selling passenger cars in the United States. However, that has not necessarily been the practice of foreign manufacturers with respect to their domestic products, which are the vehicles for which determinations will be sought. If the manufacturer has not designated a model year, then NHTSA must designate it. In recent years, NHTSA has, with respect to major standards, designated September 1 as the effective date of new requirements, although in earlier years, the effective date was frequently January 1. Accordingly, NHTSA is proposing that "model year" be defined as either the model year designated by the manufacturer,or, in the absence of a designation, that it be a period that begins on September 1 of a year and ends on August 31 of the next succeeding year.

The procedural aspects of eligibility determinations are similar to other agency regulations regarding petitions and their dispositions (see, for example, 49 CFR 555.7 on temporary exemptions from safety standards). Notice of a petition (or agency initiative) will be published in the **Federal Register** and an opportunity afforded for comment. No public hearing, argument, or other formal proceeding will be held directly on the matter before a determination is made. After a decision, the agency will publish a second notice in the **Federal Register** constituting the determination whether the vehicle is eligible or ineligible for importation. If the vehicle is eligible for importation, the determination will extend to all vehicles covered by the determination, whether or not imported by the petitioner. If the vehicle is ineligible for importation, the notice will contain the earliest date on which the Administrator is statutorily able to consider the matter anew. In order to demonstrate that a vehicle is capable of compliance, the agency is willing to permit a registered importer to import a nonconforming vehicle for modification and demonstration purposes under the appropriate provision of Part 591.

Agency Determinations of Eligibility

The 1988 Act also provides that the agency may make determinations on its own initiative. NHTSA will proceed with such determinations in a manner similar to those made by petition. A notice requesting public comment will appear in the **Federal Register**, specifying the basis upon which the Administrator is considering a determination. No formal proceeding will be held. A second notice containing the decision will be published in the **Federal Register**. The agency will publish annually in the **Federal Register** a list of vehicles for which determinations have been made. This will appear as an Annex to Part 593, so that it may also, appear in the Code of Federal Regulations. The agency intends to publish the first list before September 30, 1990, because the CFR publishes NHTSA regulations in revised form as of October 1 of each year.

The agency intends to make available for public inspection in the agency docket room all publicly available information relevant to a determination, whether made pursuant to a petition or on the Administrator's initiative. However, as discussed previously, the agency realizes that a petition by a registered importer may contain arguments as to capability of modification that reflect the methodology by which that petitioner intends to achieve conformance, and which may qualify as a trade secret or confidential information for which confidential treatment may be requested. In that instance, the agency may conclude that considerations of confidentiality outweigh the interests of full disclosure.

Impacts

NHTSA has considered the impacts of this rulemaking action and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation." However, it would require the agency to make a determination of capability of modification to meet Federal safety standards with respect to vehicles that did not comply with those standards prior to the time they are offered for importation into the United States. This is a responsibility that did not heretofore exist. It is not significant under Department of Transportation regulatory policies and procedures. Less than 3000 nonconforming vehicles a year that would be affected by this regulation are being imported into the United States. The proposed action has no substantial impact upon a major transportation safety program, nor does it involve any substantial public interest or controversy. There is no substantial impact upon state and local governments.

NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment because it is anticipated that the annual volume of noncomplying motor vehicles imported as a result of eligibility determinations would not vary significantly from that existing before promulgation of the rule. However, the modification of vehicles to bring them into compliance involves the addition of materials to those vehicles. To the extent that the eligibility

determinations would result into a larger number of vehicles being brought into compliance with the standards, the materials used in conforming vehicles will increase.

The agency has also considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant effect upon a substantial number of small entities. Although entities that currently modify nonconforming vehicles may be small businesses within the meaning of the Regulatory Flexibility Act, there is no restriction prohibiting them from applying for registration as importers under the proposal. Further, small organizations and governmental jurisdictions would not be significantly affected as they are not generally importers and purchasers of nonconforming motor vehicles. However, a Regulatory Flexibility Analysis covering all regulations proposed to implement the 1988 Act has been prepared, and will be placed in the public docket.

The petition procedures in this proposal are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 Part 1320. Accordingly, these proposed requirements are being submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on the proposed information collection requirements should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attn: Desk Officer for NHTSA. It is requested that comments sent to the OMB also be sent to the NHTSA rulemaking docket for this proposed action.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 "Federalism," and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 593

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that a new Part 593 *Determinations That a Nonconforming Vehicle Is Eligible for Importation* be added to Title 49, Chapter V, to read as follows:

PART 593—DETERMINATIONS THAT A NONCONFORMING VEHICLE IS ELIGIBLE FOR IMPORTATION

Sec.

593.1 Scope.
593.2 Purpose.
593.3 Applicability.
593.4 Definitions.
593.5 Petitions for eligibility determinations.
593.6 Basis for petition.
593.7 Processing of petitions.
593.8 Determinations on the agency's initiative.
593.9 Effect of affirmative determinations; lists.
593.10 Availability for public inspection.

Authority: Pub. L. 100–562; delegations of authority at 49 CFR 1.50 and 501.8.

§ 593.1 Scope.

This part establishes procedures under section 108(c) of the National Traffic and Motor Vehicle Safety Act, as amended (15 U.S.C. 1397(c)), for making determinations whether a vehicle that does not comply with all applicable Federal motor vehicle safety standards, and is not otherwise eligible for importation under Part 591 of this chapter, may be imported into the United States because it can be modified to meet the Federal standards.

§ 593.2 Purpose.

The purpose of this part is to provide content and format requirements for registered importers and manufacturers who wish to petition the Administrator for a determination that a nonconforming vehicle is eligible to be imported into the United States because it can be modified to meet the Federal motor vehicle safety standards. The purpose of this part is also to specify procedures under which the Administrator makes eligibility determinations pursuant to those petitions as well as eligibility determinations on the agency's initiative.

§ 593.3 Applicability.

This part applies to a motor vehicle that was not originally manufactured and certified by its original manufacturer to conform with all applicable Federal motor vehicle safety standards which is offered for importation into the United States.

§ 593.4 Definitions.

All terms in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391) are used as defined therein.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration.

"Model year" means the year used by a manufacturer to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced, or, if a manufacturer has not made such a designation, the calendar year that begins on September 1 and ends on August 31 of the next calendar year.

"NHTSA" means the National Highway Traffic Safety Administration.

"Registered Importer" means any person who has been granted registered importer status by the Administrator pursuant to § 592.5(b) of this chapter, and whose registration has not been revoked.

§ 593.5 Petitions for eligibility determinations.

(a) A manufacturer or Registered Importer may petition the Administrator for a determination that a vehicle that does not comply with all applicable Federal motor vehicle safety standards is eligible for importation, either

(1) On the basis that the vehicle

(i) is substantially similar to a vehicle which was originally manufactured for importation into and sale in the United States and which bore a certification affixed by its manufacturer pursuant to Part 567 of this chapter, and

(ii) is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards; or

(2) On the basis that the vehicle has safety features that comply with or are capable of being modified to comply with all applicable Federal motor vehicle safety standards.

(b) Each petition filed under this part must—

(1) Be written in the English language;

(2) Be headed with the words "Petition for Import Eligibility Determination" and submitted in three copies to: Administrator, National Highway Traffic Safety Administration, Washington, DC 20590, Attn: Import Eligibility Determinations;

(3) State the full name and address of the petitioner. If the petitioner is a Registered Importer, include the Registered Importer Number assigned by NHTSA pursuant to Part 592 of this chapter.

(4) Set forth the basis for the petition and the information required by § 593.6 (a) or (b), as appropriate;

(5) Specify any part of the information and data submitted which petitioner requests be withheld from public disclosure in accordance with Part 512 of this chapter.

(6) Submit a certified check payable to the Treasurer of the United States, for the amount of the vehicle eligibility petition fee established pursuant to Part 594 of this chapter.

(c) The knowing and willful submission of false, fictitious or fraudulent information may subject the petitioner to the criminal penalties of 18 U.S.C. 1001.

§ 593.6 Basis for petition.

(a) If the basis for the petition is that the vehicle is substantially similar to a vehicle which was originally manufactured for importation into and sale in the United States, and which was certified by its manufacturer pursuant to Part 567 of this chapter, and that it is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards, the petitioner shall provide the following information:

(1) Identification of the original manufacturer, model, and model year of the vehicle for which a determination is sought.

(2) Identification of the original manufacturer, model, and model year of the vehicle which the petitioner believes to be substantially similar to that for which a determination is sought.

(3) Substantiation that the manufacturer of the vehicle identified by the petitioner under paragraph (a)(2) of this section originally manufactured it for importation into and sale in the United States, and permanently affixed a label to it certifying that it complied with all applicable Federal motor vehicle safety standards.

(4) Data, views and arguments demonstrating that the vehicle identified by the petitioner under paragraph (a)(1) of this section is substantially similar to the vehicle identified by the petitioner under paragraph (a)(2) of this section.

(5) With respect to each Federal motor vehicle safety standard that applied to the vehicle identified by the petitioner under paragraph (a)(2) of this section, data, views, and arguments demonstrating that the vehicle identified by the petitioner under paragraph (a)(1) of this section either was originally manufactured to conform to such standard, or is capable of being readily modified to conform to such standard.

(b) If the basis of the petition is that the vehicle's safety features comply with or are capable of being modified to comply with all applicable Federal motor vehicle safety standards, the petitioner shall provide the following information:

(1) Identification of the model and model year of the vehicle for which a determination is sought.

(2) With respect to each Federal motor vehicle safety standard that would have applied to such vehicle had it been originally manufactured for importation into and sale in the United States, data, views, and arguments demonstrating that the vehicle has safety features that comply with or are capable of being modified to conform with such standard, and after such modifications, will conform with such standard.

§ 593.7 Processing of petitions.

(a) NHTSA will review each petition upon its receipt for its sufficiency under §§ 593.5 and 593.6. If the petition does not contain all the information required by this part, NHTSA notifies the petitioner, pointing out the areas of insufficiency, and stating that the petition will not receive further consideration until the required information is provided. If the additional information is not provided within the time specified by NHTSA in its notification, NHTSA may dismiss the petition as incomplete, and so notify the petitioner. When the petition is complete, its processing continues.

(b) NHTSA publishes in the **Federal Register**, affording opportunity for comment, a notice of each petition containing the information required by this part.

(c) No public hearing, argument, or other formal proceeding is held on a petition filed under this part.

(d) If the Administrator is unable to determine that the vehicle in a petition submitted under § 593.6(a) is one that is substantially similar, or (if it is substantially similar) is capable of being readily modified to meet the standards, (s)he notifieds the petitioner, and offers the petitioner the opportunity to supplement the petition by providing the information required for a petition submitted under § 593.6(b).

(e) If the Administrator determines that the petition does not demonstrate that the vehicle model is eligible for importation, (s)he denies it and notifies the petitioner in writing. (S)he also publishes in the **Federal Register** a notice of denial and the reasons for it. A notice of denial also states that the Adminstrator will not consider a new petition covering the model that is the subject of the denial until at least 3 months from the date of the notice of denial. There is no administrative reconsideration available for petition denials.

(f) If the Administrator determines that the petition demonstrates that the vehicle model is eligible for importation, (s)he grants it and notified the petitioner. (S)he also publishes in the **Federal Register** a notice of grant and the reasons for it.

§ 593.8 Determinations on the agency's initiative.

(a) The Administrator may make a determination of eligibility on his or her own initiative. The agency publishes in the **Federal Register**, affording opportunity for comment, a notice containing the information available to the agency (other than confidential information) relevant to the basis upon which eligibility may be determined.

(b) No public hearing, argument, or other formal proceeding is held upon a notice published under this section.

(c) The Administrator publishes a second notice in the **Federal Register** in which (s)he announces his or her determination whether the vehicle is eligible or ineligible for importation, and states the reasons for the determination. A notice of ineligibility also announces that no further determination for the same model of motor vehicle will be made for at least 3 months following the date of publication of the notice. There is no administrative reconsideration available for a decision of ineligibility.

§ 593.9 Effect of affirmative determinations; lists.

(a) A notice of grant is sufficient authority for the importation by persons other than the petitioner of any vehicle of the same model specified in the grant.

(b) The Administrator publishes annually in the **Federal Register** a list of determinations made under §§ 593.7 and 593.8.

§ 593.10 Availability for public inspection.

(a) Except as specified in paragraph (b) of this section, information relevant to a determination under this part, including a petition and supporting data, and the grant or denial of the petition or the making of a determination on the Administrator's initiative, is available for public inspection in the Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Copies of available information may be obtained, as provided in Part 7 of this chapter.

(b) Except for release of confidential information authorized under Part 512 of this chapter, information made available for inspection under paragraph (a) does not include information for which confidentiality has been requested and granted in accordance with Part 512, and 5 U.S.C. 552(b). To the extent that a petition contains material relating to the methodology by which the petitioner intends to achieve conformance with a specific standard, the petitioner may request confidential treatment of such material on the grounds that it contains a trade secret or confidential information in accordance with Part 512 of this chapter.

Issued on: April 19, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-9830 Filed 4-24-89; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 594

[Docket No. 89-8; Notice]

RIN 2127-AC98

Schedule of Fees Authorized by the Imported Vehicle Safety Compliance Act

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Traffic and Motor Vehicle Safety Act, as revised by the Imported Vehicle Safety Compliance Act of 1988 (Pub. L. 100-562), provides that motor vehicles not conforming to Federal motor vehicle safety standards may nevertheless be imported into the United States under certain circumstances. In general, a nonconforming vehicle may be imported under bond for its conformance, or exportation in the event it is not conformed, by those who have registered with NHTSA as importers, provided that NHTSA has determined that the nonconforming vehicle is capable of being conformed to meet the safety standards.

The Safety Act authorizes NHTSA to establish fees to cover its cost of administering the registration program, and of making conformance capability determinations, and to reimburse the U.S. Customs Service its costs in processing the importation bond. The purpose of this notice is to propose the fee schedules that will implement the statutory authorization. The agency has tentatively concluded that the initial annual fee for the registration program should be $255. The fee to accompany a petition for a determination that a vehicle is eligible for importation would be either $1560 or $2150, depending upon the basis of the petition. The fee required to reimburse the U.S. Customs Service for bond processing costs is proposed to be $125 per bond.

DATES: Comment closing date for the proposal is June 26, 1989. The effective date of the final rule would be 30 days after its publication in the **Federal Register.**

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, (202-366-5263).

SUPPLEMENTARY INFORMATION:

Introduction

On December 5, 1988, the National Highway Traffic Safety Administration published a notice of the amendment of section 108 of the National Traffic and Motor Vehicle Safety Act by Pub. L. 100-562, the Imported Vehicle Safety Compliance Act of 1988 (53 FR 49003). The effective date of the amendments is January 31, 1990. On and after that date, with the exceptions sepcified in the notice, motor vehicles that have not been manufactured to conform to the Federal motor vehicle safety standards may be imported only by persons who have registered with NHTSA as undertaking to bring the vehicle into conformance, or by persons who have contracts with Registered Importers to perform conformance work. In addition, a nonconforming vehicle may not be imported unless NHTSA has determined that it is capable of being conformed to the standards. The agency may make such a determination in a response to a petition by a Registered Importer, or on its own initiative. Each nonconforming vehicle permitted entry must be accompanied by a bond given to secure performance of the conformance work, or, to ensure its exportation or abandonment to the United States in the event that the vehicle is not brought into full conformance.

Proposals have been issued to implement the new import provisions of the Vehicle Safety Act described above, and are being published simultaneously with this notice. They are 49 CFR Part 591, *Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards;* Part 592, *Registered Importers of Nonconforming Vehicles;* and Part 593, *Determinations That a Nonconforming Vehicle is Eligible for Importation.*

The new provisions also specifically authorize NHTSA to impose fees to cover certain administrative costs incurred in implementation of the new importation procedures. There are two or more types of fees to cover three types of costs for which fees may be charged: an annual fee to cover the costs of administration of the importer registration program, an annual fee or fees to cover the costs of processing the bond furnished to the Customs Service, and an annual fee or fees to cover the costs of making import eligibility determinations.

The purpose of this notice is propose a fee schedule that appears appropriate for recovery of each cost, and to explain the rationale behind each of these fees. In identifying those agency activities that may form the cost basis of a fee

authorized by the new import provisions, the agency has been guided by the experience of other agencies in collecting users fees under the Independent Offices Authorization Act (31 U.S.C. 9701), and the Consolidated Omnibus Budget Reconciliation Act (Pub. L. 99-272). Thus, the agency intends to identify each service it provides, to explain why NHTSA is entitled to recover the cost of providing that service, to identify each type of expenditure incurred in providing that service, to explain the criteria used to include or exclude a particular expenditure and to calculate the amount of each such expenditure.

1. Annual Fee for Administration of the Importer Registration Program.

Section 108(c)(3)(A) of the Vehicle Safety Act provides that registered importers must pay "such annual fee as the Secretary establishes to cover the cost of administering the registration program * * *." (15 U.S.C. 1397(c)(3)(A)(iii)).

The first issue addressed by the agency is whether the term "registration program" is inclusive of all activities under section 108 (except for the other activities for which a fee may be imposed), or whether it is restricted to activities relating directly to the registration process, such as reviewing registration applications and acting upon them. The agency has interpreted "registration program" conservatively, concluding that it refers only to activities connected with the development and maintenance of the registration process, including monitoring, and enforcement activities resulting in suspension or revocation of a registration. Although it could be argued that NHTSA's verification of the certification submitted by a registered importer is relevant to the maintenance by that registered importer of its status, this agency believes that Congress did not intend to include such an activity in the registration program. Specifically, section 108(c)(3)(B)(i) prohibits the application of fees collected under the Vehicle Safety Act to NHTSA's inspection of vehicles for which certifications have been filed. Thus, NHTSA has excluded, from the fee structure of the registration program, activities connected with processing of certificates and compliance documentation of motor vehicles.

The second issue addressed by NHTSA, and relevant to the other authorized fees as well, is whether the agency can recover both direct and indirect costs associated with its activities. It notes that there is no modifier of the word "costs," and has concluded that both direct and indirect costs may be recovered. Such costs include all costs of administering the program, including salaries and other personnel costs (retirement, insurance and leave), travel, postage, maintenance and depreciation of equipment, supplies, and a proportionate share of agency management and supervisory costs as well as accrued liabilities, which include severance pay, unemployment compensation, workers compensation, and unused leave costs.

The initital annual fee attributable to the registration program that NHTSA proposes to establish contains three components. The first component is one that would cover the cost of processing an application by a person seeking to become a Registered Importer. It would not be refundable in the event of a denial. The second component represents the costs attributable to such inspection as the agency may deem necessary to conduct prior to a decision on an application. The third component is intended to cover the remaining costs. The first and third components of the initial annual fee would be paid at the time that an applicant seeks to become a Registered Importer. The second component would be paid only if an inspection is actually conducted, and would be payable by the end of the tenth calendar day after notification by the agency. If the application is denied, the amount of the fee representing the third component would be refunded to the applicant.

Annual fees after the initial annual fee would also have three components. Instead of a component attributable to processing an application, the first component of a regular annual fee would cover the costs of processing the Registered Importer's annual statement (or mid-year changes) attesting to no material change in its condition and that it is maintaining its financial and technical ability to meet its statutory obligations. The second component would cover the cost, if any, of such inspections the agency might have conducted with respect to the Registered Importer during the year. The third component is again intended to cover remaining costs.

With respect to the first component of the initial annual fee, the relatively simple, discrete activities involved in processing and acting upon registration applications permit a uniform first component sum to be developed, payable by all who seek to become Registered Importers. Similarly, the agency tasks involved in processing and reviewing annual statements appear to permit a uniform first component sum to be developed. The direct costs that the agency will consider in this regard are the amount of time spent in reviewing applications or annual statements for form and content, analysis, and drafting of documents relating to the analysis and disposition of the application or annual statement, including direct supervisory time. Other direct costs associated, such a postage, computer time, and meetings to discuss the merits of an application or annual statement, may be included in the free structure. However, while the application is pending, NHTSA may wish to inspect the premises of the applicant or its agent. The costs of this inspection would form the basis of the second component of the fee that would be paid before a determination was made on the merits of the application. Inspections conducted after registration has been granted (the second component of the regular annual fee) would be reflected in the next annual fee payable by the registered importer concerned.

The agency would consider indirect costs as well. For example, if one-third of a staffer's time at a word processing terminal is spent in drafting documents relative to an application determination, then a third of the cost of maintaining the space and the terminal may be factored into a registration fee. Indirect general and administrative costs can be included in the fee structure as a pro rata share of the costs attributable to running the program.

Once a registration has been granted, section 108(d)(2) imposes an obligation on a Registered Importer to maintain evidence "satisfactory to the Secretary (of Transportation)" that the Registered Importer continues to be financially able to meet its statutory responsibilities "relating to discovery, notification, and remedy of motor vehicle defects." Further, section 108(c)(3)(D)(ii) directs the agency to set requirements for Registered Importers, including at a minimum (1) requirements for record-keeping; and (2) requirements for records and facilities inspection for Registered Importers. Activities associated with satisfying the agency of financial ability and meeting other specified responsibilities may be included in the cost basis of the registration program annual fee. The initial annual fee would be based upon NHTSA's estimates of costs for the first fiscal year that the registration program is in effect. If the amount of the annual fee for a succeeding year is adjusted, the adjustment would take into account NHTS'a actual experience in the year preceding.

Under proposed § 592.6(a)(7), the agency may inspect a facility or the records which the Registered Importer must keep to fulfill its program responsibilities. There are two purposes for which such inspections may be conducted. The first is to verify that the regulatory criteria for obtaining or maintaining the status of Registered Importer are met. These inspections are directly related to administration of the registration program. The agency may include direct and indirect costs associated with these inspection activities in the fee structure for the program. The second purpose for which an inspection may be conducted is to verify that a certification filed by a Registered Importer is supported by the conformance work performed. This activity is not part of the registration program. Consequently, if inspecting a facility for compliance with registration requirements also involves vehicle inspection, agency staff would be instructed to segregate costs to exclude those attributable to the inspection of vehicles, and only those costs directly attributable to the registration program would be included in the second component of the next regular annual fee.

As with processing an initial application or annual statement, all direct and indirect costs associated with the suspension of Registered Importer status are recoverable, as well as reinstatement of registration. These include costs associated with notifying a registrant that the agency is considering suspension, plus the costs of allowing it to present its opposition to suspension under proposed § 592.7(b), and costs associated with processing a registrant's request that NHTSA reconsider a suspension under proposed § 592.7(e). The final associated cost would be that of notifying the registrant of the determination regarding its suspension.

Similarly, the costs associated with revoking a registration would be recoverable. These include notifying a Registered Importer in writing that NHTSA intends to revoke registration under proposed § 592.7(b), or that the agency has revoked a registration under proposed § 592.7(c) because the registrant knowingly filed a false or misleading certification. Further recoverable costs would be those associated with reviewing, analyzing and responding to the registrant's written opposition to a preliminary decision to revoke its registration.

The agency may include whatever activities are associated with making a determination under proposed § 592.7(d) that the basis for a suspension no longer exists. The nature of the reinstatement process would vary depending on the reason for the suspension. For example, the process would be comparatively simple if the suspension was for failure to pay a fee.

2. Fee for Making Vehicle Eligibility Determinations

Section 108(c)(3)(A)(iii)(II) also requires Registered Importers to pay "such other annual fee or fees as the Secretary reasonably establishes to cover the cost of * * * making the determinations under this section." These determinations are whether the vehicle sought to be imported is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, and certified as meeting the Federal standards, and whether it is capable of being readily modified to meet those standards, or, alternatively, where there is no substantially similar U.S. motor vehicle, whether the safety features of the vehicle comply with or are capable of being modified to comply with the U.S. standards. These determinations are made pursuant to petitions submitted by Registered Importers or manufacturers, or pursuant to determinations made upon the Administrator's initiative.

In developing this regulation, the agency considered the type and frequency of fees that would best implement the purpose of the 1988 Act. With respect to making eligibility determinations, it considered an "annual fee", in which total costs attributable to eligibility determinations would be divided equally among all registered importers. Such a fee would be payable at the time of the next regular annual fee for administration of the registration program. This type of fee appears equitable in the sense that more than one registered importer may benefit from an eligibility determination, and that the costs would not be borne by the petitioner alone. However, if the phrase "annual fee or fees" is construed so that "fees" is not modified by "annual", this construction permits a fee to be charged attributable to individual determinations of eligibility. The benefit of this approach is that permits "pay-as-you-go", under which costs are more quickly recovered. This fee would be payable by a petitioner for a determination, or by the importer who first benefits from a determination made on the agency's initiative (see further discussion below).

The agency requests comments on each approach. For purposes of this notice, however, the agency has chosen the second approach (though calling attention to the fact that, in the final rule, it may chose the first approach). Under the proposed approach, a petition by a manufacturer or registered importer for a determination would be accompanied by the fee specified in Part 594. The payment of this fee by the petitioner is premised upon the likelihood that the petitioner would be the immediate beneficiary of any favorable determination, and therefore ought to pay the costs authorized by statute for consideration of its petition. The immediate beneficiary of a favorable determination made upon the Administrator's initiative would be the first registered importer, or other person, who imports a vehicle that is covered by the determination. Therefore, NHTSA proposes to establish a fee that would be payable by the registered importer who furnishes a certificate of conformity covering the first vehicle imported under a declaration filed after notice of the Administrator's initiative determination has appeared in the **Federal Register.** The notice would include a discussion of the fee to be paid and the basis for it. Subsequently, upon receipt of the first declaration covering the vehicle, NHTSA would notify the registered importer concerned that the stated fee is due at the time the certificate of conformity covering the vehicle is received. However, NHTSA is aware that such costs would remain unrecoverable until such time as (and unless) a declaration is filed on such a vehicle.

Regardless of which approach is chosen, the activities that may form the cost basis for petitions appear identical. These include logging-in, notifying the petitioner of receipt, and evaluating the petition. If the agency grants a written request for the petitioner to appear to discuss a petition under proposed § 593.7(c), it may recover the cost of processing the written request and discussing the petition. Although the Act does not require an actual demonstration of conformance, only that a vehicle is capable of conformance, a petitioner may wish to substantiate its arguments with presentation of a modified vehicle. In that event, it may be necessary for NHTSA to inspect the modified vehicle as part of its role in determining whether the vehicle is eligible for importation. The cost of that inspection would be properly recoverable. The new import provisions require publication of a notice in the **Federal Register;** thus the agency may also recover costs associated with preparing and processing **Federal Register** documents generated in connection with the petition, processing

and analyzing comments submitted in connection with a **Federal Register** document; and notifying a petitioner of the agency's decision.

When NHTSA makes a determination on the agency's initiative, it would also publish a notice in the **Federal Register** and receive and evaluate comments on it.

The new import provisions do not require the agency to publish a second **Federal Register** notice immediately after a decision is made. Section 108(c)(3)(C)(iv), however, does require NHTSA to publish annually in the **Federal Register** a list of all vehicles determined to be eligible for import under the Act. Compiling and publishing this list is connected with making and announcing eligibility determinations, and the costs may be included in the fee structure.

3. Fee to Recover the Costs of Processing the Bond

Section 108(c)(3)(A)(iii)(II) also requires a registered importer to pay "such annual fee or fees as the Secretary reasonably establishes to cover the cost of processing the bond furnished to the Secretary of the Treasury" upon the importation of a nonconforming vehicle to ensure that the vehicle will be brought into compliance within a reasonable time, or if the vehicle is not brought into compliance within such time, that it is exported without cost to the United States, or abandoned to the United States.

The statute contemplates that NHTSA make a reasonable determination of the cost to the United States Custom Service of processing the bond. The agency has met with representatives of the Customs Service to obtain such information as would allow it to include the cost basis of processing the bond in the fee structure. NHTSA will ensure that Customs follows the same guidelines as the agency does to determine whether each activity associated with processing the bond gives rise to a recoverable cost.

NHTSA believes that the cost of processing a bond is susceptible to expression as a uniform amount. For administrative reasons, it appears far simpler to impose this fee on each bond given, instead of totalling the sums at the end of a year and assessing an "annual fee" at that time, to be payable at the same time as the next regular annual fee. For this purpose, therefore, the "annual fee" would be the amount that Customs determines is attributable to the cost of processing each bond, and it would be paid on an incremental basis by the registered importer at the time the bond is furnished under this proposal.

4. Calculations of the Agency's Costs in Setting Fees

The agency does not read the statute as directing it to impose a *uniform* fee or fees, as long as a fee is established for the statutory purposes. To the extent possible, each such fee would be based upon an accounting of each discrete activity involved in the process. Thus, the fees imposed by Part 594 would include the agency's best direct and indirect cost estimates of the man-hours involved in each activity, on both the staff and supervisory levels, the costs of computer and word processor usage, postage costs, costs attributable to travel, salary and benefits, and maintenance of work space to name the ones set forth in the proposed regulation.

Specifically, each fee would be calculated on the basis of the direct and indirect costs associated with the activity for which the fee is paid. The direct costs include the average cost per professional staff-hour, computer and word processor time, stationery and postage, and transportation.

The average cost per professional staff-hour is calculated based upon the full costs for time spent (to the nearest quarter-hour) using the following applicable professional staff rates:

(A) Office of Vehicle Safety Compliance—Clerical staff—$13 per hour. Computer contract staff—$25 per hour. Review staff—$26 per hour. Supervisors—$26 per hour.

(B) Office of Chief Counsel—$41 per hour.

The average cost per computer-hour is calculated at the rate of $100 per hour.

The average cost for postage is calculated to be $3.00.

The indirect costs include a pro rata allocation of the average salary and benefits of persons employed in processing the applications and recommending decisions on them, and a pro rata allocation of the costs attributable to maintaining the office space, and the computer or word processor. The staff rates above include benefits; the costs associated with office space, equipment maintenance, communications and other overhead amount to an additional $6.71 per hour.

The cost for determing the salary and benefits of persons employed is calculated based upon the time spent multiplied by the employee's hourly wage.

The cost of maintaining the computer or word processor is calculated based upon maintenance, time sharing, and staff operations.

The cost of maintaining the office space is calculated based upon standard government regulations based upon grade levels.

The cost of travel is based upon an estimated round trip air fare of $250, and a 3-day per diem of $100 a day, for a total trip cost of $550.

A. Registration Program Fee

The Registration Program Annual Fee will have two and in some instances three components: a portion attributable to the registration process, a portion attributable to any inspection of an applicant that the agency deems needed to verify information submitted in an application for registration, and a portion attributable to other activities occurring in the registration program. Exclusive of the inspection portion, the agency has tentatively decided that the initial Annual Registration Program fee shall be $255.

The initial component of the Registration Program Fee is the portion of the fee attributable to processing and acting upon registration applications. The agency estimates this portion of the fee as $85.99.

In calculating the direct costs of processing registration applications, NHTSA estimates that one staff member and one supervisor will spend a total of one man-hour in processing, reviewing, and acting upon applications, that a quarter hour of computer, and computer-operator time will be required to verify that the applicant has not had a registration revoked, that a half hour of clerical time will be required, and that a postal charge will be incurred. These costs are estimated at $74.25.

In calculating the indirect costs of processing registration applications, NHTSA has estimated that these will average $6.71 per hour spent. Processing will require a total of 1.75 hours per application, thus NHTSA estimates that indirect costs will total $11.74. Thus the total direct and indirect costs of this component appear to be $85.99.

With respect to other costs attributable to maintenance of the registration program, these appear to consist principally of reviewing a registrant's annual statement verifying the continuing validity of information already submitted, and processing annual fees. These costs would also appear to include costs attributable to revocation or suspension of a registration.

In calculating the direct costs of administering the registration program other than costs connected with the initial application, NHTSA estimates that one staff member and one

supervisor will spend a total of 1.5 man-hours in administrative activities, that one half-hour of computer time, and computer operator time will be required, that 1.5 hours of clerical and recordkeeping time will be needed, and a postal charge will be incurred. The total direct charges for administering the registration program are estimated at $131.50. The total overhead costs of the 3.5 hours involved are $23.49, or a total of $154.99. These costs, of course, are exclusive of costs associated with revocation or suspension.

At this point it appears fairest that a suspended registrant bear the costs associated with suspension and reinstatement, to be included in its next annual fee. However, it will not be feasible to recover costs from an importer whose registration has been revoked. Equitably, those costs appear best borne by each registered importer paying a pro rata share in its annual fee. Obviously, before the effective date of the 1988 amendments NHTSA has no knowledge of how many Registered Importers there will be or how many suspensions or revocations may occur in the first year of the program. However, for purposes of determining this portion of the registration fee, NHTSA estimates that there will be 20 Registered Importers during the fiscal year beginning October 1, 1989, and ending September 30, 1990, and that there will be one revocation. Under proposed Part 592 the procedures that the agency will follow in determining whether a registration should be revoked or suspended are identical. This means that the direct and indirect costs should also be identical, up to the point of an agency determination. Because a suspended registration may be reinstated, either upon expiration of the term stated in the agency's letter of suspension, or upon cure of the cause giving rise to the suspension, there will be a slight additional cost commensurate with the clerical aspects of ending the suspension.

NHTSA contemplates that its Enforcement Office will recommend suspensions or revocations to the Office of Chief Counsel, and that 1 hour of staff time, and .25 hour computer operator time will be involved in recommendations. In addition, .25 hour of computer time will be used. The Office of Chief Counsel will require 1.75 hours to review the recommendation and draft a letter to the registrant, and an additional 1.75 hours to review the registrant's reply and to draft a letter of suspension, or revocation, or declining to take further action. Postal charges will total $6.00. The total direct costs associated with this procedure are $206.75, and the overhead costs for 4.75 hours of agency time, $34.87. The sum of $238.62 divided by the 20 estimated Registered Importers gives a figure of $11.93 to be added to the portion of the annual fee representing maintenance of the registration program (for reinstatement, to be borne by the registrant, NHTSA estimates that the total direct and indirect costs will be $40.36, representing .25 hour of clerical time, .25 hour of computer time, and .25 hour of computer operator time).

Thus, the total portion attributable to maintenance of the registration program, as estimated by NHTSA, is approximately $166.92. When added to the $85.99 representing the registration application component, the cost per applicant equals $252.91. Therefore, NHTSA proposes that the initial annual registration fee, for the period October 1, 1989 through September 30, 1990, be $255. In the event that an application is denied or withdrawn, NHTSA will refund all but $86 of this amount, or $169.

B. Fee for Vehicle Eligibility Petitions

In calculating the direct costs of processing and acting upon a petition for a determination of eligibility, NHTSA estimates that the costs involved for determinations involving substantially similar vehicles will require substantially less agency time than those for non-similar vehicles. For purposes of this determination, NHTSA has chosen passenger cars and multipurpose passenger vehicles, the most frequently imported types of motor vehicles. The agency estimates the total direct and indirect costs for a determination involving a substantially similar vehicle at $1,558.68, and for a non-similar vehicle at $2,151.61. In this light, a fee of $1,560 for substantially similar vehicle determinations, and one of $2,150 for those that are not substantially similar, appears to fulfill the statutory directive.

More specifically, the following cost breakdown has been estimated for substantially similar (and non-similar) vehicles. The process will result in personnel costs related to 2 (5) supervisory hours, 24 (35) staff hours, .25 (.25) hour computer time, .25 (2) hour(s) data entry time, .50 (2) hour(s) clerical time, and .25 (.50) hour recordkeeping time. In addition, .25 hour of computer time would be used for each. However, costs associated with preparing and publishing the two Federal Register notices, and evaluating comments to the first notice, should be identical. Each notice may require two columns of space ($125 per column), for a cost of $250 per notice, and total publication costs of $500. Following agency practice with other petitions, the notices will be prepared by the Office of Chief Counsel. It is estimated that each notice will require 1 hour of preparation time, and .50 hour of clerical time, or a total of 3 hours for both notices. The estimated total direct charges for determinations of eligibility will be $1,342 ($1,817.50).

In calculating the indirect costs of processing and acting upon eligibility petitions, NHTSA estimates that the process, including the Federal Register preparation time, will take 30 (47.50) man hours, for a cost of $201.30 ($318.73), or a total of $1,543.30 ($2,136.23). These totals include .25 hour of computer time. To this must be added the pro rata cost of the yearly Federal Register notice. It is estimated that this will require 1 hour of Office of Chief Counsel time, .50 hour clerical time, and two columns in the Federal Register. The total direct costs to fulfill this statutory requirement would be $297.50. The overhead costs, $10.07. The total of $307.57 divided among the estimated 20 Registered Importers adds $15.38 to each petition cost, or a total of $1,558.68 ($2,151.61). Therefore, a petition fee of $1,560 ($2,150) is being proposed. At this point, costs appear similar for determinations made upon the agency's own initiative, and the same fee will be used in recovery of costs.

C. Bond Processing Costs

With respect to the costs attributable to processing the bond furnished the Secretary of the Treasury, the agency was informed in 1986 by the U.S. Customs Service that the figure was $115. Based on an evaluation of increases in Federal pay rates between 1986 and 1989, yields a 1989 cost of $125 per bond.

Effective Date

Section 108(c)(3)(B) requires that the amount or rate of fees shall be reviewed, and, if appropriate, adjusted by NHTSA at least every 2 years. It also requires that the fee applicable in any fiscal year shall be established by NHTSA before the beginning of each such year. Therefore, a final rule on this proposal will be issued not later than Friday, September 29, 1989, so that the fees it establishes will be applicable in Fiscal Year 1990, which begins October 1, 1989.

Impacts

After considering the impacts of this rulemaking action, NHTSA has determined that the action is not major within the meaning of Executive Order 12291 "Federal Regulation", because it

will not have an impact upon the economy in excess of $100 million. Nor is it significant under Department of Transportation regulatory policies and procedures. The proposed action does not involve any substantial public interest or controversy. Nor is there any substantial effect upon state and local governments. There is no substantial impact upon a major transportation safety program. Both the number of registered importers and vehicles for which determinations are estimated to be comparatively small, and the number of vehicles imported per year is estimated to be less than 3000.

NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported through registered importers would not vary significantly from that existing before promulgation of the rule even with the imposition of fees to be paid by registered importers.

The agency has also considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant effect upon a substantial number of small entities. Although entities that currently modify nonconforming vehicles may be small businesses within the meaning of the Regulatory Flexibility Act, the agency has no reason to believe that a substantial number of these companies could not pay the fees imposed by this proposed regulation. However, small businesses currently conforming vehicles may not choose to register as importers because of the fee and other requirements, and these businesses would no longer be able to perform conformance work after January 31, 1990. The cost to owners or purchasers of modifying nonconforming vehicles to conform with the safety standards may be expected to increase to the extent necessary to reimburse the registered importer for the fees payable to the agency for the cost of administering the registration program and to compensate Customs for its bond processing costs. Governmental jurisdictions would not be affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles.

The agency has analyzed the proposed rule in accordance with the principles and criteria contained in Executive Order 12612 "Federalism" and determined that the proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 594

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that a new Part 594, *Schedule of Fees Authorized by the Imported Vehicle Safety Compliance Act* be added to title 49, chapter V, to read as follows:

PART 594—SCHEDULE OF FEES AUTHORIZED BY THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT

Sec.

594.1 Scope.
594.2 Purpose.
594.3 Applicability.
594.4 Definitions.
594.5 Establishment and payment of fees.
594.6 Annual fee for administration of registration program.
594.7 Fee for filing petition for a determination whether a vehicle is eligible for importation.
594.8 Fee for importing a vehicle pursuant to a determination made on the Administrator's initiative.
594.9 Fee for reimbursement of bond processing costs.

Authority: Sec. 2(b), Pub. L. 100–562, 102 Stat. 2818 (15 U.S.C. 1397); sec. 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1407); delegations of authority at 49 CFR 1.50 and 501.8.

§ 594.1 Scope.

This part establishes the fees payable by Registered Importers, and applicants for Registered Importer status, and manufacturers who are not Registered Importers who petition the Administrator for a determination pursuant to Part 593 of this chapter, as authorized by the National Traffic and Motor Vehicle Safety Act.

§ 594.2 Purpose.

The purpose of this part is to ensure that NHTSA is reimbursed by persons who apply to become Registered Importers, for costs incurred in processing applications, and by those who are granted that status, for costs incurred in administering the registration program, in making determinations whether a nonconforming vehicle is eligible for importation into the United States, and in processing the bond furnished to the Secretary of the Treasury given to ensure that an imported nonconforming vehicle is brought into compliance with the Federal motor vehicle safety standards, or will be exported, or abandoned to the United States.

§ 594.3 Applicability.

This part applies to any person who applies to NHTSA to be granted the status of a Registered Importer, and to any person who has been granted such status.

§ 594.4 Definitions.

All terms used in this part that are defined in section 102 of the National

Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

"Administrator" means the Administrator of the National Highway Traffic Safety Administration.

"NHTSA" means the National Highway Traffic Safety Administration.

"Registered Importer" means any person who has been granted the status of registered importer under Part 592 of this chapter, and whose registration has not been revoked.

§ 594.5 Establishment and payment of fees.

(a) The fees established by this part continue in effect until adjusted by the Administrator. The Administrator reviews the amount or rate of fees established under this part and, if appropriate, adjusts them by rule at least every 2 years.

(b) The fees applicable in any fiscal year are established before the beginning of such year. Each fee is calculated in accordance with this part, and is published in the **Federal Register** not later than September 30 of each year.

(c) An applicant for status as Registered Importer shall submit an initial annual fee with the application. A fee for a determination that a vehicle is eligible for importation shall be submitted with the petition for a determination. No application or petition will be accepted for filing or processed before payment of the full amount specified. Except as provided in § 594.6(d), a fee shall be paid irrespective of NHTSA's disposition of the application or petition, or of a withdrawal of an application or petition.

(d) A Registered Importer annual fee, other than the initial annual fee, is payable not later than October 31 of each year.

(e) A fee attributable to a determination of eligibility made on the Administrator's initiative shall be paid by a Registered Importer in accordance with § 594.8(b).

(f) A fee for reimbursement for bond processing costs shall be filed with each certificate of conformity furnished the Administrator.

(g) Any other annual fee is payable not later than October 31 of each year. Any other fee is payable not later than 30 calendar days after the date of written notification by the Administrator.

(h) Fee payments shall be by check, draft, money order, or Electronic Funds Transfer System made payable to the Treasurer of the United States.

§ 594.6 Annual fee for administration of the registration program.

(a) Each person filing an application to be granted the status of a Registered Importer pursuant to Part 592 of this chapter during the period October 1, 1989, through September 30, 1990, shall pay an initial annual fee of $255, as calculated below, based upon the direct and indirect costs attributable to:

(1) Processing and acting upon such application;

(2) Any inspection deemed required for a determination upon such application; and

(3) The estimated remaining activities of administering the registration program in the fiscal year in which such application is intended to become effective.

(b) That portion of the initial annual fee attributable to the processing of the application for applications filed from October 1, 1989, through September 30, 1990, is $85.99. The sum of $86, representing this portion, shall not be refundable if the application is denied or withdrawn.

(c) If, in order to make a determination upon an application, NHTSA must make an inspection of the applicant's facilities, or those of any agent, NHTSA notifies the applicant in writing after the conclusion of any such inspection, that a supplement to the initial annual fee in a stated amount is due upon receipt of such notice to recover the direct and indirect costs associated with such inspection and notification, and that no determination will be made upon the application until such sum is received. Such sum is not refundable if the application is denied or withdrawn.

(d) That portion of the initial annual fee attributable to the remaining activities of administering the registration program from October 1, 1989, through September 30, 1990, is set forth in paragraph (i) of this section. This portion shall be refundable if the application is denied, or withdrawn before final action upon it.

(e) Each Registered Importer who wishes to maintain the status of Registered Importer shall pay a regular annual fee based upon the direct and indirect costs of administering the registration program, including the suspension and reinstatement, and revocation of such registration.

(f) The elements of administering the registration program that are included in the regular annual fee are:

(1) Calculating, revising, and publishing the fees to apply in the next fiscal year, including such coordination as may be required with the U.S. Customs Service.

(2) Processing and reviewing the annual statement attesting to the fact that no material change has occurred in the Registered Importer's status since filing its original application.

(3) Processing the annual fee.

(4) Processing and reviewing any amendments to an annual statement received in the course of a fiscal year.

(5) Verifying through inspection or otherwise that a Registered Importer is complying with the requirements of § 592.6(a)(3) of this chapter for recordkeeping.

(6) Verifying through inspection or otherwise that a Registered Importer is able technically and financially to carry out its responsibilities pursuant to 15 U.S.C. 1411 *et seq.*

(7) Invoking procedures for suspension of registration and its reinstatement, and for revocation of registration pursuant to § 592.7 of this chapter.

(g) The direct costs included in establishing the annual fee for maintaining registered importer status are the estimated costs of professional and clerical staff time, computer and computer operator time, and postage, per Registered Importer. The direct costs included in establishing the annual fee for a specific Registered Importer are costs of transportation and *per diem* attributable to inspections conducted with respect to that Registered Importer in administering the registration program, which have not been included in a previous annual fee.

(h) The indirect costs included in establishing the annual fee for maintaining Registered Importer status are a pro rata allocation of the average salary and benefits of persons employed in processing annual statements, or changes thereto, in recommending continuation of Registered Importer status, and a pro rata allocation of the costs attributable to maintaining the office space, and the computer or word processor. NHTSA estimates this cost at $6.71 per man-hour for the period October 1, 1989, through September 30, 1990.

(i) Based upon the elements, and indirect costs of paragraphs (f), (g), and (h) of this section, the component of the initial annual fee attributable to administration of the registration program, covering the period from October 1, 1989, through September 30, 1990, is $166.92. When added to the component representing the costs of registration of $85.99, as set forth in paragraph (b) of this section, the costs per applicant to be recovered through the annual fee is $252.91. The annual registration fee for the period October 1,

1989, through September 30, 1990, is $255.

§ 594.7 Fee for filing petition for a determination whether a vehicle is eligible for importation.

(a) Each manufacturer or registered importer who petitions NHTSA for a determination that:

(1) A nonconforming vehicle is substantially similar to a vehicle originally manufactured for importation into and sale in the United States and of the same model year as the model for which petition is made, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards, or

(2) A nonconforming vehicle has safety features that comply with or are capable of being modified to comply with all applicable Federal motor vehicle safety standards shall pay a fee based upon the direct and indirect costs of processing and acting upon such petition.

(b) The direct costs attributable to processing a petition filed pursuant to paragraph (a) of this section include the average cost per professional staff-hour, computer and computer operator time, and postage. The direct costs also include those attributable to any inspection of a vehicle requested by a petitioner in substantiation of its petition.

(c) The indirect costs attributable to processing and acting upon a petition filed pursuant to paragraph (a) of this section include a pro rata allocation of the average salary and benefits of persons employed in processing the petitions and recommending decisions on them, and a pro rata allocation of the costs attributable to maintaining the office space, and the computer or word processor.

(d) The direct costs attributable to acting upon a petition filed pursuant to paragraph (a) of this section, also include the cost of publishing a notice in the **Federal Register** seeking public comment, the costs of publishing a second notice with the agency's determination, and pro rata share of the costs of publishing an annual list of nonconforming vehicles determined to be eligible for importation.

(e) The fee payable for a petition for a determination that a nonconforming vehicle is eligible for importation into the United States for petitions filed from October 1, 1989, through September 30, 1990, is $1560 if a petition is filed under paragraph (a)(1) of this section, and $2150 if filed under paragraph (a)(2) of this section, when the petitioner does not request inspection of a vehicle. When the petitioner requests an inspection of a vehicle, the sum of $550 shall be added to such fee. No portion of this fee is refundable if the petition is withdrawn or denied.

§ 594.8 Fee for importing a vehicle pursuant to a determination made on the Administrator's initiative.

(a) A fee shall be established to cover the direct and indirect costs incurred by NHTSA in determinations made under § 593.8(a) of this part, pursuant to its own initiative, that a vehicle is eligible for importation into the United States. The basis of such fee is that set forth in § 594.7 (b), (c), and (d). If the basis of the determination is that a vehicle meets the criteria of paragraph (a)(1) of § 594.7, the fee is $1560. If the basis of the determination is that a vehicle meets the criteria of paragraph (a)(2) of § 594.7, the fee is $2150. These fees are applicable to each determination made from October 1, 1989, through September 30, 1990.

(b) After NHTSA has made a determination on its own initiative, the notice published in the **Federal Register** announcing the determination includes a fee attributable to NHTSA's direct and indirect costs incurred pursuant to such determination, and an advisory that such fee shall be payable by the Registered Importer who furnishes a certificate of conformity pursuant to § 592.6(a)(3)(vi) of this chapter, on behalf of the first person who files a declaration pursuant to § 591.5(f) of this chapter that the vehicle is eligible for importation.

(c) After receipt of the first declaration covering a vehicle eligible for importation because of a determination made pursuant to the Administrator's initiative, NHTSA informs the appropriate Registered Importer that a fee in the stated amount shall accompany the certificate of conformity that the Registered Importer must furnish for the vehicle. No certificate shall be accepted for filing or processing unless and until such fee has been paid. A certificate for which no remittance is received may be returned to the registered importer.

§ 594.9 Fee for reimbursement of bond processing costs.

(a) Each Registered Importer shall pay a fee based upon the direct and indirect costs of processing each bond furnished to the Secretary of the Treasury with respect to each vehicle for which it furnishes a certificate of conformity to the Administrator pursuant to § 591.7(e) of this chapter.

(b) The direct and indirect costs attributable to processing a bond are provided to NHTSA by the U.S. Customs Service.

(c) Based upon information from the U.S. Customs Service, the bond processing fee for each vehicle for which a certificate of conformity is furnished from October 1, 1989, through September 30, 1990, is $125.

Issued on April 19, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-9827 Filed 4-24-89; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 54, No. 78
Tuesday, April 25, 1989

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.

ACTION

Agency Information Collection Activities Under OMB Review

AGENCY: Action.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the Federal Domestic Volunteer Agency.

Background: Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [requests for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Need and Use: Information from project sponsors on numbers of volunteers, volunteer hours delivered, volunteer activities, volunteer stations, etc. is needed for program management, required reporting to the U.S. Congress, and planning.

To Obtain Information About or To Submit Comments on This Proposed Information Collection, Please Contact Both:

Melvin E. Bettle, Clearance Officer, ACTION, Room M–600, 806 Connecticut Ave., NW., Washington, DC 20525. Tel: (202) 634–9321.

and

James Houser, Desk Officer for ACTION, Office of Management and Budget, New Executive Office Bldg., Room 3002, Washington, DC 20503. Tel: (202) 395–7316.

Office of ACTION Issuing the Proposal: Office of Older American Volunteer Programs/Domestic & Anti-Poverty Operations

Title of Forum: OAVP Project Profile and Volunteer Activity Survey

Type of Request and Respondent's Obligation To Reply: Annual Project activity questionnaire; voluntary

General Description of Respondents: Project Directors of 1139 grantees for FGP, SCP; and RSVP

Estimated Response Burden: Overall Figure in Burden Hours—8087

Number of respondents by group	Average burden minutes per response	Frequency of response
252 FGP project directors.	5.2 hrs	once/year.
143 SCP project directors.	4.2 hrs	once/year.
744 RSVP project directors.	8.3 hrs	once/year.

Dated: April 19, 1989.

Melvin E. Beetle,

Clearance Officer, ACTION.

[FR Doc. 89–9845 Filed 4–24–89; 8:45 am]

BILLING CODE 6050–28–M

Agency Information Collection Activities Under OMB Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the Federal Domestic Volunteer Agency.

BACKGROUND: Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [requests for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

NEED AND USE: Need: To assure that projects fulfill legislated purpose to monitor progress.

Uses: To provide standard performance reports by which progress is measured and determine need for technical assistance.

To Obtain Information About or to Submit Comments on This Proposed Information Collection, Please Contact Both:

Melvin E. Beetle, Clearance Officer, ACTION, Room M–600, 806 Connecticut Ave. NW., Washington, DC 20525. Tel: (202) 634–9321.

and

James Houser, Desk Officer for ACTION, Office of Management And Budget, New Executive Office Bldg., Room 3002, Washington, DC 20503. Tel: (202) 395–7316.

Office of ACTION Issuing the Proposal: Domestic Operations.

Title of Form: Quarterly Project Progress Reports

Type of Request and Respondent's Obligation to Reply: Quarterly project progress report—Obligatory to obtain/retain benefits.

General Description of Respondents: Public agencies and private, non-profits, including small organizations.

Estimated Response Burden: Overall Figure in Burden Hours—11,868

Number of respondents by group	Average burden minutes per response	Frequency of response
OAVP=1139	120 minutes	quarterly.
VISTA=600	90 minutes	quarterly.
SCS=114	60 minutes	quarterly.
Title I, Part "C"=125.	90 minutes	quarterly.
Totals: 1978.	Average: 1½ hr/ea.	

Melvin E. Beetle,

Clearance Officer, ACTION.

Dated: April 19, 1989.

[FR Doc. 89–9846 Filed 4–24–89; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Soybean, Research and Field Test Data, Equipment Approval, Program Procedures

AGENCY: Fedeal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: On February 23, 1989, the Federal Grain Inspection Service (FGIS) published a proposal to offer soybean oil and protein testing as official criteria under the United States Grain Standards Act (7 U.S.C. 71 *et seq.*) A public meeting is scheduled for May 10, 1989, to discuss equipment type-evaluation results, field test results, and other informaton that would be related to the program if a decision is made to provide soybean oil and protein testing.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., USDA, FGIS, Resources Management Division, Room 0628 South Building, P.O. Box 96454, Washington, DC 20090–6454– telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION: On February 23, 1989, FGIS published a proposal in the **Federal Register** (54 FR 7778) to offer soybean oil and protein testing as official criteria effective September 4, 1989, and requested comments on the constant moisture basis to be used in reporting the oil and protein results. In the same publication, FGIS also requested comments on a proposed rule to amend § 800.162 of the regulations (7 CFR 800.162) to require such information on all soybean certificates for grade beginning September 2, 1991. Coments on these issues were due April 24, 1989.

The purpose of the public meeting is to review with the industry and interested parties information concerning: research data, proposed analytical procedures, near-infrared (NIR) calibration data and procedures, field test data, equipment type-evaluation data, and the program and inspection procedures if a decision is made to provide soybean oil and protein testing beginning September 4, 1989. The merits of the proposed actions in the February 23, 1989 publication will not be discussed. Interested parties will be offered an opportunity at the meeting to present any data they may have. Oral presentations should be limited to not more than 10 minutes each.

The meeting will be held May 10, 1989, at 8:00 a.m., at the Embassy Suites Hotel, Kansas City International Airport, 7640 Northwest Tiffany Springs Parkway, Kansas City, Missouri 64154; telephone (816) 891–7788. The meeting is open to the public and public participation is invited. Persons who wish to submit written or oral statements at the meeting should contact Lewis Lebakken, Jr., telephone (202) 475–3428. (Pub. L. 94–582, 90 Stat. 2867, as amended, (7 U.S.C. 71 *et seq.*))

Dated: April 20, 1989.

W. Kirk Miller,

Administrator.

[FR Doc. 89–9884 Filed 4–24–89; 8:45 am]

BILLING CODE 3410-EN-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 7–89]

Proposed Foreign-Trade Zone—Brown County, WI (Green Bay Port of Entry); Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Brown County, Wisconsin, requesting authority to establish a general-purpose foreign-trade zone on a site encompassing the Austin Straubel Airport and two surrounding parcels (2,364 acres). The site includes land in the village of Ashwaubenon, the Town of Hobart and the reservation of the Oneida Tribe of Indians in Wisconsin in Brown County, within the Green Bay Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 14, 1989. Brown County is authorized to make this application pursuant to secton 182.50 of the 1985–86 Wisconsin Statutes.

The proposed zone would consist of three parcels: Parcel A (60 acres) is located at South Point Road and Airport Road, Ashwaubenon, and is owned by the County and the Oneida Indian Tribe; Parcel B (1,654 acres) consists of the county-owned Airport facility located in Ashwaubenon and Hobart; and, Parcel C (650 acres), also located in Ashwaubenon and Hobart, includes the Ashwaubenon Industrial Park at Adam Drive and Ridge Road, part of which is owned by the Village of Ashwaubenon.

The application contains evidence of the need for zone services in the Green Bay area. Several firms have indicated an interest in using zone procedures for warehousing/distribution activity, including glassware, auto parts, machinery and marine equipment. Specific manufacturing approvals are not being sought at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr., (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Richard Rudin, District Director, U.S. Customs Service, North Central Region, 517 E. Wisconsin Avenue, Room 554, Milwaukee, Wisconsin 53202; and Colonel John D. Glass, District Engineer, U.S. Army Engineer District, Detroit, P.O. Box 1027, Detroit, Michigan 48231–1027.

As part of its investigation, the examiners committee will hold a public hearing on May 17, 1989, beginning at 9 a.m., in the Brown County Board Chambers, Room 203, Green Bay City Hall, 100 North Jefferson Street, Green Bay, WI 54301.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by May 10, 1989. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through June 19, 1989.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 2077 Airport Drive, Straubel Field, Green Bay, WI 54303.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Room 2835, Washington, DC 20230.

Dated: April 18, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89–9801 Filed 4–24–89; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-307-801]

Initiation of Antidumping Duty Investigation: Aluminum Sulfate from Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of aluminum sulfate from Venezuela are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of aluminum sulfate materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before May 15, 1989. If that determination is affirmative, we will make a preliminary determination on or before September 5, 1989.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Eleanor Shea, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-0184.

SUPPLEMENTARY INFORMATION:

The Petition

On March 29, 1989, we received a petition filed in proper form by General Chemical de Puerto Rico on behalf of a U.S. aluminum sulfate industry. In compliance with the filing requirements of 19 CFR 353.36, petitioner alleges that imports of aluminum sulfate from Venezuela are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

Petitioner has alleged it has standing to file the petition. Specifically, petitioner has alleged that it is an interested party as defined under section 771(9)(C) of the Act and that it has filed the petition on behalf of a U.S. industry producing the product that is subject to this investigation. If any interested party as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act wishes to register support for, or opposition to, this petition, please file written notification with the Commerce officials cited in the "FOR FURTHER INFORMATION CONTACT" section of this notice.

United States Price and Foreign Market Value

Petitioner's estimate of United States price (USP) is based on a delivered price per ton of aluminum sulfate imported from Venezuela. This price is set forth in a contract between a U.S. customer and the Venezuelan supplier named in the petition. USP was adjusted to account for inland freight to the liquification plant, liquification in Puerto Rico, inland freight in Puerto Rico from the liquification site to the customer, Venezuelan excise tax, packaging for ocean shipment, and ocean freight and insurance. Petitioner's estimate of foreign market value (FMV) is based on a f.o.b. plant price quote dated March 10, 1989. Petitioner made no adjustments to FMV. Based on a comparison of FMV to USP, petitioner alleges a dumping margin of 96.30 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on aluminum sulfate from Venezuela and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of aluminum sulfate from Venezuela are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make a preliminary determination by September 5, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). The product covered by this investigation is aluminum sulfate from Venezuela, which is used in water purificatioin, in waste water treatment, and for other industrial applications. Prior to Janaury 1, 1989, such merchandise was classifiable under item 417.1600 of the *Tariff Schedules of the United States Annotated* (TSUSA). This merchandise is currently classifiable under HTS item 2833.22.00. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 15, 1989, whether there is a reasonable indication that imports of aluminum sulfate from Venezuela materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

April 17, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-9802 Filed 4-24-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-101]

Greige Polyester/Cotton Printcloth From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Tentative Determination To Revoke

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review and tentative determination to revoke.

SUMMARY: In response to a request by the respondent, the Department of

Commerce has conducted an administrative review of the antidumping duty order on greige polyester/cotton printcloth from the People's Republic of China.

The review covers the one known manufacturer/exporter of this merchandise to the United States and the period September 1, 1987 through August 31, 1988. There were no shipments of this merchandise to the United States by the firm during the period.

As a result of our review, we tentatively determine to revoke the antidumping duty order. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Maura Kim or Laurie A. Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–1130.

SUPPLEMENTARY INFORMATION:

Background

On February 12, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 5805) the final results of its last administrative review of the antidumping duty order on greige polyester/cotton printcloth from the PRC (48 FR 41614, September 16, 1983). The respondent, China National Textiles Import and Export Corporation ("Chinatex"), requested in accordance with 19 CFR 353.53a(a) that we conduct an administrative review. We published a notice of initiation of antidumping duty administrative review on December 5, 1988 (53 FR 48951). On January 31, 1989, we published a corrected initiation notice (54 FR 4871). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of greige polyester/cotton printcloth, other than 80 × 80 type. Greige polyester/cotton printcloth is unbleached and uncolored printcloth. The term "printcloth" refers to plain woven fabric, not napped, not fancy or figured, of singles yarn, not combed, of average yarn number 26 to 40, weighing not more than 6 ounces per square yard, of a total count of more than 85 yarns per square inch, of which the total count of the warp yarns per inch and the total count of the filling yarns per inch are each less than 62 percent of the total count of the warp and filling yarns per square inch.

During the review period such merchandise was classifiable under items 326.26 through 326.40 of the Tariff Schedules of the United States Annotated ("TSUSA"). This merchandise is currently classifiable under HTS item 5513.11.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of greige polyester/cotton printcloth, Chinatex, and the period September 1, 1987 through August 31, 1988.

Preliminary Results of Review and Tentative Determination to Revoke

Chinatex made no shipments to the United States for the period September 1, 1984 through August 31, 1988 and has requested revocation of the order. As provided for in 19 CFR 353.54(e), Chinatex has agreed in writing to an immediate suspension of liquidation and reinstatement of the order under circumstances specified in the written agreement. If this tentative determination to revoke is made final, it will apply to all unliquidated entries of this merchandise manufactured and exported to the United States, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttal comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication.

The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Furthermore, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties shall be required for shipments of this merchandise. The rate currently in effect for Chinatex is 22.4 percent. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after August 31, 1988, and who is unrelated to Chinatex, a cash deposit of 22.4 percent shall be required.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and 19 CFR 353.53a and 353.54.

Date: April 17, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89–9799 Filed 4–24–89; 8:45 am]

BILLING CODE 3510–DS–M

[A–475–084]

Spun Acrylic Yarn From Italy: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Commerce

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner and one exporter, the Department of Commerce has conducted an administrative review of the antidumping duty order on spun acrylic yarn from Italy. The review covers five manufacturers/exporters of this merchandise to the United States and the period April 1, 1986 through March 31, 1987. The review indicates the existence of dumping margins during this period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

We used best information available for two firms which failed to respond or provided an inadequate response to our request for information. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1980, the Department of Commerce ("the Department") published in the **Federal Register** (45 FR 23684) an antidumping duty order on spun acrylic yarn from Italy. The petitioner and one exporter requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation of the antidumping duty administrative review on May 20, 1987 (52 FR 18937). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 et seq. of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classsified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of worsted spun acrylic plied yarn for machine knitting, excluding four-ply craft yarn and certain brushed yarns. During the review period, such merchandise was classifiable under items 310.5015 and 310.5049 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 5509.3200. The HTS item number(s) are provided for convenience and Customs purposes. The written discription remains dispositive.

The review covers five manufacturers/exporters of spun acrylic yarn from Italy and the period April 1, 1986 through March 31, 1987. Only three manufacturers/exporters with shipments during the period responded adequately to our requests for information. Turriddo Torracchi did not respond to our questionnaire. Mister Joe's response to the Department's questionnaire was inadequate because it provided self-selected home market sales and did not provide any adjustments to U.S. or home market sales. Therefore, the Department used the best information available for these two firms, which was the rate published in the antidumping duty order (45 FR 23684, April 8, 1980). While the petitioner had requested that the Department conduct a review of an additional firm, that firm had no shipments during the period and we have no evidence that it is a manufacturer or exporter of the subject merchandise.

United States Price

In calculating United States price, the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed c.i.f., f.o.b., or delivered price to unrelated purchasers in the United States. We made adjustments for brokerage and handling, foreign inland freight, ocean freight, marine insurance, and U.S. inland freight.

We disallowed an addition for income due to currency exchange hedging because no provision is made for this adjustment in section 751 administrative reviews. Moreover, although respondent did not request that the income from currency hedging be used as a circumstance of sale adjustment, no circumstance of sale adjustment could be made because the income is not directly related to the sales under consideration. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used third-country price or constructed value as defined in section 773 of the Tariff Act. Third-country price was based on the packed f.o.b. or c.i.f. price to unrelated purchasers in third countries. We made adjustments for foreign inland feight and for differences in credit, packing, and physical characteristics of the merchandise. No other adjustments were claimed or allowed.

We calculated constructed value as the sum of the cost of the materials, fabrication, general expenses and packing, plus profit. The amount added for general expenses was either the actual cost or 10 percent of the sum of the materials and fabrication where the general expenses were less than the statutory minimum of 10 percent. The amount added for profit was either the actual amount of 8 percent of the sum of the costs of materials, fabrication and general expenses where profit was less than the statutory minimum of 8 percent.

The Department determined that Gruppo Bertrand's sales in the home market and to third countries were sold below its cost of production. As a result, we requested that Gruppo Bertrand demonstrate that its sales during the period were at prices which permit recovery of all costs within a reasonable period of time, in the normal course of trade. Gruppo Bertrand did not provide us with any information to establish that its costs could be recouped over time. Therefore, in the absence of any information to the contrary, we assume that Gruppo Bertrand's sales were at prices which do not permit recovery of costs within a reasonable period of time, in this case, the period of review.

Since insufficient quantities of such or similar merchandise were sold at or above the cost of production to provide an adequate basis for comparison, we used constructed value as defined in section 773 of the Tariff Act.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period April 1, 1986 through March 31, 1987.

Manufacturer/Exporter	Margin (percent)
Maniffattura Emmepi S.p.A.	0
Gruppo Bertrand (a.k.a. Fantasia, Cofisa, and Saberfil)	16.21
Lanificio DiNervesa Della Battaglia S.p.A./International Fibre Industries, Ltd.	3.84
Turriddo Torracchi	48.05
Mister Joe	48.05

We are not covering Enichem Fibre S.p.A (a.k.a. Ancifibre S.p.A.) because this firm is not known to be a manufacturer or exporter of the subject merchandise. If the firm should begin to export the subject merchandise, we will treat them as a new exporter.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. For shipments from the remaining known manufacturers and exporters not covered by this review, the cash deposit will continue to be at the latest rate applicable for each of those firms (47 FR 5280, Feburuary 4, 1982; 48 FR 37682, August 19, 1983; and, 50 FR 35849, September 4, 1985).

For any future entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after March 31, 1987, and who is unrelated to any reviewed firm, a cash deposit of 16.21 percent shall be required.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a(a) of the Commerce Regulations (19 CFR 353.53a).

Date: April 18, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Adminstration.

[FR Doc. 89-9905 Filed 4-24-89; 8:45am]

BILLING CODE 3510-DS-M

[A-429-601]

Solid Urea From the German Democratic Republic; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from one manufacturer/exporter, the Department of Commerce has conducted an administrative review of the antidumping duty order on solid urea from the German Democratic Republic. The review covers one manufacturer/exporter of this merchandise to the United States, Chemie Export-Import, and the period January 2, 1987 through June 30, 1988. There were no known shipments of this merchandise to the United States by Chemie during the period and there are no known unliquidated entries.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Room B-099, 14th Street & Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 26366) the antidumping duty order on solid urea from the German Democratic Republic. A manufacturer/exporter, Chemie Export-Import ("Chemie"), requested in accordance with 19 CFR 353.53a(a) that we conduct an administrative review. We published a notice of initiation on August 30, 1988 (53 FR 33163). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* ("HTS") as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). Imports covered in this review are shipments of solid urea. During this review such merchandise was classifiable under item number 480.3000 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 0511.99.40. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The review covers one manufacturer/exporter of this merchandise to the United States, Chemie, and the period January 2, 1987 through June 30, 1988. There were no known shipments of this merchandise to the U.S. by Chemie during the period and there are no known unliquidated entries.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margin exists:

Manufacturer/ exporter	Time period	Margin (percent)
Chemie	1/2/87—6/30/88	*48.80

*No shipments during the period; margin from the last period on which there were shipments.

Parties to the proceeding may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 35 days after the date of publication or the first workday thereafter.

Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in any such comments or at a hearing.

Further, as provided for by 19 CFR 353.48(b), a cash deposit of estimated antidumping duties based on the above margin shall continue to be required for all manufacturers/exporters. This deposit requirement is effective for all shipments of East German solid urea entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.53a.

Date: April 17, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-9800 Filed 4-24-89; 8:45 am]

BILLING CODE 3510-DS-M

University of Pennsylvania, et al.; Consolidated Decision on Applications for Duty-free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301).

Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 88–064. *Applicant:* University of Pennsylvania, Philadelphia, PA 19104–6085. *Instrument:* Flash Photolysis Device. *Manufacturer:* Gert Rapp, West Germany. *Intended Use.* See notice at 53 FR 1812, January 22, 1988. *Reasons for this Decision:* The foreign instrument provides focusing optics and pulse shaping optimized for initiating contractile events in muscle fibers. *Advice Submitted By:* National Institutes of Health, May 17, 1988.

Docket No.: 88–259. *Applicant:* Oklahoma State University, Stillwater, OK 74078–0447. *Instrument:* Mass Spectrometer, Model ZAB–2SE. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* See notice at 53 FR 37018, September 23, 1988. *Reasons for this Decision:* The foreign instrument is a high resolution (50 000 10% Valley definition) MS cable of scan speeds to 0.1 sec/decade and MS/MS analysis. *Advice Submitted by:* National Institutes of Health, November 1, 1988.

Docket No.: 88–211. *Applicant:* Louisiana State University and A&M College, Baton Rouge, LA 70803. *Instrument:* 252–CF–Plasma Desorption T–O–F Mass Spectrometer, Model BIN–20K. *Manufacturer:* Bio-Ion Nordic AB, Sweden. *Intended Use:* See notice at 53 FR 46106, November 16, 1988. *Reasons for this Decision:* The foreign instrument provides radioactive isotope ionization and mass accuracy to 0.1% in the range of 6000 to 15 000 amu. *Advice Submitted By:* National Institutes of Health, September 21, 1988.

Docket No.: 88–263. *Applicant:* University of California, Berkeley, Berkeley, CA 94720. *Instrument:* NMR Spectrometer, Model AM 300wb. *Manufacturer:* Bruker Analytische GmbH, West Germany. *Intended Use:* See notice at 53 FR 37018, Septemer 23, 1988. *Reasons for this Decision:* The foreign instrument provides (1) fiber optical light access probes with light pipes outside the sample cavity and (2) the fastest array processor. *Advice Submitted By:* National Institutes of Health, November 1, 1988.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–9906 Filed 4–24–89; 8:45 am]

BILLING CODE 3510–DS–M

Vanderbilt University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Accessories

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket No.: 88–244. *Applicant:* Vanderbilt University, Nashville, TN 37325. *Instrument:* Excimer Laser, Model EMG 160T MSC. *Manufacturer:* Lambda Physik, West Germany. *Intended Use:* See notice at 53 FR 32420, August 25, 1988. *Reasons for this Decision:* The foreign article provides a narrow bandwidth of 0.001 nm tuneable to within ±1 nm.

Docket No.: 88–256. *Applicant:* U.S. Geological Survey, Reston, VA 22092. *Instrument:* Gas Isotope Ratio Mass Spectrometer System, Model 251. *Manufacturer:* Finnigan, MAT, West Germany. *Intended Use:* See notice at 53 FR 37017, September 23, 1988. *Reasons for this Decision:* The foreign instrument provides a multi-element/multiple Faraday collector system, sample size capability of 0.03 micro-mole and a precision of 0.002°/oo.

Docket No.: 88–284 and 88–293. *Applicant:* U.S. Geological Survey, Denver, CO 80225 and State of New Jersey, Department of Environmental Protection, Trenton, NJ 08625. *Instrument:* Time Domain Electromagnetic Systems. *Manufacturer:* Geonics, Canada. *Intended Use:* See notices at 53 FR 43462–43463, October 27, 1988. *Reasons for this Decision:* The foreign articles provide a linear turnoff waveform and a 6μs response time after transmitter turnoff.

Docket No.: 88–300. *Applicant:* University of California, Lawrence Livermore National Laboratory, Livermore, CA 94550. *Instrument:* Streak Camera, Model IMACON 500. *Manufacturer:* Hadland Photonics, Ltd., United Kingdom. *Intended Use:* See notice at 53 FR 43464, October 27, 1988. *Reasons for this Decision:* The foreign article provides a temporal resolution of 2ps with seam speeds up to 25 ps/mm.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–9907 Filed 4–24–89; 8:45 am]

BILLING CODE 3510–DS–M

Travel and Tourism Administration

Study on Rural Tourism and Small Businesses

Take notice that by Congressional mandate, the U.S. Travel & Tourism Administration (USTTA) in the Department of Commerce is presently working on a two-part study to explore ways in which rural tourism and small businesses can be promoted through travel and tourism activities. The study will require cooperation and coordination among federal agencies, state and local officials, and the private sector. The study is scheduled to be completed and presented to Congress this summer.

Development of tourism in rural regions is fast becoming an important area of interest, particularly where natural attractions predominate or where special social and cultural opportunities exist. The potential of tourism to enhance local, regional, state, and national economies has been increasingly recognized by Congressional representatives, public officials and economic planners throughout the country over the last decade. The "Study on Rural Tourism and Small Businesses" will attempt to evaluate the diverse ways in which small businesses in rural areas can be promoted through travel and tourism.

In addition, this study will contribute to the U.S. government's efforts in assessing the need for a federal policy concerning the development and promotion of small businesses in rural communities through travel and tourism, and whether there should be a special federal effort to support such a policy.

USTTA welcomes any comments on this initiative. All interested persons wishing to submit information pertaining to this study should contact Mr. Praful B. Shah, Vice President of Economics Research Associates, the U.S. Department of Commerce's contractor for this study. The address is 8321 Old Courthouse Road, Suite 320, Vienna, Virginia 22180. The telephone number is (703) 8953–1560.

Eric C. Peterson,

Acting Under Secretary for Travel and Tourism, U.S. Department of Commerce.

[FR Doc. 89–9821 Filed 4–24–89; 8:45 am]

BILLING CODE 3510–11–M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Extension of Approval of Information Collection Requirements; Flammability Standards for Carpets and Rugs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through April 30, 1992, of information collection requirements in regulations implementing flammability standards for carpets and rugs. The regulations are codified at 16 CFR Parts 1630 and 1631, and prescribe requirements for testing and recordkeeping by persons and firms issuing guaranties for products subject to the Standard for the Surface Flammability of Carpets and Rugs and the Standard for the Surface Flammability of Small Carpets and Rugs.

Additional Details About the Requested Extension of Approval of Requirements for Collection of Information

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Standard for the Flammability of Carpets and Rugs (FF 1–70), 16 CFR Part 1630; Standard for the Flammability of Small Carpets and Rugs (FF 2–70), 16 CFR Part 1631.

Type of request: Extension of approval.

Frequency of collection: Varies depending upon volume of goods manufactured or imported.

General description of respondents: Manufacturers and importers of products subject to the flammability standards for carpets and rugs.

Estimated number of respondents: 120.

Estimated average number of hours for each respondent: 532 per year.

Estimated total hours for all respondents: 63,840.

Comments: Comments on this requested extension of approval of information collection requirements should be addressed to Pamela Barr, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: April 18, 1989.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 89–9892 Filed 4–24–89; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Science Board; Open 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)

Dates of Meeting: May 17–19, 1989

Time of Meeting: 0900–1700 hours each day

Place: Denver, Colorado

Agenda: The Army Science Board Subgroup on Toxic and Hazardous Waste Management will conduct its fourth meeting with emphasis on a review of Army activities at the Rocky Mountain Arsenal, Army compliance with Federal and State laws, and the public involvement program. Briefings will be conducted by representatives of the Army, EPA and the State of Colorado. Past, current, and planned actions will be discussed in accordance with the Terms of Reference. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89–9867 Filed 4–24–89; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Record of Decision To Establish the Southeast Alaska Acoustic Measurement Facility (SEAFAC), Behm Canal, Ketchikan Gateway Borough, AK

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), the U.S. Navy announces its decision to construct and operate the Southeast Alaska Acoustic Measurement Facility (SEAFAC), in Behm Canal, Ketchikan Gateway Borough, Alaska.

The United States Navy has a continuing program to reduce the radiated noise of its submarines. This has resulted in producing successively quieter designs based upon detailed acoustic measurements of preceding submarine classes. These same measurements are also used to define methods for reducing the noise level of current operational submarines. Operational requirements dictate that the Navy must maintain separate measurement facilities to support the east and west coast submarine fleets.

The capability to obtain measurements of submarine radiated noise is essential both to defining current submarine vulnerability and to furthering the goals of the U.S. silencing program.

Measurement of the radiated noise levels of submarines is currently accomplished on the west coast at Carr Inlet, near Tacoma, Washington, and at Santa Cruz Island, near Santa Barbara, California. Two factors have combined to erode the capability to adequately measure submarine radiated noise at these sites: reductions in U.S. submarine noise levels and the increasing ambient noise levels at the sites. This situation can only be corrected by developing a new measurement facility at a quieter location.

The Navy's proposed action includes establishing an acoustic measurement facility in the western arm of Behm Canal, Southeast Alaska, to measure and define the acoustic signature of quiet operating submarines and predict their vulnerability to detection. The

Behm Canal facility will consist of three major parts: an underway measurement site, located in the central portion of the canal; a static measurement site, located northwest of Back Island; and the use of approximately 15 acres of National Forest land on Back Island for shore support facilities.

The action also includes the designation of five Restricted Areas that will be marked on National Ocean Survey charts. Four of the Restricted Areas will be in effect continuously and are necessary to alert the public to hazards to navigation and to protect both Navy and privately owned equipment and instrumentation. The fifth Restricted Area, which affects traffic transiting the area, will be estalished and will only be in effect during times when the Navy is actually conducting operations at the facility. The Navy anticipates that operations will require activation of this Restricted Area between 10 and 15 times per year and will usually last about 5 days at a time. These operations are not limited to any specific seasonal period, but may occur at any time throughout the year.

Scheduling of operations will take into account the existing uses of Behm Canal by both commercial and recreational boaters. When establishing the operational schedule for acoustic measurements, the Navy will work closely with those groups and agencies that sponsor and control activity in the Behm Canal area. The Navy recognizes that there are times during the commercial fishing season when salmon returns are greater than forecasted and that the Alaksa Department of Fish and Game (ADFG) extends fishing opportunities. These additional fishing oppportunities, or "unscheduled openings," have occurred in western Behm Canal in the past and are expected to continue. If an unscheduled opening occurs while the Navy is conducting tests, all reasonable steps will be taken to allow passage through or fishing in the operating area.

The following sections describe the five Restricted Areas:

Restricted Area No. 1 Area No. 1 is circular in shape and is to be centered at the underway measurement site, located at approximately 55°36′ N. latitude and 131°49′ W. longitude. The area is approximately 2,000 yards in diameter, and covers about 1 square mile. The Restricted Area is being established to protect privately owned equipment, as well as Navy equipment located at the center of the range course. The regulation allows boaters to transit the area; however, it stipulates that no vessel anchor, tow a drag of any kind, deploy a net, or dump any material within the boundaries of the area. The area will be marked on National Ocean Survey charts; however, the Navy does not intend to install surface buoys or other types of markers to identify the area boundaries became these markers would impose an unnecessary hazard to surface navigation. The subsurface buoys that suspend the measurement arrays will be set approximately 100 feet below the surface, deeper than the draft of any vessel transiting the area.

Restricted Area No. 2 Area No. 2 is also a cricle approximately 2,000 yards in diameter that encompasses the static measurement site and is centered at approximately 55°34′ N. latitude and 131°48′ W. longitude. The area is being established to protect private and Navy equipment. This equipment and instrumentation will include a power barge, suspension barges, mooring buoys, and underwater measurement arrays. The regulation stipulates that no vessel shall at any time anchor, tow a drag of any kind, deploy a net, dump any material, moor, or tie up to or loiter alongside or near moored structures in the area. The boundaries of the Restricted Area will not be marked, but the power and suspension barges and mooring buoys on the surface will be lighted, and will provide a visible reference for location. The area will also be marked on National Ocean Survey charts.

Restricted Area No. 3 Area No. 3 is being established to protect underwater cables and instrumentation located on or near the bottom from damage that could occur from anchoring or grappling, as in any other underwater cable crossing area. Area No. 3 encloses a triangular shaped section from the edge of Back Island towards the central portion of the canal. The northwestern edge of the triangle is formed by a line extending from near Bittersweet Rock north towards Francis Cove. The southern boundary of the triangle extends from Back Island towards Smugglers Cove in a northwesterly direction to a point south of Trunk Island where it intersects the northwest boundary. The northern boundary extends from Back Island toward Point Francis in a northerly direction to a point where it intersects the northwest boundary. The regulations allow transiting the area, and only exclude anchoring, towing a drag within 100 feet of the bottom, and dumping of material. In establishing this area, the Navy has no intention of prohibiting anchoring along the shores of Back Island, except where electrical and other cables are brought to shore and within 100 yards of the pier and dock facility located on the northwest shore of the island. The Navy anticipates that the underwater cables will be brought to shore along a single route in the vicinity of the facility. The termination location of the cable on the land will be clearly marked with a warning sign that will be visible from the water.

Restricted Area No. 4 Area No. 4 is approximately 500 yards wide, and is being established to protect underwater communication and power transmission cables from Revillagigedo Island to Back Island. The regulations stipulate that no vessel be allowed to anchor, tow a drag on the bottom, or dump any material. In establishing this area, the Navy has no intention of prohibiting anchoring along the shores of Back Island, except as noted for Restricted Area No. 3.

Restricted Area No. 5. The regulations associated with Area No. 5 will only be in effect while the Navy is actually conducting operations in western Behm Canal. The area encompasses a portion of western Behm Canal near the acoustic measurement facility. Boaters who wish to transit Area No. 5 will be able to contact a Navy Range Operations Officer by radio so that their expected time of arrival at the edge of the area can be considered when scheduling acoustic measurement tests. For craft not equipped with radios, the Navy will install flashing beacons to alert boaters when it is safe to pass through the area at any speed. A flashing green beacon means the facility is not operational and vessels can proceed safely through the area at any speed. A flashing red beacon means that a measurement is in progress and vessels should wait for the beacon to change to green to ensure safe passage through the area. Notifying the Range Operations Officer by radio in advance will assist the Navy in coordinating boat movements with the acoustic measurement tests. Depending on the status of the acoustic measurement in progress, if notification of a transit is not received in time, the Navy may require the vessel intending to transit the area to delay 15 to 20 minutes in order to complete the acoustical test in progress. Restrictions for area No. 5 apply to both underway and static acoustic measurement.

The Navy realizes that most boat use for fishing and recreation takes place within 500 yards of the shoreline. Therefore, there will be no restrictions placed on small craft in Area No. 5 that remain within 500 yards of the shoreline and keep their speed below 5 knots, with the exception of the restrictions identified for Restriction Area No. 3.

Submarine Operation Area. An area measuring approximately 3000 yards

wide and 10,000 yards long, located roughly along the centerline of Area No. 5, will be used by submarines either operating submerged or surfacing during tests. Since these operations represent a potentially hazardous situation involving the collision of surface vessels and submarines, all vessels will have to clear this area and remain out until signaled by the Navy that the tests have been completed. This area was formerly called the "Danger Zone."

Figures 3.10 and 3.11 of the Final Environmental Impact Statement (FEIS) show locations of the restricted areas.

The Navy has established the same kind of restricted area regulations for the acoustic measurement facility in Carr Inlet near Tacoma, Washington. These regulations have been in effect for over 35 years, and during that time an excellent working relationship has been established between commercial and recreational users of the area and the Navy.

The Navy will notify the public of operations in western Behm Canal by publication in the USCG "Notice to Mariners," publication in the local Ketchikan paper, and radio broadcasts.

A Notice of Intent to prepare an Environmental Impact Statement (EIS) was published in the **Federal Register** on December 17, 1986. Early in the planning stages for this project, the Navy requested public comments to consider siting a proposed submarine acoustic measurement facility in Behm Canal, Southeast Alaska. A media briefing and public open house were also held in Ketchikan to further explain the proposed project and to again request public comments. Those comments and concerns expressed during the scoping process were evaluated and considered in the NEPA analysis. The Notice of Availability of the Draft Environmental Impact Statement (DEIS) was published in the **Federal Register** on September 25, 1987, and the DEIS was distributed to over 250 individuals and agencies. In addition to receiving written public comment on the DEIS, a public hearing was held in Ketchikan, Alaska, on October 15, 1987. Comments received during both the public hearing and the comment period were addressed in a Final Environmental Impact Statement (FEIS). The Notice of Availability for the FEIS was published in the **Federal Register** on May 20, 1988.

In February 1989, the Navy published an Addendum to the FEIS and distributed copies to the recipients of the FEIS. Comments were requested during a 30 day review period. The addendum contained three separate appendices to the FEIS: Revised Appendix A, new Appendix C, and new Appendix D. Appendix B, which was published with the FEIS, was not revised. Appendix A was a revised Subsistence Evaluation performed by the U.S. Forest Service. Appendix C was a detailed description of the SEAFAC site selection process and a consolidation of mitigative measures. The primary purpose of the Appendix C was to further clarify the process that resulted in selecting Behm Canal as the only viable site on the west coast of the United States for conducting submarine acoustic measurements and Back Island as the optimal location within Behm Canal for the required shore facilities. Appendix C also further clarified and summarized the action that will be taken to mitigate possible impacts to the environment, as discussed in the FEIS. Appendix D was a Permit Application and Public Notice issued by the Army Corps of Engineers.

During the NEPA analysis, the comments of other cognizant federal and state agencies were considered. The U.S. Department of Agriculture, Forest Service, and the U.S. Department of the Army, Corps of Engineers were cooperating agencies during the preparation and review of the NEPA documents and both organizations concur in the Navy decision indicated in this ROD. State agency comments were coordinated through the Alaska State Office of the Governor, Division of Governmental Coordination.

Various sites within the Western Pacific Region were investigated, but no other site was found which fulfills operational criteria. All areas under the jurisdiction of the United States in the eastern and central Pacific Ocean basin were examined. International political and information security considerations precluded foreign site selection.

A preliminary screening of Pacific coastal waters resulted in the identification of 14 potential sites. Five of the sites were already being used by the Navy for underwater testing. Acoustic measurement capability varied with each site. The two developed sites in Washington were found to be marginally quiet, but were too shallow for submarine operations at all speeds. The other three developed sites, two in California and one in Hawaii, were too noisy for measuring quiet submarines. None of the current sites with Navy installations was found to be adequate for future submarine noise measurements.

There were nine undeveloped sites identified as potential locations: one in Washington, four in Hawaii, and four in Alaska. Of these, all but two were rejected, primarily because of unsuitable weather conditions and excessive ambient noise. The area to the southwest of the big island of Hawaii required further study, since a large wind shadow suggested that quiet conditions could exist. However, acoustic characterization measurements showed the area to be unsuitable.

Similar acoustic and meteorological measurements were obtained at Behm Canal. This area met all critical requirements. Additional environmental measurements confirmed this conclusion. Although the site is somewhat remote from fleet home ports, the overriding need for a quiet site, operationally compatible with submarine maneuverability, leads to the conclusion that Behm Canal is the only viable site for conducting acoustical measurements well into the next century.

Once Behm Canal was selected, the area was surveyed for a suitable location to locate the shore facilities. Nine sites were evaluated using factors such as accessibility, ease of construction, view of the test area, and environmental impact.

After careful consideration of both the engineering and environmental consequences of establishing a shore facility at a specific site around the margin of western Behm Canal, Back Island was chosen as the preferred location. Access will be unencumbered and there is a considerable sheltered area for maneuvering. The site is easily accessible to Ketchikan, without disturbing acoustic measurement operations, and offers an excellent view of the range location. The pier does not require a breakwater or dredging and only requires minimal fill for the shore facility. As a result, the impact on the marine environment will be minimal.

Since the island is relatively flat, road and shore facilities can be constructed with comparative ease, and the impact on the terrestrial environment will also be minimal. A sizable buffer of trees, at least 50 feet wide, will be maintained to insure that most of the facility is screened from view from the water. Where, for operational reasons, there has to be a clear view of the canal, the buildings will be painted to blend into the surrounding forest canopy.

Three alternatives for routing of the submarine power transmission cable from the bottom of Clover Pass to Back Island were identified in the FEIS. Alternative #3, routing the cable across the northern part of Back Island, has been chosen as the preferred alternative for engineering reasons.

Throughout the course of the SEAPAC planning and design, the Navy has conducted extensive coordination with

the U.S. Forest Service and the U.S. Fish and Wildlife Service to minimize impacts to nesting bald eagles and insure compliance with the Bald Eagle Protection Act. The access road has been designed to pass no closer than 200 feet from an existing eagle nest, and clear cutting on each site of the road will be reduced from a more typical 20 feet on each side, to 10 feet. In addition, construction blasting will be scheduled around senstive eagle nesting periods. To monitor this schedule, a trained ornithologist will be at the site to evaluate the behavior of any eagles at active nest locations.

Based on the analysis developed in the EIS, the Navy concludes that adverse biological and physical impacts on the environment caused by the construction and operation of SEAFAC will be minor. In addition, all practicable means have been adopted to avoid adverse impact. Moreover, site activities at SEAFAC will comply with applicable state and federal statutes, including the Clean Water Act, the Endangered Species Act, the Clean Air Act, and the Fish and Wildlife Coordination Act. The potential environmental impacts addressed in the analysis, although relatively minor, included (1) short-term impacts on the physical environment from site preparation and facilities construction, (2) impacts on air and water quality from operations, and (3) impacts on the public from operations. The EIS also addresses the potential social and economic impacts and the potential of a ship accident while conducting tests.

Construction and operation of SEAFAC will cause the release of waste products including diesel exhausts from emergency electrical generators, solid wastes, and domestic waste water. Air emissions from construction will be similar to any other small construction job and will, therefore, have a minimal impact on the environment. Solid wastes from construction and operation will be transported to a commercial landfill in Ketchikan. Treated sewage effluent will meet applicable state and federal standards and will be released into Behm Canal from treatment systems at the rate of about 2 gallons per minute during operation.

Socioeconomic impacts on commercial and sport fishing and navigation in the Behm Canal area have also been assessed and would depend upon the time of year and how operations at the site are actually conducted. If, for example, site operations are conducted so that delays to transit the zone are rare, the economic impact from site operations on sport charters and other commercial traffic would be minor or non-existent. If delays are frequent, sport charters and related business could be adversely affected. In consideration of the many public comments on this matter, the proposed restricted zones have been modified to allow passage of vessels within Behm Canal past the facility. In addition, the Navy has mitigated possible impacts by agreeing to attempt to schedule tests around major sport fishing events. To the extent possible, unscheduled commercial fishing season openings will also be accommodated to allow the maximum practicable public use of the area. Because of these mitigative measures the Navy considers the likelihood of socioeconomic impact from these restrictions to be very low. Several comments were received during the FEIS and Addendum review regarding the possible impact of the restrictions of the range operations on commercial and sports fishing within western Behm Canal. These comments raise essentially the same issues as previously raised and are sufficiently addressed in the FEIS. The Navy has collected and analyzed a substantial amount of data regarding the socioeconomic environment of the area and the potential adverse effects on that environment, including the potential impact on commercial and sports fishing. These data are summarized extensively in the FEIS and no further studies are warranted in order to reach a reasoned choice among the alternatives presented.

Comments were also received suggesting that the economic impact to commercial and sport fishing would be mitigated if the shore facility was moved from Back Island to an area outside the Clover Pass Scenic Area, such as to Francis Cove. This assumption is incorrect. Operational impacts would not be lessened by moving the shore facility because the operating range and the restricted areas would remain as shown in the FEIS to allow sufficient area for submarines to maneuver safely.

The Ketchikan Gateway Boroughs has asked for mitigation in the form of economic compensation to offset the potential negative impacts of operations on the charter and sports fisheries in the Behm Canal area. As stated above and in the NEPA documents, the Navy is planning to work closely with local groups to mitigate potential impacts on fisheries, and therefore feels economic losses, if any, would be minor. A Navy response to the Ketchikan Gateway Borough request stated that "the Department of Defense, Office of Economic Adjustment, has determined that the SEAFAC project does not meet the legal requirements for community impact planning assistance, and that any further studies would be impractical due to the uncertainty of whether there will be any economic impacts."

Other comments questioned whether there would be increased traffic through Clover Pass as a result of Restricted Area No. 5 in Behm Canal. Because the Navy feels delay of boater traffic would be infrequent, any increased boater traffic through Clover Pass would be minimal.

Several individuals commented on the existence of local land use plans and the apparent inconsistency between the proposed action and those plans. The FEIS states that "the [Ketchikan] Borough Assembly will evaluate the compatibility of the proposed SEAFAC with the intent of the scenic area classification." On 18 July 1988, in support of some 1200 signatures to a petition not to change the existing scenic designation, the Ketchikan Gateway Borough Assembly found the Navy's proposed submarine acoustic measurement facility in Western Behm Canal to be inconsistent with the Clover Pass Scenic Area designation in the Borough's Comprehensive Plan and voted not to change the designation. As described in the FEIS and the Addendum to the FEIS, the Navy has identified mitigative measures which will be taken to reconcile the proposed action with the recreational and scenic character of the Clover Pass Area. In accordance with 40 CFR 1502.16(c) and 1506.2(d), the Navy has considered the conflict between the proposed action and the objectives of the local land use plans and finds that the proposed action is consistent to the maximum extent practicable with the Borough's Comprehensive Plan, given safety and mission requirements.

Comments also questioned how Restricted Area No. 5 would affect cruise ships and recreational activities such as scuba diving. Navy testing will have minimal effect on cruise ship traffic within Clarence Strait. Cruise ships which transit western Behm Canal during periods of testing would be subject to the same restrictions as the other vessels. However, coordination between the Navy and either the Southeast Alaska Coast Pilots Association or the particular cruise ship line should eliminate any potential for noticeable delay. Recreational water sports such as SCUBA diving would not be affected by the implementation of Restricted Area No. 5. Transit to and from diving locations, if using a motorized vessel, while the restricted

area is in effect would be subject to the same limitations and conditions previously described in the FEIS.

Other comments questioned the potential effect of a submarine traveling at flank speed on migrating salmon. The Carr Inlet Acoustic Range in southern Puget Sound and the Santa Cruz Acoustic Range Facility in southern California have both been used to measure the radiated noise from submarines operating at low and high speeds. There has never been any indication that the speed at which the submarine was operating while being tested had either a direct or indirect long term effect on fish mortality. The relative abundance of salmon migrating through Carr Inlet has been consistent with the relative abundance of salmon within south Puget Sound.

The effects of submarine wakes from both surface travel and underway testing were identified as a potential adverse effect. While within western Behm Canal and operating on the surface, submarines will be restricted to speeds comparable to those used by cruise ships within Tongass Narrows. The surface wake from a submarine traveling at these speeds would be about the same size as that produced by a small crusie ship traveling at the same speed. The speed of submarines during underway testing is classified, however the submarine hulls are designed to minimizelwakes and the Navy has not experienced any effects from operations in Carr Inlet due to submarine wakes.

Another comment suggested that boater communications would become "scrambled" as a result of the Navy conducting operations. Navy communications will be conducted on military frequencies and will not affect frequencies used by boaters.

All other comments received during the processing of the FEIS and the Addendum to the FEIS deal with issues already addressed in the NEPA documents.

Before the implementation of this Decision the Navy will obtain all applicable authorizations and permits. The U.S. Forest Service (USFS) proposes to issue a Special Use Permit for Navy use of Back Island and to amend the current designation of the Back Island Land Use Designation II (LUD II) to allow an exception for the proposed facility. The exception would apply only to Back Island and no other LUD II areas on the Tongass National Forest. The USFS Record of Decision (ROD) for these actions will be signed concurrently with this ROD. The USFS ROD will not be published in the **Federal Register**, however the ROD will be distributed to those on the USFS mailing list and will be available for public review at the following locations:

Forest Supervisor Office, Federal Building, Ketchikan, AK
Ketchikan District Ranger Office, 3031 Tongass Ave., Ketchikan, AK
Ketchikan Public Library, 629 Dock St., Ketchikan, AK

A Biological Assessment has been prepared and submitted to the National Marine Fisheries Service and the U.S. Fish and Wildlife Service in accordance with the Endangered Species Act. Both agencies concurred with the Navy Biological Assessment finding of no effect on Endangered or Threatened Species.

The Navy will obtain authorization to construct the in-water facilities for SEAFAC from the U.S. Army, Corps of Engineers as required by the Clean Water Act and the River and Harbor Act. A Coastal Consistency Determination has also been prepared and submitted to the State of Alaska as required by the Coastal Zone Management Act.

Date: April 20, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-9900 Filed 4-24-89; 8:45 am]

BILLING CODE 8570-AE

Naval Research Advisory Committee; Closed Meeting

Notice was published April 10, 1989, at 54 FR 14277 that the Naval Research Advisory Committee will meet on May 4-5, 1989, at the Naval Submarine Base, Kings, Bay, Georgia. The meeting has been conceled. In accordance with 5 U.S.C. 552(e)(2), the meeting cancellation is publicly announced at the earliest practical time.

Date: April 19, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-9901 Filed 4-24-89; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Notice Inviting Individuals To Apply To Serve as Field Readers for the Student Literacy Corps Program

AGENCY: Department of Education.

ACTION: Notice inviting individuals to apply to serve as field readers for the Student Literacy Corps Program.

SUMMARY: The Assistant Secretary for Postsecondary Education invites interested individuals to apply as field readers to evaluate grant applications for the Student Literacy Corps Program. This program provides direct grants to eligible institutions of higher education (IHEs) to develop literacy projects at public community agency facilities in which volunteer undergraduates will serve as unpaid tutors

Duties and Compensation of Field Readers

Field readers will review applications according to the applicable selection criteria published in the Notice inviting applications for Fiscal Year 1989. All reviews of applications will take place in Washington, DC. Each field reader will serve for a period of approximately 3 days. Each field reader will receive compensation for certain travel expenses, and an honorarium.

Field Reader Qualifications

Each field reader must have the expertise necessary to accurately assess the grant proposals submitted to the Department of Education. Field readers are sought who meet one or more of the following qualifications: (a) Can function as generalists encompassing a wide range of specialized activities relating to literacy, from the teaching of traditional disciplines (such as sociology, economics and education), to working with volunteers in public community agencies serving youth, the handicapped and disabled veterans as well as individuals in public institutions ranging from schools to prisons; (b) have had direct experience counseling or tutoring educationally or economically disadvantaged individuals limited in basic skills in school, at home or at work; (c) have had experience in administering or teaching in community outreach programs (under the Department's Special Programs for Students from Disadvantaged Backgrounds, Title IV-A of the Higher Education Act of 1965, as amended, cooperative education programs or similar programs) jointly conducted by an IHE and a public community agency; (d) have had experience teaching reading, writing and arithmetic in a secondary school; (e) have provided supervision to undergraduates or others as tutors in community outreach programs.

Application Process

Any individual interested in serving as a field reader should mail his/her resume to the address below indicating that he or she is interested in serving as

a field reader for the Student Literacy Corps Program.

Applicable Regulations

The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hosptials and Nonprofit Organizations), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), and Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

FOR FURTHER INFORMATION CONTACT: Dr. Donald N. Bigelow, Office of Higher Education Programs, U.S. Department of Education, ROB–3, Room 3082, 400 Maryland Avenue, SW., Washington, DC 20202–5131. (202) 732–5596.

Program Authority: 20 U.S.C. 1018–1018f.
Dated: April 14, 1989.

(Catalog of Federal Domestic Assistance Program Number 84.219)

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 89–9814 Filed 4–24–89; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No: 84.040]

Invitation of Fiscal Year 1989 Applications Under the School Construction in Areas Affected by Federal Activities Program for Fiscal Year 1990 Funds.

Purpose of Program: Notice is given that the Secretary of Education has established a closing date for the transmittal of applications for assistance under sections 5 and 9 of Pub. L. 81–815, based on increase periods ending June 1989 or June 1990. (An increase period is a period of four consecutive regular school years during which a school district has experienced a substantial increase in school membership as a result of new or increased Federal activities.) This closing date also applies to applications for assistance under section 14 and for supplemental assistance under section 8 of Pub. L. 81–815. (Section 14 authorizes assistance for certain school districts that serve children residing on Indian lands, or that are significantly burdened by the presence of nontaxable Federal property. Section 8 authorizes assistance that supplements certain awards made under sections 5, 9, and 14 of Pub. L. 81–815.)

Approval of these applications is subject to availability of funds.

Deadline for Transmittal of Applications: June 30, 1989.

Deadline for Intergovernmental Review Comments: August 31, 1989.

Available Funds: The fiscal year 1990 budget request for sections 5 and 14(c) is $2,964,000, the same as the fiscal year 1989 appropriation. The fiscal year 1990 budget request for sections 14(a) and 14(b) is $12,746,000, while the fiscal year 1989 appropriation for these sections is $11,856,000.

Applications Available: Application forms may be obtained from the appropriate State educational agency that serves the applicant local educational agency.

Applicable Regulations: (a) The regulations governing the School Construction Program (34 CFR Parts 218 and 221), and (b) the Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75, 77, 79, and 80).

For Information Contact: School Facilities Branch, Impact Aid Program, Program Operations Division, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2117, Washington, DC 20202–6244.

Telephone: (202) 732–4660.

Program Authority: 20 U.S.C. 631–645
Dated: April 17, 1989.

Daniel F. Bonner,

Acting Assistant Secretary for Elementary and Secondary Education.

(Catalog of Federal Domestic Assistance No. 84.040 School Assistance in Federally Affected Areas—Construction)

[FR Doc. 89–9813 Filed 4–24–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not include information collection requirements contained in new or revised regulations which are to be submitted under 350(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) collection number(s); (3) current OMB docket number (if applicable); (4) collection title; (5) type of request, e.g., new, revision, or extension; (6) frequency of collection; (7) response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) affected public; (9) an estimate of the number of respondents per report period; (10) an estimate of the number of responses annually; (11) an estimate of the average hours per response; (12) the estimated total annual respondent burden, and (13) a brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before May 25, 1989.

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards, at the address below.)

FOR FURTHER INFORMATION CONTACT: Jay Casselberry, Office of Statistical Standards (FI–70), Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–2171.

SUPPLEMENTARY INFORMATION: If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, you should advise the OMB DOE Desk Officer of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the DOE contact listed above.)

The energy information collection submitted to OMB for review was:

1. Fossil Energy
2. FE–748
3. 1901–0291
4. Enhanced Oil Recovery Annual Report
5. Extension
6. Annually
7. Voluntary
8. Businesses or other for profit
9. 48 respondents
10. 150 responses annually
11. The estimated average hours per response for each of the respondents is 2 burden hours.

12. The estimated total reporting hours are 300.

13. FE–748 collects data on changes in well data and description of operation, and average monthly production and injection on projects in the enhanced oil recovery incentive program. Data are published. Respondents are individuals or companies that had enhanced oil recovery projects approved for the incentive program.

Statutory Authority: Section 5(a), 5(b), 13(b), and 52, Pub. L. No. 93–275, Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, April 18, 1989.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 89–9803 Filed 4–24–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project Nos. 1981–002, et al.]

Hydroelectric Applications; Wisconsin Dept. of Natural Resources, et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Amendment of License

b. *Project No:* 1981–002

c. *Date Filed:* September 19, 1984; amended September 22, 1987.

d. *Applicant:* Wisconsin Department of Natural Resources

e. *Name of Project:* Stiles Dam Project

f. *Location:* The Stiles Dam Project is located on Oconto River in Oconto County, Wisconsin

g. *Filed Pursuant to:* 18 CFR 385.207 (1988)

h. *Applicant Contact:*

Mr. Michael Caine, Wisconsin Department of Natural Resources, P.O. Box 7921, Madison, WI 53707, (608) 266–2177.

i. *FERC Contact:* Edward L. Melisky, (202) 376–9255.

j. *Comment Date:* May 22, 1989.

k. *Description of Project:* The Oconto Electric Cooperative (licensee) operates the Stiles Dam Project as a peaking facility. The project generates electricity during early mornings and late evening hours on weekdays. The licensee normally curtails generation on weekends to refull the project reservoir. During periods when the project does not generate electricity, the flows downstream of the dam are substantially reduced.

l. *Purpose of Petition:* To maintain fish habitat in the project reservoir and to protect aquatic resources and recreation in the Oconto River downstream of the project, the Wisconsin Department of Natural Resources (DNR) has requested that the Commission require changes in project operation. The DNR requests that the Commission require the licensee to maintain: (a) The elevation of the reservoir between 108.8 and 110 feet (assumed datum); and (b) minimum flows in the Oconto River downstream of the project according to a schedule that ranges from 345 cubic feet per second (cfs) in February to 1,242 cfs in April.

m. *This notice also consists of the following standard paragraphs:* B, C, and D2.

2 a. *Type of Application:* New Major License

b. *Project No.:* 2327–002

c. *Date Filed:* February 1, 1989

d. *Applicant:* James River—New Hamsphire Electric, Inc.

3. *Name of Project:* Cascade Project

f. *Location:* on the Androscoggin River in Coos County, New Hamsphire

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)—825(r)

h. *Applicant Contacts:*

Mr. David L. Dunham, Vice President, James River-New Hamsphire Electric, Inc., 650 Main Street, Berlin, NH 03570–2489, (603) 752–4600.

William J. Madden, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L. Street, NW., Washington, DC 20005–3502, (202) 371–5715.

Kleinschmidt Associates, Consulting Engineers, Attn: Mr. Andrew E. Sims, P.O. Box 576, Pittsfield, ME 04967, (207) 487–3328

i. *FERC Contact:* Steven H. Rossi, (202) 376–9814

j. *Comment Date:* June 6, 1989.

k. *Competing Application:* Alpine Project No. 9713–001 *Date Filed:* July 21, 1988

1. *Description of Project:* The existing operating project commenced operation in 1916 and was issued an initial license in 1964, which will expire in 1993. The licensee has filed for a new license for the continued operation of the project. The licensee also proposes major modifications to the existing licensed project. The proposed project would consist of: (1) An existing 53-foot-high and 583-foot-long concrete gravity dam with 3-foot-high flashboards; (2) an existing reservoir with gross storage capacity of 200 acre-feet; (3) an existing headworks structure and forebay; (4) an existing powerhouse with two turbine-generator units rated at 2,400 kW each and one rated at 3,120 kW for a total installed capacity of 7,920 kW; (5) a new intake at the opposite end; (6) a new 18-foot-diameter and 7,400-foot-long steel penstock; (7) a new powerhouse containing a single turbine-generator unit rated at 14,300 kW; and (8) appurtenant facilities. The project would generate an average of 103,300 MWh annually. The dam is owned by the applicant. The existing project would be subject to Federal takeover under sections 14 and 15 of the Federal Power Act. The cost of the project would be $26,359,000.

m. *Purpose of Project:* Project power would be sold to the customers of James River-New Hamsphire Electric, Inc.

n. *This notice also consists of the following standard paragpahs:* B, C and D1.

3 a. *Type of Application:* New Minor License

b. *Project No.:* 2497–002

c. *Date Filed:* November 28, 1988

d. *Applicant:* Linweave, Inc.

e. *Name of Project:* Mt. Tom Mill

f. *Location:* On the Holyoke Canal, tributary to the Connecticut River, in the City of Holyoke, County of Hamden, Massachusetts

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r)

h. *Applicant Contact:* Mr. Robert Belsky, 10 Linweave Drive, Holyoke, MA 01040, (413) 536–6410

i. *FERC Contact:* Charles T. Raabe, (202) 376–9778

j. *Comment Date:* June 1, 1989

k. *Description of Project:* The existing, operating project consists of: (1) A gated intake with submerged trashracks located on the second level canal of the Holyoke Water Power Company; (2) an 8-foot-diameter penstock 230 feet long; (3) a 500-kW generating unit located in the Mt. Tom Mill building; (4) a 9-foot-wide by 6-foot-high arched brick-lined tailrace tunnel 205 feet long extending from the draft tube to a concrete outlet structure; (5) a concrete gated outlet structure where tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line 90 feet long that connects the project to an existing transmission line; and (7) appurtenant facilities.

The license for Project No. 2497 was issued April 2, 1975, for a period effective March 1, 1941, and terminating February 28, 1991. The average annual energy production is 2,560 MWh. Project power is sold to Fitchburg Gas & Electric Light Company. The project is not subject to Federal takeover under section 14 of the Federal Power Act and is not subject to the provisions of section 15 of the Federal Power Act. No changes to the project are proposed.

1. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, D1.

4 a. *Type of Application:* New Minor License

b. *Project No.:* 2766–002

c. *Date Filed:* November 25, 1988

d. *Applicant:* Linweave, Inc.

e. *Name of Project:* Albion Mill (D Wheel)

f. *Location:* On the Holyoke Canal, tributary to the Connecticut River, in the City of Holyoke, County of Hamden, Massachusetts

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r)

h. *Applicant Contact:* Mr. Robert Belsky, 10 Linweave Drive, Holyoke, MA 01040, (413) 536–6410

i. *FERC Contact:* Charles T. Raabe, (202) 376–9778

j. *Comment Date:* June 1, 1989

k. *Description of Project:* The existing, operating project consists of: (1) A gated intake with submerged trashracks located on the second level canal of the Holyoke Water Power Company; (2) a 9-foot-diameter penstock 190 feet long; (3) a 500-kW generating unit located in the Albion Mill building; (4) a 9-foot-wide by 12-foot-high arched brick-lined tailrace tunnel 205 feet long extending from the draft tube to a concrete outlet structure; (5) a concrete gated outlet structure where tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line 475 feet long that connects the project to an existing transmission line; and (7) appurtenant facilities.

The license for Project No. 2766 was issued July 6, 1977, for a period effective March 1, 1941, and terminating February 28, 1991. The average annual energy production is 2,382 MWh. Project power is sold to Ficthburg Gas & Electric Light Company. The existing project is not subject to Federal takeover under sections 14 and 15 of the Federal Power Act. No changes to the project are proposed.

1. *This notice also consists of the following standard paragraphs:* B, C, D1.

5 a. *Type of Application:* New Minor License

b. *Project No.:* 2768–002

c. *Date Filed:* November 25, 1988

d. *Applicant:* Linweave, Inc.

e. *Name of Project:* Albion Mill (A Wheel)

f. *Location:* On the Holyoke Canal, tributary to the Connecticut River, in the City of Holyoke, County of Hamden, Massachusetts

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r)

h. *Applicant Contact:* Mr. Robert Belsky, 10 Linweave Drive, Holyoke, MA 01040, (413) 536–6410

i. *FERC Contact:* Charles T. Raabe, (202) 376–9778

j. *Comment Date:* June 1, 1989

k. *Description of Project:* The existing, operating project consists of: (1) A gated intake with submerged trashracks located on the second level canal of the Holyoke Water Power Company; (2) an 8-foot-diameter penstock 180 feet long; (3) a 312-kW generating unit located in the Albion Mill building; (4) a 16-foot-wide by 9-foot-high arched brick-lined tailrace tunnel 260 feet long extending from the draft tube to a concrete outlet structure; (5) a concrete gated outlet structure where tailwater empties into a channel that leads to the Connecticut River; (6) a 13.8-kV transmission line 475 feet long that connects the project to an existing transmission line; and (7) appurtenant facilities.

The license for Project No. 2768 was issued July 6, 1977, for a period effective March 1, 1941, and terminating February 28, 1991. The average annual energy production is 1,795 MWh. Project power is sold to Ficthburg Gas & Electric Light Company. The project is not subject to Federal takeover under sections 14 and 15 of the Federal Power Act. No changes to the project are proposed.

1. *This notice also consists of the following standard paragraphs:* B, C, D1.

6 a. *Type of Filing:* Transfer of License

b. *Project No.:* 3863–002

c. *Date Filed:* March 23, 1989

d. *Applicant:* Floyd N. Bidwell (Transferor) and Highland Hydro Construction, Inc. (Transferee)

e. *Name of Project:* Lost Creek No. 1

f. *Location:* On Lost Creek, within Lassen National Forest in Shasta County, California

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:*

Transferor: Mr. Floyd N. Bidwell, Rt. 2, Box 447, Cassel, CA 96106, (916) 335–2797

Transferee: Mr. Mearl Williams, Highland Hydro Construction, Inc., 2576 Hartnell Avenue, Redding, CA 96002, (916) 222–1414

i. *Commission Contact:* Mr. James Hunter, (202) 376–1943

j. *Comment Date:* May 30, 1989

k. *Description of Proposed Action:* On May 18, 1988, a minor license was issued to the Transferor for the construction, operation, and maintenance of the Lost Creek No. 1 project. It is proposed to transfer the license to the Transferee. The proposed transfer will not result in any changes to the proposed development. The Transferor certifies that he has fully complied with the terms and conditions of the license. The Transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it were the original licensee.

l. *This notice also consists of the following standard paragraphs:* B and C.

7 a. *Type of Application:* Major License

b. *Project No.:* 4437–006

c. *Date Filed:* October 24, 1984

d. *Applicant:* Glacier Energy Company

e. *Name of Project:* Diobsud Creek

f. *Location:* On Diobsud Creek, partially within Mt. Baker-Snoqualmie National Forest in Skagit County, Washington

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:*

Mr. William L. Devine, W.L.D. Glacier Energy Company, P.O. Box 68, 8040 Mt. Baker Highway, Maple Falls, WA 98266, (206) 599–2927

i. *FERC Contact:* Mr. James Hunter, (202) 376–1943

j. *Comment Date:* June 5, 1989

k. *Description of Project:* The proposed project would consist of: (1) An 8-foot-high, 38-foot-wide concrete diversion structure at elevation 1,030 feet; (2) an 8-foot-wide, 48-foot-long inlet chamber; (3) a 48-inch-diameter, 6,000-foot-long low pressure pipeline; (4) a 48-inch-diameter, 2,500-foot-long penstock; (5) a 36-foot-square powerhouse at elevation 470 feet containing a generating unit rated at 5.0 MW, producing an average annual generation of 26 GWh; (6) a 72-inch-wide, 200-foot-long flume tailrace; (7) a 37.5-kV, 7,900-foot-long underground transmission line connecting to an existing Puget Power Company line; and (8) access roads totalling 11,000 feet in length. The project would have an estimated cost of $7,742,442 in 1986 dollars. This application has been accepted for filing as of October 29, 1981, the submittal date of the Applicant's original exemption application, pursuant to Eagle Power Company et al., 28 FERC ¶61,061, issued July 18, 1984.

l. *Purpose of Project:* Project output would be sold to a local utility or industrial user.

m. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, and D1.

8 a. *Type of Application:* Surrender of license

b. *Project No.:* 5058–001

c. *Date Filed:* February 16, 1989

d. *Applicant:* Glenn-Colusa Irrigation District

e. *Name of Project:* Tehama-Colusa/Glen-Colusa Intertie

f. *Location:* On Tehama-Colusa/Glen-Collusa Canal Intertie, near Maxwell, in Colusa County, California

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Robert Clark, Glen-Colusa Irrigation District, P.O. Box 150, Willows, CA 95988

i. *FERC Contact:* Michael Spencer at (202) 376–1669

j. *Comment Date:* May 30, 1989

k. *Description of Proposed Action:* The proposed run-of-the-canal project would utilize the U.S. Bureau of Reclamation's Tehama-Colusa/Glen Colusa Canal Interie No. 1. The Licensee seeks to surrender its license claiming that Pacific Gas and Electric Company has transmission constraints and could not receive the generation from this project.

The Licensee states that no construction has been done.

l. *This notice also consists of the following standard paragraphs:* B, C, and D2

9 a. *Type of Application:* Surrender of License

b. *Project No.:* 5350–005

c. *Date Filed:* March 20, 1989

d. *Applicant:* Tehama Power Authority

e. *Name of Project:* South Fork Battle Creek

f. *Location:* On South Fork Battle Creek in Tehama County, California

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Mr. Burt Bundy, Tehama Power Authority, P.O. Box 728, Red Bluff, CA 96080, (916) 527–4655

i. *Commission Contact:* Mr. William Roy-Harrison, (202) 376–9830

j. *Comment Date:* June 1, 1989

k. *Description of Project:* The project would have consisted of a diversion structure, a canal, a penstock, a powerhouse containing a generating unit with a rated capacity of 5,000 kW, and a transmission line. The licensee states that the project is not economically feasible to develop at this time. Therefore, the licensee requested that its license be terminated. The licensee has not commenced construction of the project.

l. *This notice also consists of the following standard paragraphs:* B, C, and D2

10 a. *Type of Application:* Surrender of License

b. *Project No.:* 7895–007

c. *Date Filed:* March 28, 1989

d. *Applicant:* Independence Electric Corporation

e. *Name of Project:* Pearl River Hydroelectric Project

f. *Location:* At the Ross Barnett Dam on the Pearl River in Hinds, Rankin, Madison, Scott, and Leake Counties, Mississippi

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* G. William Miller, President, Independence Electric Corporation, 1215 19th Street, NW., Washington, DC 20036, (202) 429–1780

i. *FERC Contact:* Mary Nowak, (202) 376–9634

j. *Comment Date:* June 5, 1989

k. *Description of Project:* The license for this project was issued on August 5, 1987, for an installed capacity of 9.5 megawatts. The licensee states that it has determined that the project would be economically infeasible. No construction has commenced at the project site.

l. *This notice also consists of the following standard paragraphs:* B and C.

11 a. *Type of Application:* Minor License

b. *Project No.:* 9222–001

c. *Date Filed:* October 26, 1988

d. *Applicant:* Niagara Mohawk Power Corporation

e. *Name of Project:* Yaleville

f. *Location:* On the Raquette River in St. Lawrence County, New York

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Mr. Michael W. Murphy, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 428–6941

i. *FERC Contact:* Steven H. Rossi, (202) 376–9814

j. *Comment Date:* June 5, 1989

k. *Description of Project:* The proposed project would consist of: (1) An existing 15-foot-high, 170-foot-long concrete gravity dam; (2) a reservoir with a surface area of 95 acres, a storage capacity of 720 acre-feet, and a normal water surface elevation of 305.2 feet m.s.l. with; (3) new 2-foot-high wood flashboards; (4) an existing 67-foot-long concrete intake structure; (5) an existing 60-foot-wide, 275-foot-long concrete forebay; (6) an existing concrete and brick powerhouse (west side) containing one existing generating unit with a capacity of 500 KW, one existing generating until with a capacity of 200 kW, and a new concrete powerhouse (east side) containing one new generating unit with a capacity of 800 kW for a total installed capacity of 1,500 kW; (7) an existing 50-foot-wide, 200-foot-long concrete and rock-lined tailrace; (8) an existing 70-foot-long transmission line, and a new transmission line, 300 feet long; and (9) appurtenant facilities. The applicant estimates the average facilities. The applicant estimates the average annual generation would be 9,170,000 kWh. The existing dam is owned by the Niagara Mohawk Power Corporation.

l. *Purpose of Project:* Project power would be sold to the customers of the Niagara Mohawk Power Corporation.

m. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, and D1.

12 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10731–000.

c. *Date Filed:* February 16, 1989.

d. *Applicant:* South Hadley Electric Light Department.

e. *Name of Project:* Red Bridge Hydro Project.

f. *Location:* On the Chicopee River, in Ludlow Township, in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Wayne D. Doerpholz, South Hadley Electric Light Department, 85 Main Street, South Hadley, MA 01075, (413) 536–1050.

i. *FERC Contact:* Mary Nowak (202) 376–9634.

j. *Comment Date:* May 30, 1989.

k. *Competing Application:* Project No. 10676; Date filed: October 13, 1988.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 51-foot-high and 827-foot-long dam; (2) an existing reservoir having a normal maximum surface elevation of 272.3 feet mean sea level, a storage capacity of 530 acre-feet, and a surface area of 185 acres; (3) two existing penstocks 13 feet in diameter by 100 feet long; (4) an existing powerhouse containing two existing generating units having an installed capacity of 3,600 kW; (5) an existing 13.8-kV transmission line 4.8 miles long; and (6) appurtenant facilities. The existing dam is owned by the Western Massachusetts Electric Company. The applicant estimates that the cost of the studies under permit would be $115,500. The applicant estimates that the average annual generation is 17,859 MWh.

m. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

13 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10732–000.

c. *Date Filed:* February 16, 1989.

d. *Applicant:* South Hadley Electric Light Department.

e. *Name of Project:* Indian Orchard Hydro Project.

f. *Location:* On the Chicopee River, in Springfield, in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Wayne D. Doerpholz, South Hadley Electric Light Department, 85 Main Street, South Hadley, MA 01075, (413) 536–1050.

i. *FERC Contact:* Mary Nowak (202) 376–9634.

j. *Comment Date:* May 30, 1989.

k. *Competing Application:* Project No. 10678; Date filed: October 13, 1988.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing stone masonry overflow spillway dam 20 feet high and 402 feet long; (2) an existing reservoir with a surface area of 74 acres, a storage capacity of 70 acre-feet, and a normal maximum surface elevation of 161.0 feet mean sea level; (3) two existing penstocks, one 190 feet long and 11 feet in diameter and the other 160 feet long and 16 feet in diameter; (4) an existing powerhouse containing two existing generating units having a total installed capacity of 3,700 kW; (5) an existing 13.8-kV transmission line 1.4 miles long; and (6) appurtenant facilities. The existing dam is owned by the western Massachusetts Electric Company. The applicant estimates that the cost of studies under permit would be $115,000. The applicant estimates that the average annual generation is 12,821 MWh.

m. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

14 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10733–000.

c. *Date Filed:* February 16, 1989.

d. *Applicant:* South Hadley Electric Light Department.

e. *Name of Project:* Dwight Hydro Project.

f. *Location:* On the Chicopee River, in Ludlow Township, in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Wayne D. Doerpholz, South Hadley Electric Light Department, 85 Main Street, South Hadley, MA 01075, (413) 536–1050.

i. *FERC Contact:* Mary Nowak (202) 376–9634.

j. *Comment Date:* May 30, 1989.

k. *Competing Application:* Project No. 10675; Date filed: October 13, 1988.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing stone masonry overflow spillway dam 15 feet high and 306 feet long; (2) an existing reservoir with a surface area of 32 acres, a storage capacity of 70 acre-feet, and a normal maximum surface elevation of 78.8 feet mean sea level; (3) three existing penstocks, each 168 feet long and 7 feet in diameter; (4) an existing powerhouse containing three existing generating units rated at 480 kW each for a total installed capacity of 1,440 kW; (5) an existing 13.8-kV transmission line 3.2 miles long; and (6) appurtenant facilities. The existing dam is owned by the Western Massachusetts Electric Company. The applicant estimates that the cost of studies under permit would be $115,000. The applicant estimates that the average annual generation is 8,520 MWh.

m. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

15 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10734–000.

c. *Date Filed:* February 16, 1989.

d. *Applicant:* South Hadley Electric Light Department.

e. *Name of Project:* Putts Bridge Hydro Project.

f. *Location:* On the Chicopee River, in Ludlow Township, in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Wyne D. Doerpholz, South Hadley Electric Light Department, 85 Main Street, South Hadley, MA 01075, (413) 536–1050.

i. *FERC Contact:* Mary Nowak, (202) 376–9634.

j. *Comment Date:* May 30, 1989.

k. *Competing Application:* Project No. 10677; Dated filed: October 13, 1989.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing concrete overflow spillway dam 22 feet high and 221 feet long; (2) an existing reservoir having a normal maximum surface elevation of 205.2 feet mean sea level, a surface area of 64.5 acres, and a storage capacity of 323 acre-feet; (3) two existing penstocks 20 feet long and 12 feet in diameter; (4) an existing powerhouse containing two existing generating units with a total installed capacity of 3,200 kW; (5) an existing 11.5-kV transmission line 0.1 miles long; and (6) appurtenant facilities. The existing dam is owned by the Western Massachusetts Electric Company. The applicant estimates that the average annual generation is 15,397 MWh. The applicant estimates that the cost of the studies under permit would be $115,500.

m. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

16 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10745–000.

c. *Date Filed:* March 13, 1989.

d. *Applicant:* Robert Hoe.

e. *Name of Project:* Braendly Project.

f. *Location:* On the Fishkill Creek in Dutchess County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert Hoe, 737 Cornelia Place, Philadelphia, PA 19118, (215) 735–1772.

i. *FERC Contact:* Steven H. Rossi, (202) 376–9814.

j. *Comment Date:* June 6, 1989.

k. *Description of Project:* The proposed project would consist of: (1) An existing dam, approximately 130 feet long and 18 feet high, constructed of cut stone with a concrete cap and having a spillway section and two-foot-high flashboards to an elevation of 121.5 feet m.s.l.; (2) a reservior having minimal pondage; (3) a new intake structure, at the right river bank, with gates and trashracks; (4) a new steel penstock, 8 feet in diameter and approximately 400 feet long; (5) an existing powerhouse containing a new turbine-generator unit with a rated capacity of 925 kW; (6) a tailrace returning flow to Fishkill Creek approximately 350 feet downstream of the dam; (7) a 13.8-kV transmission line, approximately 50 feet long, connecting to existing lines; and (8) appurtenant facilities.

The applicant estimates the average annual generation would be 3,300,000 kWh. The applicant estimates that the cost of studies under permit would be $10,000.

l. *Purpose of Project:* Project power would be sold to Central Hudson Gas and Electric Company.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2

Standard Paragraphs

A3. *Development Application*—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing

preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such application. Submission of a timely notice of intent to file a development application allows an interested person to file a competing application no later than 120 days after the specified comment date for the particular application. A competing license application must confirm with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. *Preliminary Permit*—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. *Notice Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an applicant may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 203–RB, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other Federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: April 19, 1989, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 89–9818 Filed 4–24–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI89–348–000, et al.]

Natgas U.S. Inc., et al.; Applications for Blanket Certificates With Pregranted Abandonment

April 19, 1988.

Take [1] notice that each Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for a blanket certificate with pregranted abandonment authorization for an unlimited term, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 9, 1989, filed 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

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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.

Lois D. Cashell,

Secretary.

Docket No.	Date filed	Applicant
CI89-348-000	3-24-89	NATGAS U.S. Inc., 500, 707 Eighth Avenue SW., Calgary, Alberta, Canada, T2P 3V3.
CI89-361-000 [1]	4-13-89	Equitable Resource Marketing Company, Suite 2900, 330 Grant Street, Pittsburgh, PA 15219.

[1] Applicant requests authorization to resell all natural gas subject to the Commisison's NGA jurisdiction including gas sold under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales of surplus system supply.

[FR Doc. 89-9820 Filed 4-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-4-29-001]

Transcontinental Gas Pipe Line Corp.; Filing

April 19, 1989.

Take notice that on April 10, 1989, Transcontinental Gas Pipe Line Corporation (Transco) filed a letter to supplement its March 31, 1989 filing in Docket No. TQ89-4-29-000, and to request that the Commission order the suspension of the recovery of the remaining uncollected balance of certain "transition gas costs" effective May 1, 1989, pending the outcome of the ongoing litigation in Docket Nos. TA85-3-29-000, *et al.*, because a Stipulation and Agreement in Docket Nos. RP88-68-000, *et al.*, filed by Transco on April 3, 1989, (Agreement) provides for, among other things, suspension of the recovery of Transco's currently effective transition gas cost surcharge of 15.3 cents per dt, and commits the parties to enter into negotiations no later than May 1, 1989 in an attempt to achieve a settlement of the transition gas cost proceeding.

Transco states that on March 31, 1987, it filed its regularly scheduled, semi-annual PGA in Docket No. TA87-4-29-000 to be effective May 1, 1987. Transco states that in that filing it proposed to recover its then-remaining "transition cost" balance over a three-year period commencing May 1, 1987.

Transco states that the Commission accepted its proposal for a three-year amortization for recovery of the transition cost balance, granted any necessary waivers, and permitted it to take effect as of May 1, 1987. Transco points out that the Commission stated that such recovery is to be subject to refund and to the outcome of the proceedings in Docket Nos. TA85-3-29-000, *et al.*

Transco states that by May 1, 1989, it will have completed the first two years of the three-year collection period for its transition gas costs. For the annual period commencing May 1, 1989 (which includes the instant PGA period), Transco anticipates making very few CD sales. Transco points out that this is a result of the Agreement which accords Transco's firm sales customers 100 percent conversion rights to firm transportation service for a minimum one year period. Transco states that all but two of its major customers are signatories and those two also may eventually decide to joint the Agreement. Transco states there could be few, if any, CD customers remaining on its system during the term of the Agreement. Transco points out that it would be unfair to the remaining CD customers, or unfair to Transco if there are no remaining CD customers, to provide for the third year of collection of Transco's transition cost balance at this time.

In view of the foregoing, Transco requests that the Commission order:

(i) The suspension effective May 1, 1989, of Transco's collection of its transition gas costs balance;

(ii) That such suspension preserves Transco's right to reinstitute, after notice to the Commission and the parties, the third year of such collection subject to the outcome of the litigation in Docket Nos. TA85-3-29-000, *et al.* ; and

(iii) That Transco be entitled to accrue interest effective May 1, 1989 on 50 percent of the transition cost balance of March 31, 1989.

Transco requests that the Commission grant any waiver of its regulations which may be necessary in order that the requested suspension be made effective May 1, 1989 without prejudice to Transco's right subsequently to reinstitute collection of its transition gas costs balance in the manner described above.

Transco states that it is serving this letter to all its customers and interested State 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 [18 CFR 385.214, 385.211 (1988)]. All such motions or protests should be filed on or before April 26, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-9819 Filed 4-24-89; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

[DA89-361; CC Docket 87-339]

Pleading Cycle Established for Comments on Joint Board's Recommendation To Change Frequency and Timing of Monitoring Reports and Bypass Reports

Released: April 10, 1989.

On March 24, 1989, the Federal-State Joint Board in CC Docket No. 80-286 released its *Second Study and Report* (FCC 89J-3) reviewing the impact of its non-traffic sensitive (NTS) cost recovery program.[1] The Joint Board has recommended that (1) the frequency of future Monitoring Reports be reduced from four times a year to twice a year, (2) future Monitoring Reports be released in January and July of each year through 1992, and (3) that the frequency of bypass reports from the regional Bell companies and GTE be reduced from twice a year to once a year, to be filed by the end of April of each year through 1992.[2]

[1] MTS and WATS Market Structure, Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, Establishment of a Program to Monitor the Impact of Joint Board Decisions, CC Docket Nos. 78-72, 80-286, and 87-339, FCC 89J-3, Second Study and Report, released March 24, 1989.

[2] *Id.* at para. 52 and 66.

The Joint Board provided the following reasons in support of these changes: Unnecessary paperwork should be eliminated from the monitoring process. The NTS recovery program has not produced any harmful result to date. No urgent matters requiring frequent reports are pending. There are no further changes in the NTS recovery program that are designed to provide additional deterrence to bypass. At present, the only data received more often than semi-annually are penetration data (received three time a year and reported separately in subscribership reports), price index data (available monthly from the Bureau of Labor Statistics), and aggregate usage and pool data (received monthly from the National Exchange Carrier Association).

Before acting on these recommendations, this Commission seeks comments on them. Interested parties should file comments on the Joint Board's recommendations by May 1, 1989, and reply comments by May 22, 1989, with the Secretary, FCC, 1919 M Street NW., Washington, DC 20554. Copies should also be sent to the members and staff of the Joint Board and to the Commission's contractor for public service records duplication: International Transcription Services, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037.

For further information contact Alexander Belinfante, Industry Analysis Division of the Common Carrier Bureau, at (202) 632-0745.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-9847 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee to Hold Meeting Wednesday, May 10, 1989

April 19, 1989.

The Technical Subgroup of the Advisory Committee on Radio Broadcasting will hold a meeting on Wednesday, May 10, 1989, at 10:00 a.m. in the Vincent Wasilewski Room of the National Association of Broadcasters, 1771 N Street, NW., Washington, DC.

The Subgroup will consider the following matters:

—adjacent channel interference standards for AM stations;

—engineering standards for FM broadcasting; and,

—other business relating to radio broadcasting.

The Subgroup's meetings are continuing ones, and may be resumed after the May 10, 1989, session at such time and place as may be decided at that session. All meetings of the Technical Subgroup are open to the public. All interested persons are invited to participate in these meetings.

For further information, please call the Subgroup Chairman, Wallace E. Johnson at (703) 824-5660.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-9902 Filed 4-24-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of FMCS Forms R-19, R-22, R-43 and F-53 submitted for review to the Office of Management and Budget.

Pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Federal Mediation and Conciliation Service (FMCS) has submitted to the Office of Management and Budget (OMB) requests for review of four FMCS Forms, as follows:

FMCS Form R-19, Arbitrator's Report and Fee Statement

This Form advises FMCS of the date of the arbitration award, the types of issues involved and the costs of the arbitration process. The request to OMB seeks approval for minor technical changes and to extend expiration of the Form to February 29, 1992. Information pertaining to the Form is as follows:

Form Number: FMCS R-19, OMB 3076-0003.

Frequency: Once—after each arbitration case.

Respondents: Arbitrators.

Obligation: Mandatory.

Burden: Approximately 14,000 responses per year; approximately 2,333 reporting hours per year; approximately 10 minutes per response.

Need and Use: Form R-19 is needed so that FMCS can monitor the arbitrations conducted by arbitrators who are appointed from its roster. The information furnished is used to inform FMCS of the time elapsed between appointment of the arbitrator and conclusion of the arbitration, the types of issues involved and costs of arbitration to the parties.

FMCS Form R-22, Arbitrator's Personal Data Questionnaire.

This Form advises FMCS of the background, education and experience of the arbitrator. The request to OMB seeks approval for minor technical changes and to extend expiration of the Form to February 29, 1992. Information pertaining to the Form is as follows:

Form Number: FMCS R-22, OMB 3076-0001.

Frequency: On occasion.

Respondents: Arbitrators.

Obligation: Mandatory.

Burden: Approximately 250 responses per year; approximately 375 reporting hours per year; approximately one hour and thirty minutes per response.

Need and Use: Form R-22 provides FMCS with the background, education and experience of the arbitrator. This information is needed so that a determination of suitability for the FMCS roster can be made. It is used for purposes of admission to the roster and to assist parties electing an arbitrator, by advising them as to qualifications.

FMCS Form R-43, Request for Arbitration Services.

This Form advises FMCS that parties wish to obtain a panel of arbitrators. The request to OMB seeks approval only to extend the expiration of the Form to January 31, 1990. Information pertaining to the Form is as follows:

Form Number: FMCS R-43, OMB 3076-0002.

Frequency: On occasion.

Respondents: Parties desiring to select an arbitrator.

Obligation: Required to obtain a benefit.

Burden: Approximately 27,000 responses per year; approximately 4,500 reporting hours per year; approximately ten minutes per response.

Need and Use: This Form advises FMCS that parties wish to obtain the services of an arbitrator. The information is needed so that FMCS may furnish lists of arbitrators from its roster to these parties. It is used to send the lists to the parties, by proper name and address, so they may make their selections.

FMCS Form F-53, Notice to Federal Mediation and Conciliation Services.

This Form is used to notify FMCS of a dispute in the Federal sector; that is between a Federal agency and the union

representing that agency's employees. The request to OMB seeks approval for a substantial change to the Form and for authorization to publish a Notice of Proposed Rulemaking relating to a change in the Form and in FMCS regulations pertaining to the Form. Extension of the current Form F–53 is sought to September 31, 1989. Information pertaining to Form F–53 is as follows:

Form Number: FMCS F–53, OMB 3076–0005.

Frequency: On occasion.

Respondent: Parties to a Federal sector dispute.

Obligation: Voluntary.

Burden: Approximately 600 responses per year; approximately 100 reporting hours per year; approximately 10 minutes per response.

Need and Use: The information is needed to advise FMCS of Federal sector disputes. It is used in order to make assignments of cases to FMCS mediators.

The OMB Desk Officer for all of the above FMCS Forms is Scott Jacobs, 399–6880. Copies of the request for review for Forms R–19, R–22 and R–43 may be obtained from Jewell L. Myers, Director, Arbitration Services, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, (202) 653–5820. Copies of the request for review for Form F–53 may be obtained from Eileen B. Hoffman, Federal Sector Coordinator, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, (202) 653–5390.

DATE: Comments pertaining to these requests for review should be submitted within 30 days of the date of this notice as follows: for Forms R–19, R–22 and R–43 to Jewell L. Myers, Director, Arbitration Services, Federal Mediation and Conciliation Services, 2100 K Street, NW, Washington, DC 20427, (202) 653–5280; for Form R–53 to Eileen B. Hoffman, Federal Sector Coordinator, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, (202) 653–5390. Copies of all comments must also be provided to Scott Jacobs, OMB Desk Officer, Room 3100, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Dated: April 18, 1989.

Robert P. Baker,

Acting Director.

[FR Doc. 89–9883 Filed 4–24–89; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200240

Title: Global Terminal & Container Services, Inc. Terminal Agreement

Parties: Global Terminal & Container Services, Inc. Atlantic Coast Stevedores, Inc.

Synopsis: The Agreement provides for the sharing by the parties of certain staff personnel used in connection with stevedoring and terminal services for car-carrying vessels calling at Jersey City/Bayonne marine terminal.

By Order of the Federal Maritime Commission.

Dated: April 19, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–9798 Filed 4–24–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

People's Savings Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

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 May 12, 1989.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *People's Savings Financial Corp.*, New Britain, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of The People's Savings Bank of New Britain, New Britain, Connecticut, which engages in the sale of Connecticut Savings Bank Life Insurance.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *North Georgia National Bancshares, Inc.*, Woodstock, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of North Georgia National Bank, Woodstock, Georgia, a *de novo* bank.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Busey Corporation*, Urbana, Illinois; to acquire 100 percent of the voting shares of St. Joseph Bancorp, Inc., St. Joseph, Illinois, and thereby indirectly acquire The State Bank of St. Joseph, St., Joseph, Illinois.

2. *Illinois Financial Services, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of PDB Investment Corporation, Norridge, Illinois, and thereby indirectly acquire Plaza Bank, Norridge, Illinois, Norridge, Illinois.

3. *Michigan National Corporation*, Farmington Hills, Michigan; to acquire 82.15 percent of the voting shares of First State Bank and Trust, Port Lavaca, Texas.

D. **Federal Reserve Bank of St. Louis** *Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:*

1. *Independent Southern Bancshares, Inc.*, Brownsville, Tennessee; to acquire at least 80 percent of the voting shares of MidSouth Bancshares, Inc., Millington, Tennessee. In connection with this application, MidSouth Bancshares, Inc., Millington, Tennessee,

has applied to become a bank holding company by acquiring at least 85 percent of Tennessee Bank and Trust, Millington, Tennessee, which engages in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the bank.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commercial Security Bancshares, Inc.*, Stockton, Missouri; to become a bank holding company by acquiring 34.67 percent of the voting shares of Sac River Valley Bank, Stockton, Missouri.

2. *Mountain West Bancshares, Inc.*, Denver, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger of its wholly-owned subsidiary, Mountain West Transitory Company, Denver, Colorado, and International Bancorp, Denver, Colorado, and thereby indirectly acquire International Bank, Denver, Colorado; International Bank-Englewood, Englewood, Colorado; International Bank-North, Federal Heights, Colorado; and International Bank of Wheat Ridge, Wheat Ridge, Colorado, which engage in the sale of credit-related life insurance.

Board of Governors of the Federal Reserve System, April 18, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-9835 Filed 4-24-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Shares in Banks or Bank Holding Companies

The notificant listed below has 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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 817(j)(7)).

The notices area 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 May 8, 1989.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Roger L. Siegert*, Plymouth, Wisconsin; to increase his share of voting shares of Eastern Wisconsin Bancshares, Inc., Howards Grove, Wisconsin, to 15.79 percent as the result of a stock redemption and thereby indirectly acquire State Bank of Howards Grove, Howards Grove, Wisconsin.

Board of Governors of the Federal Reserve System, April 18, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-9836 Filed 4-24-89; 8:45 am]

BILLING CODE 6210-01-M

Fair Housing Advertising and Poster Requirements; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Order; correction.

SUMMARY: The Board is correcting a technical error in its order of fair housing advertising and fair housing poster requirements, which appeared in the **Federal Register** on March 21, 1989 (54 FR 11567). The fair housing logo was inadvertently omitted from the part of the order containing the text of the fair housing lender poster.

FOR FURTHER INFORMATION CONTACT: Adrienne D. Hurt, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-2412.

SUPPLEMENTARY INFORMATION:

Corrections

The following corrections are made in FR Doc. 89-6516, Fair Housing Advertising and Poster Requirements:

1. On page 11567, second column, first full paragraph, line 6, "22.444" should read "22,444."

2. On page 11567, third column, under *"Nondiscriminiatory Advertising"* parargraph (b), line 5, "exculusion" should read "exclusion."

3. On page 11568, first column, the following logo should be inserted after the third line in paragraph (b):



4. On page 11568, first column, under "Equal Housing Lender," line 5, "sex handicap" should read "sex, handicap."

By order of the Board of Governors of the Federal Reserve System, dated April 19, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-9837 Filed 4-24-89; 8:45 am]

BILLING CODE 6210-01-M

Northside Bancshares, Inc., et al.; Application to Engage de Nova in Permissible Nonbanking Activities

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 *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 outweight 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 May 12, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Northside Bancshares, Inc.*, doing business as Southern Bank Group, Inc., Roswell, Georgia; to engage *de novo*

through its subsidiary, Southern Mortgage Group, Inc., Roswell, Georgia, in mortgage lending activities pursuant to section 225.25(b)(1)(iii) of the Board's Regulation Y.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Irwin Union Corporation,* Columbus, Indiana; to engage *de novo* through its subsidiary, Objective Financial Solutions, Inc., Columbus, Indiana, in consumer financial counseling pursuant to § 225.25(b)(20) of the Board's Regulation Y. Comments on this application must be received by May 5, 1989.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Tokai Bank, Limited,* Nagoya, Japan; to engage *de novo* through its subsidiary, Tokai Securities, Inc., New York, New York, in securities brokerage service and underwriting and dealing in government obligations and money market instruments, obligations of the United States, general obligations of the states and their political subdivisions and money market instruments such as bankers' acceptances and certificates of deposit to the same extent as is authorized to Federal Reserve member banks pursuant to §§ 225.25 (b)(15) and (b)(16) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 18, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-9834 Filed 4-24-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Open Meeting of the Commissioner with Representatives of Health Professional Organizations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming open meeting of the Commissioner of Food and Drugs with representatives of health professional organizations. The meeting will be chaired by Commissioner Frank E. Young. The focus of the agenda is food safety and nutrition. Presentations will be made regarding food labeling, health messages, pesticides, microbiological contaminants, and tampering.

DATE: The meeting will be held on Monday, May 1, 1989, 2 p.m. to 4 p.m.

ADDRESS: The meeting will be held at the Hubert H. Humphrey Bldg., Conference Rm. 503A, 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Robert Veiga, Office of Health Affairs (HFY-40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5470.

Dated: April 18, 1989.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-9791 Filed 4-19-89; 3:01 pm]

BILLING CODE 4160-01-M

Office of Human Development Services

[Program Announcement No. 13672-893]

Minority Children Placements, Post Legal Adoption Services, and Placement of Foster Care Children

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS).

ACTION: Announcement of the availability of funds and request for applications for projects to support adoption of children.

SUMMARY: The Office of Human Development Services announces the availability of funds for three programs for grants to public or private nonprofit child welfare and adoption agencies, organizations and adoptive parent groups to assist in providing programs directed to: (A) Increasing the placements in adoptive families of minority children who are in foster care and have the goal of adoption with a special emphasis on recruitment of minority families; (B) post-legal adoption services for families who have adopted special needs children; and (C) increasing the rate of placement of children in foster care legally free for adoption.

Funding for these grants is authorized under Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Pub. L. 95-266 as amended).

DATE: The closing date for receipt of applications is June 26, 1989.

ADDRESSES: Applications should be sent to: Office of Human Development Services, Grants and Contracts, Management Division, HDS/OMS, 200 Independence Avenue SW., Room 345-F, Hubert H. Humphrey Building, Washington, DC 20201, Attention: Mary White.

FOR FURTHER INFORMATION CONTACT: Delmar Weathers, (202) 245-0624.

SUPPLEMENTARY INFORMATION:

Part I: General Information

Background

Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (The Act) (Pub. L. 95-266) was amended on April 25, 1988 by Pub. L. 100-294. The Adoption Opportunities program was established to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particularly children with special needs. The new amendments (Pub. L. 100-294) authorize additional funds for demonstration priorities in three specific program areas: (A) Minority children placements; (B) post-legal adoption services; and (C) placement of foster care children legally free for adoption.

A. Minority Children Placements

The purpose of section 202(a) of Pub. L. 100-294 is to provide (directly or by grant or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience in working with minority populations) programs aimed at increasing adoptive placements for the minority children, who are in foster care and have the goal of adoption with a special emphasis on the recruitment of minority families.

Minority children continue to be disproportionately represented among children receiving child welfare services and awaiting adoption. It is estimated that roughly half of the 31,000 children free for adoption and awaiting placement are minority children. Some of these children are older and handicapped and may wait even longer for families.

There is an insufficient pool of minority applicants available to adopt waiting children. The new law (Pub. L. 100-294) directs the Secretary to develop programs to increase the number of minority children adopted with a special emphasis on the recruitment of minority individuals. This announcement solicits applications in this area.

The study on *Adoption Sources for Waiting Minority and Non-Minority Children,* conducted by WESTAT in 1986, found that "when an agency had both an active recruitment program and foster family resources 79 percent of the minority children were in placement as

compared to 75 percent of the non-minority children."

A study conducted by the Department's Office of the Inspector General on minority adoptions cited a number of obstacles to minority placements. Some of the obstacles cited included the changing of fees by agencies, in addition to the usual legal fees, which Black families associate with buying and selling babies; agencies' preference for couples over single applicants, a practice which single applicants view as discriminatory; feelings by minority applicants that they were scrutinized more closely than white applicants by workers; and the insensitivity of some workers toward minority clients, who consider the workers to be rigid, denigrating and condescending in behavior. In a number of agencies, the persons providing the adoption services do not reflect the racial composition of the clients served. Cultural sensitivity training is continually needed to help staff recruit and prepare minority families for the placement of minority children.

We have previously funded numerous projects in these areas. Applicants may replicate the established models described below or develop new models. Activities may include:

- Outreach, public education, or media campaigns to inform the public of the needs and numbers of such children;
- Recruitment of prospective adoptive families for such children;
- Expediting, where appropriate, the legal process to free children for adoption;
- Expediting, where appropriate, the agency assessment of prospective adoptive families identified for such children;
- The formation of prospective adoptive family support groups;
- Training in adoption recruitment and cultural sensitivity for personnel of public agencies, private nonprofit child welfare, and adoption agencies that are licensed by the State;
- The establishment of working relationships with adoptive parents organizations and community-based organizations with experience in working with minority populations; and,
- The use of volunteers and adoptive parent groups.

The Children's Bureau has funded a number of highly successful minority focused projects in recent years. The projects include:

- The "Homes for Black Children" project in Detroit, Michigan, which trained agency leaders and workers in selected sites to place minority children;
- The New York City Chapter of the Association of Black Social Workers which trained professional Black social workers who volunteered to recruit and screen adoptive applicants for referral to voluntary child placement agencies;
- The National Black Child Development Institute which developed a user manual for States on the adoption of Black children and convened a national conference on Black Adoptions to improve the effectiveness of child welfare services provided to Black children and their families;
- The New York Council on Adoptable Children project which recruited Hispanic families and trained 300 child welfare professionals working with Hispanic families on cultural issues including maintaining the child's cultural identity in placement planning;
- The One Church-One Child program, a collaborative effort between Father George Clements and the Illinois Department of Children and Family Services which recruited Black adoptive families and was replicated in 22 States;
- The Friends of Black Children program, a project of the North Carolina Department of Human Resources, which used community councils to recruit Black adoptive families and this project was replicated in Tennessee;
- The Spaulding Southwest project, located in Texas, which recruited adoptive parents for Mexican American children; and
- The One Company-One Kid program of Cornell University, in which 20 child welfare agencies and 70 businesses in the New York City metropolitan area collaborated to recruit adoptive families for the placement of minority children.

Information on these projects can be obtained from the National Resource Center for Special Needs Children, 366 Waitrous Road, P.O. Box 337, Chelsea, Michigan 48118, Telephone: (313) 475-8693.

B. Post-Legal Adoption Services

Recognition of special issues in adoption in the past decade has led adoption professionals to reconsider the concept that agency services to adoptive families ends with the legal consummation of the adoption. Historically, once the adoption was consummated the newly formed family was likely to be considered the same as any other family. There is now a growing ackowledgment that adoption is a life-long process and that service providers need to understand the unique interpersonal dynamics of adoption in order to provide effective post-legal adoption services (those provided after legalization of the adoption) to families who seek help.

The purpose of section 202 of Pub. L. 100-294 is to provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups) for the provision of post-legal adoption services for families who have adopted special needs children. Services provided under grants made under this subsection shall supplement, not supplant, services from any other funds available for the same general purposes. Services may include individual, group, and/or family counseling; case management; training public agency adoption personnel and personnel of private, nonprofit child welfare and adoption agencies licensed by the State to provide adption services, as well as mental health services professionals and other support personnel to provide services under this subsection; assistance to adoptive parent organizations; and assistance to support groups for adoptive parents, adopted children, and siblings of adopted children.

Through the Coordinated Discretionary Funds Program (CDP), OHDS has actively promoted the development and implementation of post-legal adoption services. A number of projects have been funded. The first, Children's Aid Society of Mercer County, Pennsylvania, was funded in FY 1984 to develop and provide training for mental health professionals on the issues of foster care and adoption.

The following year four grants were awarded to provide training to mental health professionals, child welfare workers and, in some instances, adoptive families to heighten their sensitivity to the need for post-legal adoption services and to learn how to provide such services. Reference and Resource Guides were developed and disseminated as the result of all the projects. These projects were:

- The Georgetown University Child Development Center, "Special Needs Adoption: A Collaborative Model;"
- The Connecticut Council on Adoption, "Training for Professionals to Support the Adoptive Families of Special Needs Children;"
- The Connecticut Department of Children and Youth Services, Division of Children and Protective Services, "Training of Agencies Related to Developmental Disabilities and Special Needs Adoption to Support Adoptive Families in Connecticut;" and,
- The Children's Aid Society of Mercer County, Pennsylvania, "Training

Mental Health Professionals to Enhance Community Resources to Adoptive Children and Their Families."

In FY 1986, OHDS funded five projects which focused specifically on post adoption/post leval services to adopted children with severe emotional problems, particularly children who were adopted as adolescents. These projects addressed the provision of mental health services for children with special needs and their adoptive families. These projects, listed below, produced some excellent models which were disseminated nationally.

- The Medina Children's Service, Seattle, Washington, "Homebuilders/ Adoption Service Continuum;"
- The Illinois Department of Children and Family Services, "Illinois Special Needs Post Placement/Post Legal Adoption Services Project;"
- The University of Southern Maine, Center for Research and Advanced Study, "Expanding Mental Health and Other Post-Placement Services to Special Needs Adopted Children and Their Families;"
- The Family Service of Burlington County, Mt. Holly, New Jersey, "Adoption Support for Special Needs Children and Their Families;" and,
- The Kentucky Department for Mental Health-Mental Retardation Services, Children and Youth Branch, "Mental Health, Educational and Support Services for Adoptive Parents with Special Needs Children".

In the FY 1988 Coordinated Discretionary Program announcement, OHDS requested proposals on post-adoption services to develop new models or to refine or replicate existing models for the purpose of establishing ongoing programs. Nine projects were funded under this announcement to the following agencies:

- Montana Department of Family Services;
- Three Rivers Adoption Service, Pennsylvania;
- Plan Loving Adoptions Now, Inc, McMinnville, Oregon;
- Ohio Bureau of Enrichment;
- Illinois Department of Children and Family Services;
- Oregon Children's Services Division;
- North American Council on Adoptable Children;
- Lutheran Social Services, Michigan; and,
- DePelchin Children's Services, Texas.

It is expected that these new projects, as well as a number of earlier ones, will result in on-going programs in their locales.

Information on these projects can be obtained from the National Resource Center for Special Needs Children, 366 Waltrous Road, P.O. Box 337, Chelsea, Michigan 48118, Telephone: (313) 475–8693.

C. Placement of Foster Care Children

Children in foster care who are free for adoption do not always move smoothly through the child welfare system into placement with a permanent familiy. OHDS has sponsored two State Adoption Specialists National Meetings and funded a variety of projects to assist the States to improve and increase adoption of children in foster care programs. States have received grants to make systemic changes in their adoption programs; to provide computer hardward, software and fees for membership in the National Adoption Network; and to develop a consortium to share knowledge to improve and enhance the special needs adoption programs and to increase placement of children residing in the nine consortium States.

More than half of the States have received grants to improve adoption services; however, only a small number have been able to sustain the efforts. Increasingly, children entering foster care have more complex problems which require more intensive services. Permanent families must be continuously recruited and prepared to parent the growing population of children who cannot return to their birth families. Supportive services must be added or improved upon so that the children in foster care who are legally free for adoption can move into adoption in a more timely manner. Further, agencies must commit resources for the ongoing support of adoptive families not only at placement, but also after legalization of the adoption. Past projects demonstrate that systemic changes allow for greater improvements in placing these children through eliminating barriers to placement such as the lack of sufficient, trained and experienced staff; lack of administrative commitment to adoption; limited resources; and lack of coordinated community based effort.

The purpose of this grant program is to improve State efforts to increase the placement of foster care children legally free for adoption according to a pre-established plan and goals for improvement. Grants funded under section 202(c) of Public Law 100–294 must include a strong evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption and the successes and failures of the initiative. Only States, the District of Columbia, the Virgin Islands and Puerto Rico may apply for grants under this priority area, Part I. C.: Placement of Foster Care Children.

Part II: Priorities for Projects

The applicant must provide all information requested under the evaluation criteria (Part IV, below), the information requested by the Standard Form 424, and must include specific information and assurances as follows:

A. Minority Children Placement Grants

OHDS will accept applications which are aimed at increasing the number of minority children placed in adoptive families with a special emphasis on the recruitment of minority individuals. Applicants may: (1) Replicate the established models cited above or develop new models to include outreach/public education or media campaigns to inform the public about waiting minority children; (2) recruit and prepare families (including single applicants) to adopt these children; (3) expedite, as appropriate, the legal availability of these children for adoption; and (4) provide cultural sensitivity training to all relevant staff to effectively serve minority children and families. Services under these grants shall supplement, but not supplant, services from any other funds available for the same general purposes.

Applicants must:

(1) Describe existing minority child placement and recruitment programs, if any; the number of minority children in foster care with the goal of adoption; the number freed for adoption; and the need to expand or develop a new program;

(2) Describe how they propose to move the newly recruited families through the process resulting in adoptive placement;

(3) Establish a specific number of children to be adopted as a result of this effort, if applicable;

(4) Document how the program developed will be continued as part of the agency's on-going program and describe the specific steps which will be taken to accomplish this;

(5) Address the need for the training of workers to provide culturally sensitive and appropriate services which meet the needs of minority children and families;

(6) Provide for at least one person from the project to attend the annual Adoption Opportunities Grantees Meeting in Washington, DC; and,

(7) Document that the project will be staffed and implemented within 90 days of the notification of the grant award.

B. Post-Legal Adoption Services

OHDS will accept applications to develop, implement and maintain as part of the agency or organization's on-going program a system to provide ongoing post-legal adoption services. These services may include individual, group and family counseling; case management; training for the adoption personnel of public and nonprofit child welfare and adoption agencies licensed by the State to provide adoption services, mental health professionals and other support personnel; and assistance to adoptive parent organizations and support groups for adoptive parents, adopted children, and siblings of adoptive children. Services under these grants must supplement, but not supplant, the services from any other funds available for the same general purposes.

Applicants must:

(1) Describe existing post legal adoption services, if any, and the need for expanded or new services;

(2) Describe plans for the development, implementation, and institutionalization of enhanced and new services;

(3) Provide specific written commitments from collaborating or cooperating agencies, if any;

(4) Document and describe how the project will be an on-going part of the agency or organization's program, and the steps the applicant will take to accomplish this;

(5) Provide for at least one person from the project to attend the annual Adoption Opportunities Grantees meeting in Washington, DC; and,

(6) Document that the project will be staffed and implemented within 90 days of the notification of the grant award.

C. Placement of Foster Care Children

OHDS will accept applications from State agencies which will provide a plan to increase the rate of placement of foster care children free for adoption into permanent families. The applicant must: (1) Describe the pre-established plan and goals for improvement in the State system, and (2) include an evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption and which addresses the successes and failures of the initiative.

Each State applicant must:

(1) Identify and verify the number of foster care children legally free for adoption currently waiting for adoptive placement;

(2) Verify the rate of placement of foster care children placed in adoption in the year preceding the application (the rate of placement is the number of children placed divided by the number of children waiting for adoption);

(3) Describe the plan to increase the rate of placement of foster care children into adoption and the goals for improvement to be achieved in the 12 months of the grant;

(4) Describe an evaluation component for the project which outlines the innovations used to improve the placement of special needs children in foster care who are legally free for adoption and which addresses the successes and failures of the project. The evaluation shall include the collection and analysis of data to determine placement rates and the types of clients served (e.g., waiting children, prospective adoptive families). Statistics shall also be collected to determine the availability of adoptive families during the program period. The evaluation shall also include descriptive information on the process and procedures for implementing the program. This information shall be used to explain placement rates and success or failure of the innovative program methodologies used.

(5) Describe how the proposed improvement, if successful, will continue in the absence of Federal funds;

(6) Agree that at least one person from the project will attend the annual Adoption Opportunities Grantees Meeting in Washington, DC; and,

(7) Certify that all grant funds will be obligated by the State in the 12-month project period. The project cannot be extended beyond 12 months.

Part III: Eligibility and Funding Information

A. Eligible Applicants

Eligibility for *Minority Children Placements Grants* is limited to States, local governmental entities, public or private nonprofit licensed child welfare or adoption agencies or incorporated adoptive family groups and community-based organizations with experience in working with minority populations.

Eligibility for *Post-Legal Adoption Service Grants* is limited to States, local governmental entities, public or private nonprofit licensed child welfare or adoption agencies or incorporated adoptive family groups.

Eligibility for *Placement of Foster Care Children Grants* is limited to State social service agencies.

B. Available Funds

Total funding appropriated for fiscal year 1989 for Minority Children Placement Grants, the Post-Legal Adoption Service Grants, and Placement of Foster Care Children grants is $2,000,000.

Minority Children Placements

OHDS proposes to award grants of no more than $75,000 per grant for programs not to exceed 17 months aimed at increasing the number of minority children placed in adoptive families with a special emphasis on the recruitment of minority families. These grants may be renewed if the programs developed are successful in demonstrating that appropriate and sufficient placements of such children have occurred during the grant period, and if funds are available. The minimum cost sharing or match, if the Federal share of $75,000 is requested is $25,000.

Post-Legal Adoption Services

OHDS proposes to award grants of no more than $100,000 per year, per project, for a period not to exceed 24 months, to develop, implement and institutionalize a system to provide ongoing post-legal adoption services. The minimum cost sharing or match, if the Federal share of $100,000 is requested, is $33,333 for each year. A second year award of funds will depend on satisfactory performance by the grantee and on the availability of appropriated funds.

Placement of Foster Care Children

OHDS proposes to award grants to State social service agencies up to $100,000 per year, per project, for a period not to exceed 12 months to increase the rate of placement of foster care children legally free for adoption into permanent families. The minimum cost sharing or match, if the Federal share of $100,000 is requested, is $33,333 for each year.

C. Grantee Share of the Project

Under this grant program, OHDS will not make awards for the entire project cost. Successful applicants must contribute at least $1, secured from non-Federal sources, for every $3 received in Federal funding. This grantee share amounts to 25 percent of the total project cost. For example, if the total project cost is $100,000, the maximum Federal share is $75,000 and the non-Federal share is $25,000. To compute the required cost sharing, divide the requested Federal share by three.

The non-Federal share of total project costs may be in the form of third party in-kind contributions or cash. The

amount of the non-Federal share required will be the amount specified in the approved grant. If the required non-Federal share is not met by a grantee, OHDS will disallow any unmatched Federal dollars. Applicants will be required to include in their budget justification and explanation of any funds proposed as the non-Federal share.

Part IV: Application Process

A. Application Requirements

(1) Preparation of copies: In order to be considered applications for grant support under Minority Children Placements, Post-Legal Adoption Services, and Placement of Foster Care Children must be submitted on Standard Forms (SF) 424, 424A and 424B, and must include all the information and assurances set forth in this announcement. Each SF 424 and 424B must be signed by the Chief Executive Officer of the applicant organization or the individual authorized to assume responsiblity for the obligations imposed by the terms and conditions of the grant award.

(2) Application Submission: One signed original and two copies of the grant application, including all attachments, are required. The original SF 424 and SF 424B should be signed in blue ink. A copy of SFs 424, 424A and 424B may be found at the end of this announcement. Completed applications must be sent to: Office of Human Development Services, Grants and Contracts, Management Division, HDS/OMS, 200 Independence Avenue, SW., Room 345–F Hubert H. Humphrey Building, Washington, DC 20201, Attention: Mary White.

Hand delivered applications will be accepted at the above address during the normal working hours of 8:30 a.m. to 5:00 p.m. Monday through Friday.

(3) Length: The narrative portion of the application must meet minimum and maximum length requirements. It must be at least six double-spaced pages (or three single-spaced pages) but must not exceed twenty-five double-spaced pages (or twelve single-spaced pages) typewritten on one side of the paper. Appendices/attachments cannot exceed 10 pages and may include resumes, letters of commitment, or position descriptions.

(4) Summary Description/Abstract: The summary description of the project should be typed on a separate sheet of 8½ X 11 plain paper, clearly marked with the applicant's name as shown in item 5 of the SF 424, and should not exceed 1,200 characters, including spaces and punctuation. The summary description should accurately and concisely reflect the proposal, should describe the objectives of the project, the approach(es) to be used and the outcome(s) expected and include a list of major products that will result from the proposed project. This information, in conjunction with the information on the SF 424, becomes the project's "abstract", and will be the major source of information about the proposed project; it is the first information that the reviewers read in evaluating the application.

B. Application Consideration

Applications conforming to the requirements of this program announcement will be grouped by category (Minority Children Placements and Post-Legal Adoption Services and Placement of Foster Care Children) and reviewed and scored competitively against the evaluation criteria specified in Part V of this announcement by non-Federal experts in the field of adoption and/or child welfare services. The results of this review will be a primary factor considered in making funding decisions about an application. Applications which do not meet the screening requirements listed in C below will not be reviewed and will receive no further consideration for funding.

In reviewing applications under the category placement of foster care children, we will give priority to grantees who propose improvements designed to continue in the absence of Federal funds.

C. Screening Requirements

Applications that do not meet the following requirements will be screened out, will not be reviewed, and the applicants will be so informed. These Requirements Will Be Rigorously Enforced.

1. *Deadline.* Applications shall be considered as meeting an announced deadline if they are either:

a. Received on or before the deadline date at a place specified in the program announcement, or

b. Sent on or before the deadline date and received by the granting agency in time for the independent review. (Applicants must be cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late applications.* Applications which do not meet the criteria in paragraph 1. of this section are considered late applications. The granting agency shall notify each late applicant that its application will not be considered in the current competition.

3. *Extension of deadlines.* The Administration for Children, Youth and Families may extend the deadline for all applicants because of acts of God such as flood, hurricanes, etc., or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

4. *Eligibility requirements.* Applicants must meet any eligibility requirements specific to the priority areas under which they are applying (e.g., eligible organization, funding limit and match, duration of project).

Applications which do not meet these screening requirments will not be referred to reviewers.

D. Assurances

These programs are not covered under Executive Order 12372. All assurances relevant to non-discrimination under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and assurance of compliance with 45 CFR Part 74 and OMB circulars, Certification Regarding Drug-Free Workplace Requirements and such other assurances that are required by Standard Form 424B are applicable.

Part V: Criteria for Review and Evaluation of Applications

In considering how the grantee will carry out the responsibilities under Part IV of this announcement, competing applications will be reviewed and evaluated against the following criteria:

A. Objectives and Need for Assistance (20 points)

The application describes the problem requiring a solution; demonstrates the need for the assistance; and states the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used. Relevant data based on planning studies should be included or footnoted.

In addition, information provided in response to Part II, in the relevant program areas (A. Minority Children Placement, B. Post-Legal Adoption Services, and C. Placement of Foster Care Children) of this Announcement will be used to review and evaluate applicants on the above criteria.

B. Results or Benefits Expected (25 points)

Identify results and benefits to be derived. The application describes how

the proposed project will result in a measurable increase in the placement of minority children; in the provision of post-legal adoption services to sustain adoptive families; or an increase in the rate of adoptive placement of foster care children legally free for adoption.

The anticipated contribution to practice should be indicated. In addition, information provided in response to Part II, in the relevant program areas (A. Minority Children Placement; B. Post-Legal Adoption Services and C. Placement of Foster Care Children) of this Announcement will be used to review and evaluate applicants on the above criteria.

C. Approach (30 points)

Outline a plan of action pertaining to the scope of the project and detail how the proposed work will be accomplished. Cite factors which might accelerate or decelerate the work and the reasons for taking this approach as opposed to others. Describe any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements. Provide quantitative projections of the accomplishments to be achieved, if possible. When accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments and their target dates. Identify the kinds of data to be collected and maintained. Discuss the criteria to be used to evaluate the results and success of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. List each organization, cooperator, consultant, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

In addition, information provided in response to Part II, in the relevant program areas (A. Minority Children Placement, B. Post-Legal Adoption Services, and C. Placement of Foster Care Children) of this Announcement will be used to review and evaluate applicants on the above criteria.

D. Staff Background and Experience (25 points)

Include the resumes of the program director and key project staff (including names, addresses, social security numbers, training, background and other qualifying experience) and the organization's experience that will demonstrate the ability to effectively and efficiently administer a project of this size, complexity and scope. Reflect the staff and organization's ability to use and coordinate activities with other agencies. Describe the relationship between this project and other work planned, anticipated or underway under Federal assistance, if applicable.

In addition, information provided in response to Part II, in the relevant program areas (A. Minority Children Placement;

B. Post-Legal Adoption Services and C. Placement of Foster Care children of this Announcement will be used to review and evaluate applicants on the above criteria.

E. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for grant applications by OMB.

F. Notification Under Executive Order 12372

Applicants for this announcement are exempt from Executive Order 12372 (Form 424, Item 16).

Part VI: Instructions for Completing Applications

A. The Components of an Application

A complete application consists of the following in this order:

1. Application Cover Sheet, SF 424, (Rev. 4–88);
2. Budget Information, SF 424A (4–88); Section A (Budget Summary), Section B (Budget Categories), and Section E (Budget Estimates of Federal Funds Needed for Balance of the Project);
3. Budget justification not to exceed three pages;
4. Project summary description;
5. Program Narrative, (Part II of this announcement) organized with sections addressing the following four areas:
   a. Objectives and need for assistance,
   b. Results or benefits expected,
   c. Approach, and
   d. Staff background and experience;
6. Assurances, SF 424B (4–88);
7. Appendices/attachments not to exceed 10 pages.

B. Preparing the Application

1. The SF 424, SF 424A and SF 424B have been reprinted for your convenience in preparing the application. Single-sided copies of all required forms must be used for submitting your application. You must reproduce single-sided copies from the reprinted form and type your application on the copies. Please do not forms directly from the **Federal Register** announcement as they are printed on both sides of the page.

2. When specific information is not required under this program, N/A (not applicable) has been preprinted on the form. These items are not to be completed.

C. The SF 424, SF 424A and 424B, and the instructions for their completion are in Appendix 1 of this announcement.

Dated: March 24, 1989.

Dodie Truman Borup,

Commissioner, Administration for Children, Youth and Families.

Approved: March 30, 1989.

Sydney Olson,

Assistant Secretary for Human Development Services.

[FR Doc. 89–9822 Filed 4–24–89; 8:45 am]

BILLING CODE 4130–01–M

National Institutes of Health

Meeting of the Acquired Immunodeficiency Syndrome Program Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Acquired Immunodeficiency Syndrome (AIDS) Program Advisory Committee on June 19–20, 1989, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 9:00 a.m. to 4:30 p.m. on June 19, and from 9:00 a.m. to 12:30 p.m. on June 20, in Building 31, C Wing, Conference room 10. The meeting will be open to the public.

The purpose of the meeting is to discuss special considerations in the treatment of HIV infection, particularly children and minorities.

Anthony S. Fauci, M.D., Associate Director for AIDS Research, National Institutes of Health, Shannon Building, Room 201, Bethesda, Maryland 20892, (301) 496–0357, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

Date: April 19, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–9894 Filed 4–24–89; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the Extramural Researchers' Financial Conflicts of Interest

Notice is hereby given that the National Institutes of Health (NIH) and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) are in the process of developing appropriate further guidance concerning financial conflicts of interest for investigators receiving Government funds. An open meeting will be held on June 27 and 28, 1989 in Masur Auditorium of the Warren G. Magnuson Clinical Center at NIH to provide opportunity for comments from all parties. All interested parties are encouraged to attend this meeting or to submit written comments. You may submit these comments to: Dr. Katherine L. Bick, Deputy Director for Extramural Research, National Institutes of Health, Shannon Building, Room 144, Bethesda, Maryland 20892.

There are growing expressions of concerns about circumstances that might affect investigators' objectivity, or where researchers might unduly influence, or might be perceived to influence, NIH/ADAMHA-funded R&D projects in directions favorable to personal financial interests of themselves, their spouses, children, close professional associates, or organizations where they have appointments or other relationships.

A variety of topics on real, or perceived, conflicts of interests, will be discussed at the June 27–28 meeting, such as whether investigators and consultants participating in NIH/ADAMHA-funded studies should hold finacial interests in organizations or entities that produce drugs, devices, or other interventions that are evaluated under those awards. Following this meeting, NIH/ADAMHA intend to develop appropriate guidance for such relationships. Guidelines would seek to clarify pertinent types of research situations and personal financial interests, in accord with the PHS Grants Policy Statement, January 1, 1987, revision, concerning Standards of Conduct for Employees for awardee organizations, and to define appropriate distributions of governance between NIH/ADAMHA and awardee organizations. Points to consider in such guidance include requirements for disclosure, approval, and/or restrictions in certain situations as well as possible exceptions to restrictions to permit investigators with unusual skills and expertise to conduct studies which might otherwise be proscribed. (These guidelines should be concern financial benefits resulting from logical steps in product research/development/testing under NIH awards, e.g., Small Business Innovation Research.) The proposed meeting is designed to elicit comment from concerned and interested individuals and institutions prior to development of general guidelines; we invite broad attendance.

Further information concerning this meeting, including planned discussion topics, will be published in the GUIDE TO GRANTS AND CONTRACTS in May or may be obtained from: Mark S. Brown, Social and Scientific Systems, Inc., 7101 Wisconsin Avenue, Suite 610, Bethesda, Maryland 20814–4805, (301) 986–4870.

Date: April 18, 1989.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 89–9895 Filed 4–24–89; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Applications and Prevention Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Application, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 1–2, 1989.

The meeting will be held in the Federal Building, Conference Room B119, 7550 Wisconsin Avenue, Bethesda, Maryland on June 1 and will be open to the public from 9:00 a.m. to recess. On June 2 the meeting will be held in Building 31, Conference Room 9, 9000 Rockville Pike, Bethesda, Maryland and will be open to the public from 8:30 a.m. to adjournment to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request.

Dr. William R. Harlan, Director, Division of Epidemiology and Clinical Applications, Federal Building, Room 212, Bethesda, Maryland 20892, (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health.)

Dated: April 19, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–9896 Filed 4–24–89; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the months of May and June 1989:

Name: Health Services Developmental Grants Review Subcommittee.

Date and Time: May 23–24, 1989, 8:30 a.m.

Place: Days Inn—Congressional Park, Room To Be Announced, 1775 Rockville Pike, Rockville, Maryland. Open May 23, 8:30 a.m. to 9:00 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing to do analysis of data derived from experiments and demonstrations designed to test the cost-effectiveness or efficiency of particular methods of health services delivery and financing, for the research grants program administered by the National Center for Health Services Research and Health Care Technology Assessment.

Agenda: The open session of the meeting of May 23 from 8:30 a.m. to 9:00 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, NCHSR. During the closed sessions, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552b(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Dr. Gerald E. Calderone, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers

Lane, Rockville, Maryland 20857, Telephone (301) 443–3091.

Name: Health Services Research Review Subcommittee.

Date and Time: June 7–9, 1989, 8:00 a.m.

Place: Holiday Inn—Crowne Plaza, Woodmont Room, 1750 Rockville Pike, Rockville, Maryland. Open June 7, 8:00 a.m. to 8:30 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the National Center for Health Services Research and Health Care Technology Assessment.

Agenda: The open session of the meeting on June 7 from 8:00 a.m. to 8:30 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, NCHSR. During the closed session, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552b(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. The information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mr. B. William Lohr, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3091.

Name: Health Care Technology Study Section.

Date and Time: June 12–14, 1989, 8:30 a.m.

Place: Parklawn Building, Maryland Room, 5600 Fishers Lane, Rockville, Maryland. Open June 12, 3:30 p.m. to 4:00 p.m. Closed for remainder of meeting.

Purpose: The Study section is charged with conducting the initial review of health services research grant applications addressing the effects of health care technologies and procedures, including those in the area of information sciences, as well as those addressing the process of diffusion and adoption of new technologies and procedures.

Agenda: The open session on June 12 from 3:00 p.m. to 4:00 p.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, NCHSR. The closed sessions of the meeting will be devoted to a review of health services research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552b(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. The information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3091.

Agenda items are subject to change as priorities dictate.

Date: April 18, 1989.

J. Michael Fitzmaurice,

Director, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 89–9868 Filed 4–24–89; 8:45 am]

BILLING CODE 4160–17–M

National Vaccine Advisory Committee; Public Meeting

AGENCY: Office of the Assistant Secretary for Health.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health are announcing the forthcoming meeting of the National Vaccine Advisory Committee.

DATE: Date, Time and Place: June 15, 1989, at 9:00 a.m.; June 16, 1989, at 8:30 a.m.; Hubert Humphrey Building, Room 703A, 200 Independence Avenue, SW., Washington, DC 20201. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate should be sent to Yuth Nimit, Ph.D., Executive Secretary, National Vaccine Advisory Committee, National Vaccine Program, 5600 Fishers Lane, Park Building, Room 1–24, Rockville, Maryland 20857, (301) 443–0715.

Agenda—Open Public Hearing: Interested persons may formally present data, information, or views orally or in writing on issues pending before the Advisory Committee or on any of the duties and responsibilities of the Advisory Committee as described below. Those desiring to make such presentations should notify the contact person before May 15, 1989 and submit a brief statement of the information they wish to present to the Advisory Committee. Those requests should include the names and addresses of proposed participants and an indication of the approximate time required to make their comments. A maximum of 15 minutes will be allowed for a given presentation. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting will be allowed to make an oral presentation at the conclusion of the meeting, if time permits, at the chairperson's discretion.

Open Advisory Committee Discussion: Discussion at this meeting will be directed to an update of the National Vaccine Program; report on the Advisory Commission on Childhood Vaccines meeting; Medicaid-Medicare, Catastrophic Health Care Reimbursement; plenary discussion on resources and financing; plenary discussion on vaccine supply; plenary discussion on vaccine utilization; the Fiscal Year 1990 Budget; and the National Vaccine Plan development. Meetings of the Advisory Committee shall be conducted, insofar as is practical, in accordance with the agenda published in the **Federal Register** notices. Changes in the agenda will be announced at the beginning of the meeting.

Persons interested in specific agenda items may ascertain from the contact person the approximate time of discussion. A list of Advisory Committee members and the charter of the Advisory Committee will be available at the meeting. Those unable to attend the meeting may request this information from the contact person. Summary minutes of the meeting will be made available upon request from the contact person.

Dated: April 14, 1989.

Yuth Nimit,

Executive Secretary, NVAC.

[FR Doc. 89–9797 Filed 4–24–89; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-89-1917; FR-2606]

Unutilized and Underutilized Federal Buildings and Real Property Determined To Be Suitable for Use for Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commisisoner, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

DATE: April 25, 1989.

ADDRESS: For further information, contact Morris Bourne, Department of Housing and Urban Development, Room 9140, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755-9075; TDD number for the hearing- and speech-impaired (202) 426-0015. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, D.C.D.C. No. 88-2503-OG, HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Date: April 19, 1989.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 89-9891 Filed 4-24-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Modification of Realty Action; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Modification of notice, C-47721.

SUMMARY: The legal description for the public lands identified for direct sale to Golden Cycle Corporation in the notice published on December 15, 1988 (53 FR 50464) has been changed following preparation of a final survey plat as follows.

T.14 S., R.70 W., 6th P.M., Colorado
Sec. 25, Lot 31 (formerly MS 14357)
T. 15 S., R. 70 W., 6th P.M., Colorado
Sec. 3, Lots 72, 73, 76, 77, 78, 79, 80, 83, 85, 86, 87, 93, 95, 96, 97, 100, 101, 102, 105, 111, 112, and 116

Containing 45.63 acres.

Golden Cycle Corp. must file application for federally owned mineral interests on these lands. Transfer of mineral rights will occur simultaneously with the surface upon payment of appropriate fees. The lands are hereby segregated from all appropriations, including mineral entry, except for sale under the Federal Land Policy and Management Act, until issuance of patent or for two years following publication of this notice.

Donnie R. Sparks,

District Manager.

[FR Doc. 89-9885 Filed 4-24-89; 8:45am]

BILLING CODE 4310-JB-M

[CA-940-09-4520-12; C-1-89, C-2-89]

Filing of Plat of Survey; California

April 18, 1989.

1. These supplemental plats of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Calaveras County

T. 2 N., R. 12 E.

2. These supplemental plats of (1) Section 30, Township 2 North, Range 12 East, Mount Diablo Meridian, California, and (2) Section 19, Township 2 North, Range 12 East, Mount Diablo Meridian, California, were accepted on March 30, 1989.

3. These supplemental plats will immediately become the basic record of describing the land for all authorized purposes. These plats have been placed in the open files and is available to the public for information only.

4. These supplemental plats were executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2811, Sacramento, California, 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 89-9886 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-09-4520-12; Group 1022]

Plat of Survey; California

April 17, 1989.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Trinity County

T. 38 N., R. 5 W.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and Course 2 of the Tamarack Location, Boulder Consolidated Quartz Mine, Mineral Survey No. Township 38 North, Range 5 West, Mount Diablo Meridian, California, under Group No. 1022 California, was accepted March 20, 1989.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Shasta National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California, 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 89-9887 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-09-4520-12; Group 911]

Plat of Survey; California

April 17, 1989.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Shasta County

T. 37 N., R. 2 W.

2. This plat, representing the dependent resurvey of the east and north boundaries, a portion of the south boundary, and the subdivisional lines, and the survey of the subdivision of Sections 5, 6 and 7, Township 37 North, Range 2 West, Mount Diablo Meridian,

California, under Group 811 California, was accepted March 28, 1989.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Shasta Trinity National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 89-9883 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-40-M

Bureau of Reclamation

[INT-DES-89-08]

AB Lateral Hydropower Facility, Uncompahgre Valley Hydropower Project, Colorado

AGENCY: Bureau of Reclamation (USBR), Interior.

ACTION: Notice of availability of draft environmental impact statement (DEIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) has prepared a DEIS on a proposed hydropower project that would be constructed and operated by private parties using facilities of the existing Uncompahgre Valley Reclamation Project in Montrose and Delta Counties in western Colorado. Water for the hydropower plant would be diverted from the Gunnison River. Reclamation is considering signing a lease of power privilege on the project.

DATES: A 60-day public review of the DEIS commences with the publication of this notice. Comments should be submitted to the regional director at the address below within the 60-day review period.

ADDRESSES: Single copies of the DEIS can be obtained by contacting the Regional Director or Projects Manager at the address below:

Regional Director, Bureau of Reclamation, Upper Colorado Region, 125 South State Street, P.O. Box 11568, Salt Lake City, Utah 84147; Telephone (801) 524-5580; or

Projects Manager, Bureau of Reclamation, Grand Junction Projects Office, 2597 B 3/4 Road, P.O. Box 1869, Grand Junction, Colorado 81502, Telephone (303) 248-6100.

Copies of the DEIS are available for inspection in libraries in the project vicinity and are also available for public inspection at the following locations:

Bureau of Reclamation, Environment and Planning Branch, U.S. Department of the Interior, 18th and C Streets, NW., Room 7455, Washington, DC 20240; Telephone: (202) 343-4662.

Bureau of Reclamation, Denver Office Library, Denver Federal Center, 6th and Kipling, Building 67, Room 167, Denver, Colorado 80225; Telephone (303) 236-6963.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Sersland (Regional Environmental Officer, Upper Colorado Region, Salt Lake City, UT), (801) 524-5580; or Mr. Steve McCall (Environmental Specialist, Grand Junction Projects Office, Grand Junction, Colorado), (303) 248-6105.

SUPPLEMENTARY INFORMATION: The hydropower facility would be funded, built, and operated by Montrose Partners and the Uncompahgre Valley Water Users Association. These organizations plan to construct the facility using, in part, existing features of the Uncompahgre Valley Project, a Reclamation irrigation project. They are seeking a lease of power privilege with Reclamation, which would permit use of Uncompahgre Project features for the purpose of generating hydroelectric power. The facility would be located in west-central Colorado in Montrose County. Reclamation serves as the lead Federal agency responsible for NEPA compliance on the project.

The project would use the existing Gunnison Diversion Dam and Tunnel to divert water from the Gunnison River year round. Alternative penstock and powerplant locations are addressed, as well as alternative operational plans. A non-action alternative is also presented.

Dated: April 20, 1989.

J. Austin Burke,

Acting Deputy Commissioner.

[FR Doc. 89-9870 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

Construction of a Marina on Lake Michigan in and by the City of Gary, Indiana; Availability of a Draft Environmental Impact Statement (DEIS)

This notice announces the availability of a DEIS for the proposed construction of a marina on Lake Michigan by the City of Gary, Indiana. This notice also announces a public meeting for the purpose of receiving public comments on the DEIS.

The City of Gary's and the NPS's preferred alternative for marina location is identified in the DEIS as Site 1, which is behind an existing breakwater on land currently owned by the Gary Works of USX Corporation. The City of Gary's preferred alternative for marina access is Option D, the extension of Lake Street, as an intial short-term access road; and Option B, the extension of Clay Street from the east, as a long-term access road to be developed at a later date. The NPS preferred alternative for marina access of Option A, construction of an access road along the abandoned Indiana Harbor Belt Railroad bed from the west.

Comments on the DEIS should be received no later than June 20, 1989. A public meeting regarding the document will be held at the City/Council Chamber, Gary City Hall, 401 Broadway, Gary, Indiana 46402, on Monday May 15, 1989, at 7:00 p.m. The 60-day public comment period will end June 20, 1989. The DEIS also serves as the instrument of compliance with Executive Order 11990, Protection of Wetlands.

Comments on the DEIS should be submitted to: Mr. Dale Engquist, Superintendent, Indiana Dunes National Lakeshore, 1100 N. Mineral Springs Road, Porter, Indiana 46304, (219-926-7561).

Public reading copies of the DEIS will be available for review at the following locations:

Office of Public Affairs, National Park Service, Room 3426, Department of the Interior, 18th and C Streets NW., Washington, DC 20240, (202-343-6843).

Headquarters; and Visitors Center (corner of Hwy 12 and Kemil Road), Indiana Dunes National Lakeshore, 1100 N. Mineral Springs Road, Porter, Indiana 46304, (219-926-7561)

City Hall, City of Gary, 401 Broadway, Gary, Indiana 46402, (219-881-1332)

Gary Public Library, City of Gary, 220 West 5th Avenue, Gary, Indiana 46402, (219-886-2484)

A limited number of copies of the DEIS are available on request from the Office of the Mayor of Gary, Indiana (refer to City Hall address above).

Date: March 24, 1989.

Don H. Castleberry,

Regional Director, Midwest Region, National Park Service.

[FR Doc. 89-9832 Filed 4-24-89; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 15, 1989. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington DC 20013–7127. Written comments should be submitted by May 10, 1989.

Carol D. Shull,

Chief of Registration, National Register.

FLORIDA

Taylor County

Perry Post Office, Old, 201 E. Green St., Perry, 89000404

Taylor County Jail, Old, 400 blk, N. Washington St., Perry, 89000414

Volusia County

Woman's Club Of New Smyrna, 403 Magnolia, St., New Smyrna Beach, 89000410

GEORGIA

McDuffie County

Thomson Commercial Historic District, Roughly bounded by Journal St., Greenway St., Hendricks St., and Church St., Thomson, 89000413

INDIANA

Porter County

Beverly Shores South Shore Railroad Station, Broadway Ave, and US 12, Beverly Shores, 89000411

IOWA

Cerro Gordo County

Mason City Public Library, 208 E. State St., Mason City, 8900405

KANSAS

Osage County

Osage City Santa Fe Depot, 508 Market, Usage City, 89000386

Sedgwick County

Sternberg, William, House, 1065 M. Waco, Wichita, 89000387

KENTUCKY

Floyd County

Callihan, G.D., House (Prestonsburg MPS), 105 W. Graham St., Prestonsburg, 89000389

Combs, B.F., House (Prestonsburg MPS), 41 N. Arnold Ave., Prestonsburg, 89000390

Fitzpatrick-Harmon House (Prestonsburg MPS), 102 E. Court St., Prestonsburg, 89000388

Front Street Historic District (Prestonsburg MPS), Roughtly Front St. between W. Court St. and Ford St., Prestonsburg, 89000398

Harkins Law Office Building (Prestonsburg MPS), 1S. Arnold Ave., Prestonburg, 89000395

Harkins, Joseph D., House (Prestonsburg MPS), 204 N. Arnold Ave., Prestonsburg, 89000394

May—Fitzpatrick House (Prestonsburg MPS), 39 S. Arnold Ave., Prestonsburg, 89000392

May—Latta House (Prestonsburg MPS), 33 N. Arnold Ave., Prestonsburg, 89000393

Methodist Episcopal Church, South (Prestonsburg MPS), S. Arnold Ave. between Ford St. and W. Graham St., Prestonsburg, 89000391

Town Branch Bridge (Prestonsburg MPS), Co. Rd. 1334 over Levisa Fork, Prestonsburg, 89000396

US Post Office—Prestonsburg (Prestonsburg MPS), Central Ave. and E. Court St., Prestonsburg, 89000417

West Prestonsburg Bridge (Prestonsburg MPS), Over Levisa Fork between Prestonsburg and West Prestonsburg, Prestonsburg, 89000397

LOUISIANA

De Soto Parish

Stribling House, US 84 Mansfield, 89000403

MARYLAND

Frederick County

Shoemaker, Henry, Farmhouse, 2136 Old National Pike, Middletown vicinity, 89000416

Baltimore Independent City

Douglass, Frederick, High School, 1601 N. Calhoun St., Baltimore (Independent City), 89000412

OREGON

Clackamas County

White—Kellogg House, 19000 S. Central Point Rd., Oregon City vicinity, 89000415

PUERTO RICO

Dorado Municipality

Casa del Rey, Calle Mendez Vigo 292, Dorado, 89000408

San Juan Municipality

Excuela Graduado Jose Celso Barbosa (Early Twentieth Century Schools in Puerto Rico TR), Ponce de Leon Ave., San Juan, 89000406

San Lorenzo Municipality

Residencia Machin-Ramos, Calle Eugenio Sanchez Lopez, San Lorenzo, 89000407

RHODE ISLAND

Providence County

Glenark Mills, 64 East St., Woonsocket, 89000409

WASHINGTON

Clallam County

Masonic Temple, 622 S. Lincoln St., Port Angeles, 89000400

US Guarantine Station Surgeon's Residence101 Discovery Way, Diamond Point, Sequin, 89000401

Douglas County

Smith Hospital and Douglas County Press Building109 N. Chelan, Waterville, 89000402

Snohomish County

Rucker Hill Historic District, Roughly bounded by 32nd, Tulalip Ave., Snohomish Ave, Laurel, and Warren, Everett, 89000399

[FR Doc. 89–9831 Filed 4–24–89; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information may be obtained by contacting the Bureau's clearance office at the phone number listed below. Comments and suggestions on the requirements should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029–0063), Washington, DC 20253, telephone (202) 395–7313.

Title: Coal Production and Reclamation Fee Report, Form OSM–1

OMB Number: 1029–0063.

Abstract: In order to ensure compliance with 30 CFR Part 870, a quarterly record is required of coal produced for sale, transfer or use nationwide. Individual reclamation fee payment liability is based on this information.

Bureau Form Number: OSM–1.

Frequency: Quarterly.

Description of Respondents: Coal Operators.

Annual Responses: 22,000.

Annual Burden Hours: 5,867.

Estimated Completion Time: 16 minutes.

Bureau Clearance Officer: Nancy Ann Baka (202) 343–5864.

Date: March 14, 1989.

Judith Saunders,

Acting Chief, Division of Regulatory Development.

[FR Doc. 89–9889 Filed 4–24–89; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-1 (Sub-No. 225X)]

Chicago and North Western Transportation Co.; Abandonment Exemption of Railroad Line in Sheboygan County, WI

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 7-mile line of railroad between milepost 8.0 near Sheboygan Falls and milepost 15.0 near Plymouth, in Sheboygan County, WI.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years and that overhead traffic has been rerouted; and (2) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 25, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by May 5, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by May 15, 1989 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Christopher A. Mills, Senior Commerce Counsel, Chicago and North Western Transportation Company, One North Western Center, Chicago, Illinois 60606.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by April 28, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275-7316. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 19, 1989

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-9698 Filed 4-24-89; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C. 2d 400 (1988). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987), and final rules published in the Federal Register on December 22, 1987 (52 FR 48440-48446).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Information Collections Under Review

April 19, 1989.

The Office of Management and Budget (OMB) has been sent the following proposals for the collection of information for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The title of the form or collection; (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond; (6) an estimate of the total public burden (in hours) associated with the collection; and, (7) an indication as to whether Section 3504(h) of Pub. L. 96-511 applies. Comments and/or suggestions regarding the item(s) contained in this notice, especially those regarding the estimated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 633-4312. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should so notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

New Collection

(1) Request for the return of original document.
(2) G-884. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This form standardizes existing INS procedures for requesting the return of original documents contained in the Alien Files. Requires the requester to provide two forms of identification or proof of relationship with subject file in order to obtain the documents.
(5) 2,500 respondents at .25 hours per response.
(6) 625 estimated annual burden hours.
(7) Not applicable under 3504(h).

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Application for procurement quota for controlled substances.
(2) DEA 250. Drug Enforcement Administration.
(3) Annually.

(4) Businesses or other for-profit. Section 1303.12 requires registered dosage from manufacturers who wish to purchase controlled substances in Schedule II to apply on DEA–250 for procurement quotas which limits purchase quantities.
(5) 132 respondents, averaging 2.58 responses at 1 hour per response.
(6) 341 estimated annual public burden hours.
(7) Not applicable under 3504(h).

(1) Petition for prospective immigrant employee.
(2) I–140. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. The Immigration and Nationality Act provides for persons who meet the provisions in sections 203(A)(3) and (6) to be eligible for admission into the United States. This data is required to determine that eligibility.
(5) 50,000 respondents at 1 hour each.
(6) 50,000 estimated annual public burden hours.
(7) Not applicable under 3504(h).

(1) Application for employment by a (G–4) spouse or unmarried son or daughter of an official or an international organization.
(2) I–566. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This form provides a formal procedure under which these persons may apply for permission to be employed in the United States; data is used to determine eligibility.
(5) 2,000 annual respondents at .25 hours each.
(6) 500 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Petition for alien relative.
(2) I–130. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This data will be used by the INS to determine eligibility for the benefits sought.
(5) 825,000 respondents at .5 hours per response.
(6) 412,500 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Certificate of Eligibility for nonimmigrant student (F–1) status—for academic and language students.
(2) I–20A&B/ID. Immigration and Naturalization Service.
(3) On occasion.
(4) Businesses or other for-profit, non-profit institutions. In accordance with section 101(A)(15)(F)(1) of the Immigration and Nationality Act, Consular and immigration officials use the form to determine if an alien student is eligible for an F–1 student visa.
(5) 210,000 respondents at .5 hours each.
(6) 105,000 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Alien address report card.
(2) I–104. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. To be used by aliens to report current addresses, when required under section 265 of the I&N Act. Form is currently not used, but remains on inventory with 10 day notice of activism.
(5) No respondents (carried as 1 for inventory purposes only) at no burden hours each (carried as 1 hour for inventory purposes).
(6) No estimated annual responses (carried as 1 hour for inventory purposes).
(7) Not applicable under 3504(h).

(1) Petition for alien fiance(E).
(2) I–129F. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. By filing this form, a citizen of the United States may facilitate the entry of his/her fiance(e) into the United States so that a marriage between the U.S. citizen and the alien fiance(e) may be concluded.
(5) 16,440 estimated respondents at .5 hours each.
(6) 8,220 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Application for stay of deportation.
(2) I–246. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. Necessary so that the INS District Director that has jurisdiction over the place where the alien is at the time of filing, may, in his discretion, grant a stay of deportation for such time and under such conditions as he may deem appropriate.
(5) 2,500 annual respondents at .25 hours per response.
(6) 625 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Application for waiver of grounds of excludability.
(2) I–690. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. IRCA applicants excludable under section 212(a) of the I&NS can nevertheless be found admissible if the grounds of exclusion are waived. This is the form to be used for such a request. Permanent residents can file up to June 1992.
(5) 100,000 estimated annual respondents at .25 hours each.
(6) 25,000 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Petition for approval of school for attendance by nonimmigrant students.
(2) I–17. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. Information is used by learning institutions to determine acceptance of nonimmigrant students, as well as the INS to establish a listing of schools or campuses within school systems or districts with multiple locations, as to which schools are bonafide institutions.
(5) 1,700 annual responses at 1 hour each.
(6) 1,799 estimated annual burden hours.
(7) Not applicable under 3504(h).

(1) Baggage and personal effects of detained aliens.
(2) I–43. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. Form is used to protect the Government from claims that detained aliens were not given an opportunity to obtain their personal effects before deportation.
(5) 600,000 annual responses at .017 hours each.
(6) 10,200 estimated annual burden hours.
(7) Not applicable under 3504(h).

Larry E. Miesse,
Department Clearance Officer, Department of Justice.

[FR Doc. 89–9855 Filed 4–24–89; 8:45 am]
BILLING CODE 4410–10–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; OSI/Network Management Forum

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. ("the Act"), the OSI/Network Management Forum, (the "Forum") has filed an additional written notification simultaneously with the Attorney General and the Federal Trade

Commission disclosing additions to its membership. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On October 21, 1988, the Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 8, 1988, 53 FR 49615. On December 23, 1988, the Forum filed an additional written notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) on January 26, 1989, 54 FR 3870.

The identities of the additional parties to the venture are given below:

Additional Voting Members

Societa Finanziaria Telefonica, p.a. Coso d'Italia, 41–00198 Rome, Italy

Additional Associate Members

Data General Corporation, 4400 Computer Drive, MS–B214, Westboro, Massachusetts 01580
Ericsson Business Communication AB, Esplanaden 3D, S–172 93, Sundbyberg, Sweden
Gartner Group, 56 Top Gallant Road, Stamford, CT 06904
Hitachi Telecom (USA), Inc., 2990 Gateway Drive, Suite 1000, Norcross, Georgia 30071
Protocols Standards and Communications (PSC), Inc., 1757 Bank Steet, Ottawa, Ontario KIV 7 Z4, Canada
Retix, 2644 30th Street, Santa Monica, CA 90405
Synoptics Communications, Inc., 505 East Middelfield Road, Mountain View, CA 94043–4015
Alcatel N.V., Francis Wellesplein 1, B–2018 Antwerp, Belgium
Atlantic Research Corporation, 7401 Boston Boulevard, Springfield, VA 22153
Case Communications Ltd., P.O. Box 254, Caxton Way, Watford Business Park, Watford Herts, England
Ing. C. Olivetti & C. S.p.A, Via Jervis 77, 10015 Ivrea, Italy
Novell, Inc., 122 East 1700 South, Provo, Utah 84606
OKI Electric Industry Co., Ltd., 11–22 Shibaura 4–chome, Minato-ku, Tokyo 108, Japan
Racal-Milgo Ltd., Landata House, Station Road, Hook, Hants RG279PE, England
Sirti S.P.A., Via G.G. Pirelli, 20, 20124 Milano, Italy
Systems Reliability PLC, 400 Dallow Road, Luton, Beds, Great Britain LUI 1UR, England
Telenet Communications Corp., 12490 Sunrise Valley Drive, Reston, VA 22096
Vance Systems, Inc., 3901-V Centerview Drive, Chantilly, VA 22021

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89–9823 Filed 4–24–89; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; Portland Cement Association

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.* ("the Act"), the Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission on March 13, 1989 disclosing that there has been a change in the membership of PCA. Specifically, Magotteaux-Slegten Companies has become a participating associate effective March 1, 1989. 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.

Accordingly, at present the members of the PCA are those companies listed below:

United States

Aetna Cement Corporation
Alamo Cement Company
Alaska Basic Industries
Ash Grove Cement Company
Ash Grove Cement West, Inc.
Blue Circle Atlantic, Inc.
Blue Circle, Inc.
Blue Circle West Inc.
Calaveras Cement Company
CalMat Co.
Capitol Aggregates, Inc.
Capitol Cement Corporation
Continental Cement Company Inc.
Coplay Cement Company
Davenport Cement Company
Dragon Products Company
Dundee Cement Company
Glens Falls Cement Company, Inc.
Hawaiian Cement
Ideal Basic Industries, Inc.
Independent Cement Corporation
Lafarge Corporation
Lehigh Portland Cement Company
LoneStar-Falcon
Lone Star Industries, Inc
Lone Star Northwest
Medusa Cement Corporation
Missouri Portland Cement Company
The Monarch Cement Company
National Cement Company Inc.
National Cement Company of California, Inc.
Northwestern States Portland Cement Co.
Phoenix Cement Company
Rinker Materials Corporation
RMC Lonestar
Rochester Portland Cement Corporation
St. Marys Peerless Cement Compnay
St. Marys Wisconsin Inc.
The South Dakota Cement Plant
Southwestern Portland Cement Company
Tarmac-LoneStar, Inc.
Tilbury Cement Company

Canada

Federal White Cement Ltd.
Ideal Cement Company Ltd.
Inland Cement Limited
Lafarge Canada Inc.
Lake Ontario Cement Limited
North Star Cement Limited
St. Lawrence Cement Inc.
St. Marys Cement Corporation
Tilbury Cement Limited

Mexico

Instituto Mexicano del Cemento y del Concreto (IMCYC)
Cementos Acapulco, S.A
Cementos Apasco, S.A.
Cementos de Chihuahua, S.A.
Cementos Mexicanos, S.A.
Cementos Moctezuma, S.A.
Cooperative de Cementos Cruz Azul
Cooperative de Cementos Hidalgo

Affiliate Members

Cement and Concrete Promotion Council of Texas
Florida Concrete and Products Association
Mississippi Concrete Industries Association
North Central Cement Promotion Association
Northern California Cement Promotion Group
Northwest Concrete Promotion Group
Rocky Mountain Cement Promotion Council
South Central Cement Promotion Association
Southern California Cement Group

In addition, the following equipment suppliers are involved as "Participating Associates together with FCA members, in the activities of the Manufacturing Process Subcommittee of PCA's General Technical Committee:

Baker-Dolomite (DBCA)
C–E Raymond
Holderbank Consultng Ltd.
Humboldt Wedag Company
F.L. Smidth and Company
Claudius Peters, Inc.
Magotteaux-Slegten Companies
Polysius Corp.
The Fuller Compnay
W.R. Grace & Company

On January 7, 1985, PCA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 5, 1985, 50 FR 5015. On March 14, 1985, August 13, 1985, January 3, 1986, February 14, 1986, May 30, 1986, July 10, 1986, December 31, 1986, February 3, 1987, April 17, 1987, June 3, 1987, July 29, 1987, August 6, 1987, October 9, 1987, February 18, 1988, March 9, 1988, March

11, 1988, July 7, 1988, August 9, 1988, August 23, 1988, January 23, 1989, and February 24, 1989, PCA filed additional written notifications. The Department published notices in the Federal Register in response to these additional notifications on April 10, 1985 (50 FR 14175), September 16, 1985 (50 FR 37594), February 4, 1986 (51 FR 440), March 12, 1986 (51 FR 8573), June 27, 1986 (51 FR 23479), August 14, 1986 (51 FR 29173), February 3, 1987 (52 FR 3356), March 4, 1987 (52 FR 6635), May 14, 1987 (52 FR 18295), July 10, 1987 (52 FR 28183), August 26, 1987 (52 FR 32185), November 17, 1987 (52 FR 43953), March 28, 1988 (53 FR 9999), August 4, 1988 (53 FR 29397), September 15, 1988 (53 FR 35935), September 28, 1988 (53 FR 37883), February 23, 1989, and March 20, 1989 (54 FR 11455), respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-9824 Filed 4-24-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council; Meetings and agenda

The Spring meetings of committees of the Labor Research Advisory Council will be held on May 9, 10, and 11 in the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows:

Tuesday, May 9, Room N-3437 A and B

1:30 p.m.—Committee on Wages and Industrial Relations

1. Review of work in progress
2. Update on the survey of white-collar pay and benefits
3. Linking the Employment Cost Index and the Employee Benefit Survey
4. Discussion of an experimental model on health care claims
5. Other business

Wednesday, May 10, Room S-2217

9:30 a.m.—Employment and unemployment Statistics

1. Discussion of program budget
2. Status reports on:

a. Current Population Survey redesign

b. New Local Area Unemployment Statistics methodology

c. Business Establishment List initiative

3. Discussion of Plant Closing and Mass Layoff reporting; LRAC suggestions
4. Continuing issues in measurement of labor shortages
5. Comparability of establishment and household survey data

11:30 a.m.—Council Meeting

Informal meeting with the Commissioner

2:00 p.m.—Committee on Occupational Safety and Health Statistics

1. Program Redesign

a. Status of current pilot surveys

b. Guidelines

c. Fatalities

d. Illnesses

2. Annual Survey Bulletin
3. Supplementary Data Systems status
4. Work Injury Report status
5. Other business

Thursday, May 11, Room S-2217

9:30 a.m.—Price and Living Conditions

1. Medical care

a. Consumer Price Index

b. Producer Price Index

2. Computer pricing—status report
3. International prices—monthly pricing
4. Overview of field operations

1:30 p.m.—Productivity, Technology and Economic Growth and Foreign Labor and Trade

1. Results of Hours at Work Survey and future plans
2. Update on 2-digit multifactor productivity work
3. International Productivity Service
4. Status report—revised 2000 Projections
5. Department-to-ministry program (work with Israel, China, and Russia)
6. ILO convention on labor statistics

The meetings are open. It is suggested that persons planning to attend as observers contact Henry Lowenstern, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1327.

Signed at Washington, DC, this 19th day of April 1989.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 89-9861 Filed 4-24-89; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

[TA-W-21,350 et al]

Grace Drilling Co., Inc. and BOMAC/Grace Drilling Co. Inc.; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In the matter of Grace Drilling Company, Incorporated operating at various locations in the following states:

TA-W-21, 350	Odessa, Texas.
TA-W-21, 350A	Shreveport, Louisiana.
TA-W-21, 350B	Lafayette, Louisiana.
TA-W-21, 350C	Ft. Smith, Arkansas.
TA-W-21, 350D	Houston, Texas.
TA-W-21, 350E	Oklahoma City, Oklahoma.
TA-W-21, 350F	Golden, Colorado.
TA-W-21, 350G	Dallas, Texas, Corporate Headquarters.
TA-W-21, 350H	Casper, Wyoming.
TA-W-21, 350I	Montana.
TA-W-21, 350J	Utah.
TA-W-21, 350K	Alaska.
TA-W-21, 350L	California.
TA-W-21, 350K	South Dakota.
And BOMAC/Grace Drilling Company, Incorporated	
TA-W-21, 399	Williston, North Dakota.

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 20, 1988 applicable to all workers of Grace Drilling Company, operating in the various States.

The certification notice was amended to include the corporate headquarters in Dallas, Texas on February 7, 1989. The Department is amending the certification again, on its own motion to include the States of Wyoming, Montana, Utah, and South Dakota where layoffs from Grace Drilling have occurred since October 1985 and in Alaska and California where layoffs have occurred since 1986.

The intent of the certification is to cover all workers of the Grace Drilling Company in all of its locations. The amended notice applicable to TA-W-21, 350 and TA-W-21, 399 is hereby issued as follows.

All workers of Grace Drilling Company, Inc., operating at the various locations in the States listed below who became totally or partially separated from employment on or after October 1, 1985 and before January 1, 1987 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-21, 350	Odessa, Texas.
TA-W-21, 350A	Shreveport, Louisiana.
TA-W-21, 350B	Lafayette, Louisiana.
TA-W-21, 350C	Ft. Smith, Arkansas.
TA-W-21, 350D	Houston, Texas.
TA-W-21, 350E	Oklahoma City, Oklahoma.
TA-W-21, 350F	Golden, Colorado.
TA-W-21, 350G	Dallas, Texas, Corporate Headquarters.
TA-W-21, 350H	Casper, Wyoming.
TA-W-21, 350I	Montana.
TA-W-21, 350J	Utah.
TA-W-21, 350K	Alaska.
TA-W-21, 350L	California.
TA-W-21, 350K	South Dakota.
TA-W-21, 399	Williston, North Dakota.

Signed at Washington, DC, this 17th Day of April 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-9866 Filed 4-24-89; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of March 1989.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proporation of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-22,283; Herbick & Held Printing Co., Pittsburg, PA

TA-W-22,312; Casco Belton, Inc., Lewiston, ME

TA-W-22,518; Brighton Metal Products, Inc., Caseville, MI

TA-W-22,449; George Koch Sons, Inc., Evansville, IN

TA-W-22,259; Stowell Products, Inc., Bryant Pond, ME

TA-W-22,375; White Swan Lumber Co., White Swan, WA

TA-W-21,765D; Tesoro Refining, Marketing & Supply Co.

TA-W-21,765E; Land & Marine Rental Co.

TA-W-22,412; Shortway Products, Clearfield, PA

TA-W-22,220; Energx Corp., Lecenter, MN

TA-W-22,421; Whirlpool Corp., Findlay Div., Findlay, OH

TA-W-22,455; Marine Electronic, Lisbon, MA

TA-W-22,271; Fabric Leather Corp., Division of Borden Chemical, Glen Cove, NY

TA-W-22,349; Farmland Refinery, Coffeyville, KS

TA-W-22,215; Continental Can Corp, Milwaukee, WI

TA-W-22,282; General Textile Printing Co., Branford, CT

TA-W-22,457; NCS Development, Solon, OH

TA-W-22,456; Magnetek, Inc., Louis Allis Div., Milwaukee, WI

TA-W-22,361; Model Expo, Inc., Wharton, NJ

TA-W-21,716; Energy Fuels, Nuclear, Inc., Fredonia, AZ

TA-W-22,453; Lorbrook Corp., Hudson, NY

TA-W-22,362; National Tool & Manufacturing Co., Kenilworth, NJ

TA-W-22,209; Brook's Woolen Co., Inc., Sanford, ME

TA-W-22,454; Machlett Laboratories, Stamford, CT

TA-W-22,344; Certified Metals, Clifton, NJ

TA-W-22,445; Control Data Corp., Government Systems Manufacturing Div., Eden Prairie, MN

TA-W-21,860A; Hadson Corp., Oklahoma City, OK;

TA-W-21,860B; Hadson Gas Systems, Oklahoma City, OK

TA-W-21,860C; Hadson New Mexico, Hobbs, NM

TA-W-21,860D; Hadson Energy Risk Management, New York, NY

TA-W-22,443; Columbus Rope Co., Guntown, MS

TA-W-22,094; Wurlitzer, Inc., (Currently Known as Wurltech, Inc, Corinth, MS

TA-W-22,272; Becton Dickinson, East Rutherford, NJ

TA-W-22,413; Simmonds, Precision Co., Operative Industries, Chester, NJ

TA-W-22,414; Stanton Foundry, Inc., Paramus, NJ

In the following cases, the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-22,372; Sundown Well Service, Brownfield, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,323; Jimco Electric & Construction, Inc., Big Spring, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,278; Consolidated NDE, Inc., Woodbridge, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,279; Edwards Pipeline Testing, Inc., Tulsa, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,115; Cenex Refinery Petroleum Transportation Dept., Laurel, MT

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,417; Teledyne Columbia-Summerville, Pittsburgh, PA

The investigation revealed that criterion (1) has not been met.

Employment did not decline during the relevant period as required for certification.

TA–W–22,321; General Motors Corp., CPC Lakewood, Atlanta, GA

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–22,464; Terra Resources, Inc., Irving, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–22,511; Venerable Managing General Agency, Inc., Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,273; Charms Candy Corporate Headquarters, Colts Neck, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,547; Saber Construction & Operating Co., Albion, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,395; Edde Motors, Falls City, NE

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,391; Data General Corp., Fountain, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,409; Rogers Structural Steel, Corry, PA

U.S. imports of fabricated structural steel declined absolutely and relative to domestic production in 1987 compared to 1986 and absolutely in the first three months of 1988 compared to the same period in 1987.

TA–W–21,425; Associated Electric Cooperative, Inc., Mining Div., Nemo Coal, Inc., Mine #1, Moberly, MO

U.S. imports of coal are negligible.

TA–W–22,295; North American Inspection, Inc., Laurys Station, PA

The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA–W–22,309; Wisconsin Industrial Testing, Brookfield, WI

The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA–W–22,307; Testmaster Inspection, Perrysburg, OH

The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA–W–22,288; Jan X Ray Service, Parma, MI

The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA–W–22,327; Manhattan Industries, Glen Rock, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,448; Gage Fina Truck Stop, Sweetwater, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,329; Professional Geophysics, Inc., New Orleans, LA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,516; Bethenergy Mines, Inc., Mine #84 Complex, Cokeburg, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–22,340; Basin Well Service of Odessa, Inc., Odessa, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–22,613; W & C Contracting Co., Inc., Farmington, NM

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,222; General Oil Field Supply Co., Evansville, IN

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,226; Gregory & Cook, Inc., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,387; Weyerhauser Co., North Bend, OR

U.S. imports of softwood lumber declined absolutely and relative to domestic product in the first three quarters of 1988 compared to the same period in 1987. U.S. imports of logs are negligible.

TA–W–22,381; AT & T Network Systems, Microlectronics Group, Lee's Summit, MO

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–22,512; Village Shoe & Boot Repair, Fort Collins, CO

The worker's firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,450; H.R. Johnson, Keyport, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,478; Fina Oil & Chemical Co., Windsor, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–22,392; Dirigo Lumber Co., Greenville Junction, ME

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–22,926; Phillips Petroleum Co., Tioga Gas Processing Plant Tioga, ND

Increased imports did not contribute importantly to workers separations at the firm.

TA–W–22,446; Cooper Industries, Flow Control Div., Missouri City, TX

U.S. imports of oilfield machinery are negligible.

TA–W–22,401; Kaypro Corp. Headquartered in Solano Beach, CA Operating in the State of Texas

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–22,411; Sherwood Medical Co., Sherburn NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,354; Goebel United States, Pennington, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,372; Sundown Well Service, Brownfield, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,368; Rosanna Optical Case, Inc., Patterson, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,317; Explosives Technologies International, Inc., Morris, IL

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,274; Cleveland Xray Inspection, Cleveland, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,333; Sunbelt Mining Co., Inc., Farmington, NM

U.S. imports of bituminous steam coal are negligible.

TA-W-22,319; Florsheim Shoe Co., Herman, MO

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA-W-22,133; Envirogas, Inc., Mayville, NY

Section 1421 of the Omnibus Trade and Competitiveness Act of 1988 does not apply to workers engaged in production of crude oil or refined petroleum products if such workers were eligible for certification under the Trade Act prior to passage of the Omnibus Trade and Competitiveness Act of 1988.

TA-W-22,415; Stewart Well Service, Mt. Vernon, IL

The workers' firm does not produce an article as required or certification under section 222 of the Trade Act of 1974.

TA-W-22,593; Weatherford Oilfield Services, Laurel, MS

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,343; Box Pipe & Supply, Inc., Odessa, TX

The workers' firm does not produce an article as required or certification under section 222 of the Trade Act of 1974.

TA-W-22,366; Portage Mills Co., Portage, WI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,302; Quest International Flavors, U.S.A. Inc., East Hanover, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,376; Abex Corp., Engineered Products Div., Medina, NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,353; Geer Tank Trucks, Inc., Jackson, TX

The workers' firm does not produce an article as required or certification under section 222 of the Trade Act of 1974.

TA-W-22,383; Newton Exploration Co., Sidney, MT

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,397; Gesell Pump Sales & Service, Inc., Benton, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,322; Iselin Preparation Co., Indiana, PA

U.S. imports of bituminous steam coal, lignite and anthracite were negligible.

TA-W-22,385; Tractech, Warren, MI

The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA-W-22,447; Eaton Corp., Electric Drives Div., Kenosha, WI

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,400; Irvin Industries, Inc., Plant #2, Aerospace Div., Richmond, VA

The investigation revealed that criterion (2) has not been met Sales or production did not decline during the relevant period as required for certification.

TA-W-22,280; Fina Oil and Chemical Co., Corpus Christi, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-22,451; Harnischfeger Corp. Construction Equipment Div., Cedar Rapids, IA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,586; Mabee Petroleum Corp., Midland TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-22,365; Petrofina Delaware, Inc., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,406; Muskogee Inspection Co., Muskogee, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,546; S.A.I.M.A. America, Inc., New York, NY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,641; Northwestern Supply Co., Inc., Plainville, KS

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-22,481; General Motors Corp., General Motors Service Parts Operation, St. Louis, MO

Increased Imports did not contribute importantly to workers separations at the firm.

Affirmative Determination

TA-W-22,402; Lady Bird Apparel, Inc., Roanoke, VA

A certification was issued covering all workers separated on or after January 18, 1988.

TA-W-22,356; Honeywell Bull Phoenix Operation, Phoenix, AZ

A certification was issued covering all workers separated on or after November 26, 1988.

TA-W-22,373; Thomson Electron Tubes & Services & Devices Corp., Dover, NJ

A certification was issued covering all workers separated on or after December 19, 1987.

TA-W-22,336; Vatco Industries Corp., Andover, MA

A certification was issued covering all workers separated on or after December 12, 1987.

TA-W-22,350; Garden Drilling Co., Salem, IL

A certification was issued covering all workers separated on or after December 18, 1987.

TA-W-22,326; The Louisiana Land and Exploration Co., Houston Div., Houston , TX

A certification was issued covering all workers separated on or after December 9, 1987.

TA-W-22,360; Martin-Copeland Co., East Providence, RI

A certification was issued covering all workers separated on or after December 16, 1987 and before January 31, 1989.

TA-W-22,357; Imprimis Technology, Inc., Aberdeen, SD

A certification was issued covering all workers separated on or after December 19, 1987.

TA-W-22,359; Leverenze Shoe Co., Valders, WI

A certification was issued covering all workers separated on or after November 26, 1987.

TA-W-22,359 A and B; Leverenze Shoe Co., New Holstein, WI and Sheboygan, WI

A certification was issued covering all workers separated on or after November 26, 1987.

TA-W-22,369; Schlumberger Well Service, Traverse City, MI

A certification was issued covering all workers separated on or after October 1, 1988.

TA-W-22,369A; Schlumberger Well Service, Mount Pleasant, MI

A certification was issued covering all workers separated on or after October 1, 1988.

TA-W-22,241; Lozier Corp., AFI Div., Joplin, MO

A certification was issued covering all workers separated on or after November 8, 1987.

TA-W-22,378; Pride Well Service, Andrews, TX

A certification was issued covering all workers separated on or after January 3, 1988.

TA-W-22,334; Texas Apparel Co., Carrizo Springs, TX

A certification was issued covering all workers separated on or after December 1, 1987.

TA-W-22,335; Troytown Shirt Corp., Cohoes, NY

A certification was issued covering all workers separated on or after December 1, 1987.

TA-W-22,311; Vassarette, Hamilton, AL

A certification was issued covering all workers separated on or after December 1, 1988 and before January 31, 1989.

TA-W-22,485; Halliburton Logging Services, Hays, KS

A certification was issued covering all workers separated on or after January 31, 1988 and before March 1, 1989.

TA-W-22,408; Rector & Stone Drilling Co., Inc., Carmi, IL

A certification was issued covering all workers separated on or after January 5, 1988.

TA-W-22,342; Blackhawk Drilling & Exploration, Inc., Midland, TX

A certification was issued covering all workers separated on or after December 19, 1987.

TA-W-22,526; Emhart Industries, Inc., Hardware Div., Padlock Product Line, Berlin, CT

A certification was issued covering all workers separated on or after September 18, 1988 and before June 1, 1989.

TA-W-22,346; D.L. Ray, Inc., Richardson, TX

A certification was issued covering all workers separated on or after December 1, 1988 and before March 15, 1989.

TA-W-22,346A; D.L. Ray, Inc., Operating in Various Locations in TX

A certification was issued covering all workers separated on or after December 1, 1988 and before March 15, 1989.

TA-W-21,860; Hadson Petroleum (U.S.A.), Inc., Oklahoma City, OK

A certification was issued covering all workers separated on or after November 15, 1987.

TA-W-21,860E; Hadson Petroleum Fuels, Inc., Tulsa, OK

A certification was issued covering all workers separated on or after November 15, 1987.

TA-W-22,355; Dresser Industries, Inc., Guiberson Div., Houston, TX

A certification was issued covering all workers separated on or after August 1, 1988.

TA-W-22,394; Dresser Industries, Inc., Guiberson Div., Dallas, TX

Certification was issued covering all workers separated on or after August 1, 1988.

TA-W-22,380; Texas Fishing Tools, Inc., Kilgore, TX

A certification was issued covering all workers separated on or after December 29, 1988.

TA-W-22,019; Clyde Sportswear, Brooklyn, NY

A certification was issued covering all workers separated on or after October 1, 1985 and before September 30, 1986.

TA-W-22,276; Coleman Products Co., Nogales, AZ

A certification was issued covering all workers separated on or after December 7, 1987.

TA-W-22,405; Moore's Well Service, Inc., Duck, WV

A certification was issued covering all workers separated on or after January 3, 1988.

TA-W-22,403; Machen Contracting, Inc., Midland, TX

A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-22,345; Cliffs Drilling Co., Scott, LA

A certification was issued covering all workers separated on or after November 15, 1987.

TA-W-22,410; Siemens Energy & Automation, New Orleans, LA

A certification was issued covering all workers separated on or after January 6, 1988 and before April 3, 1989.

TA-W-22,367; Clinton Garment, Clinton, IA

A certification was issued covering all workers separated on or after November 30, 1987 and before July 30, 1988.

TA-W-22,377; Pool Well Service Co., Andrews, TX

A certification was issued covering all workers separated on or after January 3, 1988.

TA-W-22,371; Silva Creek Oil and Gas, Inc., Wichita, KS

A certification was issued covering all workers separated on or after December 18, 1987.

TA-W-22,491; Malouf Co., Daingerfield, TX

A certification was issued covering all workers separated on or after January 16, 1988.

TA-W-22,486; Jenifer Dale, Inc., Ozone Park, NY

A certification was issued covering all workers separated on or after February 7, 1988.

TA–W–22,426; Carroll Shoe Co., Summersville, WV

A certification was issued covering all workers separated on or after January 18, 1988.

TA–W–22,473; Cyclone Drilling, Inc., Gillette, WY

A certification was issued covering all workers separated on or after January 30, 1988.

TA–W–22,386; Transco Exploration Partners Limited, New Orleans, LA

A certification was issued covering all workers separated on or after January 1, 1988.

TA–W–22,542; Phil Lloyd, Inc., Operating in Various Locations in OK

A certification was issued covering all workers separated on or after February 27, 1988 and before June 1, 1988.

TA–W–22,543; Phil Lloyd, Inc., Canadian, TX

A certification was issued covering all workers separated on or after February 27, 1988 and before June 1, 1988.

I hereby certify that the aforementioned determinations were issued during the month of March 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: April 18, 1989.

[FR Doc. 89–9863 Filed 4–24–89; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–22,089]

Victory Energy Development Co., Indiana, PA; Negative Determination Regarding Application for Reconsideration

By an application of March 6, 1989 counsel for the workers requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on January 31, 1989 and published in the **Federal Register** on March 27, 1989 (54 FR 12502).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Counsel claims that Victory Energy meets the definition of a producer by virtue of the fact that it manages and oversees the actual drilling of the oil and gas leases, procures the pipelines and transports the gas to market.

The Department's considered Victory Energy as a producer in its initial negative determination since a substantial portion of its revenues were derived from the production and sale of its own natural gas. The findings also show that Victory Energy receives revenues from operating its partnerships' wells, contracting out drilling for its partnerships and marketing its partnerships' gas.

As a producer Victory Energy would not fall under the retroactive provisions contained in the Omnibus Trade and Competitiveness Act (OTCA) of 1988. The retroactive provisions contained in section 1421(a)(1)(B) of OTCA pertain only to workers in independent firms engaged in exploration and drilling for oil or natural gas with unaffiliated firms in the oil and gas industry.

Investigation findings show that the worker petition for Victory Energy did not meet the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act of 1974. The "contributed importantly" test is generally demonstrated by means of a customer survey. The major customers of the subject firm were surveyed and none of the respondents imported natural gas in the period applicable to the petition. Other findings show that the average number of production workers at Victory Energy did not decline in the period applicable to the petition.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the laws of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 17th day of April 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89–9864 Filed 4–24–89; 8:45 am]

BILLING CODE 4510–30–M

Job Training Partnership Act; Migrant and Seasonal Farmworker Programs; Proposed Planning Estimates

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed State planning estimates and allocation formula; request for comments.

SUMMARY: The Employment and Training Administration is publishing the proposed State planning estimates for Program Year 1989 (July 1, 1989–June 30, 1990) for the Job Training Partnership Act section 402 migrant and seasonal farmworker programs, the allocation formula, and the rationale used in arriving at the planning estimates.

DATE: Written comments on this notice are invited and must be received on or before May 25, 1989.

ADDRESS: Written comments shall be submitted to Mr. Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, U.S. Department of Labor, Room N–4641, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Charles C. Kane, Chief, Division of Seasonal Farmworker Programs. Telephone: (202) 535–0500 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: As required by section 162 of the Job Training Partnership Act (JTPA), the Employment and Training Administration publishes for comment the proposed State planning estimates for migrant and seasonal farmworker programs in Program Year (PY) 1989. Section 402 grantees will be competitively selected for a two-year period on July 1, 1989. The closing date for the submission of proposals was October 17, 1988. Since PY 1989 will be the first year of a two-year designation period, grantees will be funded for PY 1990, unless the actions called for at 20 CFR 633.315 of the JTPA regulations (replacement, corrective action, termination) are appropriate. Applications, therefore, will not be accepted from other organizations for that second year.

Allocation Formula

The planning estimates reflect: (1) No hold-harmless provision; and (2) that States which would receive less than $60,000 by application of the formula (Alaska, Rhode Island, and the District of Columbia) will receive no allotment, since the amount they would receive is deemed insufficient to effectively operate a program.

Although the Department of Labor (Department) reserves the right not to allocate any funds for use in a State whose allocation is less than $120,000 in accordance with 20 CFR 633.105(b)(2), jurisdictions which would receive more than $60,000 but less than $120,000 (Delaware and New Hampshire) will be given an allocation of at least $125,000. The total State allocations also include a PY 1989 supplemental allocation of $8,866,033. This represents the amount available after setting aside funds for the section 402 national account and maintaining State base allocations at PY 1988 levels. Half of these additional funds was distributed using the current section 402 formula while the other 50 percent of the increase was distributed based on the most recent Special Agricultural Worker data provided by the Immigration and Naturalization Service. The Department views these allocation methods as a fair and reasonable approach to serving the currently eligible and the newly eligible legalized migrant and seasonal farmworkers resulting from the Immigration Reform and Control Act of 1986. Also, this method is consistent with that used for the PY 1988 increase.

Allotments

The allotments set forth in the appendix to this notice reflect the allocation methods described above. These allocation methods are applied to a total amount to be distributed of $66,188,033. This figure represents the appropriated Fiscal Year 1989 (Pub. L. 100–436) level of $68,540,000 reduced by $2,351,967 which is being held in the JTPA section 402 national account. The migrant housing program and the Migrant Farm Labor Center in Hope, Arkansas, will be funded from that account.

Signed at Washington, DC, this 14th day of April 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

BILLING CODE 4510-30-M

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
PY 1989 MSFW ALLOTMENT TO STATES
03-23-1989

	BASE		CENSUS		INS		TOTAL
	DOLLARS	PERCENT	DOLLARS	PERCENT	DOLLARS	PERCENT	DOLLARS
Alabama	820,907	1.432	63,557	1.434	6,355	0.143	890,819
Alaska	0	0.000	0	0.000	0	0.000	0
Arizona	1,062,000	1.853	82,223	1.855	197,388	4.453	1,341,611
Arkansas	1,209,803	2.111	93,667	2.113	8,225	0.186	1,311,695
California	8,283,649	14.451	641,347	14.468	2,324,546	52.437	11,249,542
Colorado	748,430	1.306	57,946	1.307	45,609	1.029	851,985
Connecticut	192,032	0.335	14,868	0.335	6,729	0.152	213,629
Delaware	120,000	0.209	6,628	0.150	2,991	0.067	129,619
District of Columbia	0	0.000	0	0.000	0	0.000	0
Florida	3,625,815	6.325	280,722	6.333	441,881	9.968	4,348,418
Georgia	1,607,124	2.804	124,429	2.807	65,048	1.467	1,796,601
Hawaii	255,713	0.446	19,798	0.447	3,365	0.076	278,876
Idaho	844,322	1.473	65,370	1.475	34,767	0.784	944,459
Illinois	1,116,636	1.948	86,454	1.950	109,909	2.479	1,312,999
Indiana	807,155	1.408	62,493	1.410	5,981	0.135	875,629
Iowa	1,372,720	2.395	106,280	2.397	2,617	0.059	1,481,617
Kansas	700,484	1.222	54,234	1.223	12,711	0.287	767,429
Kentucky	1,423,392	2.483	110,204	2.486	748	0.017	1,534,344
Louisiana	828,340	1.445	64,133	1.447	4,112	0.093	896,585
Maine	342,437	0.597	26,513	0.598	1,495	0.034	370,445
Maryland	291,517	0.509	22,570	0.509	7,851	0.177	321,938
Massachusetts	298,083	0.520	23,079	0.521	17,197	0.388	338,359
Michigan	886,074	1.546	68,603	1.548	14,206	0.320	968,883
Minnesota	1,336,792	2.332	103,499	2.335	1,869	0.042	1,442,160
Mississippi	1,524,488	2.660	118,031	2.663	1,122	0.025	1,643,641
Missouri	1,145,998	1.999	88,727	2.002	2,991	0.067	1,237,716
Montana	701,847	1.224	54,339	1.226	748	0.017	756,934
Nebraska	798,111	1.392	61,792	1.394	5,608	0.127	865,511
Nevada	140,741	0.246	10,897	0.246	16,823	0.379	168,461
New Hampshire	120,000	0.209	6,916	0.156	748	0.017	127,664
New Jersey	271,075	0.473	20,988	0.473	36,263	0.818	328,326
New Mexico	491,974	0.858	38,090	0.859	48,226	1.088	578,290
New York	1,456,843	2.542	112,793	2.544	152,901	3.449	1,722,537
North Carolina	2,996,198	5.227	231,975	5.233	64,675	1.459	3,292,848
North Dakota	493,213	0.860	38,186	0.861	374	0.008	531,773
Ohio	942,320	1.644	72,957	1.646	4,112	0.093	1,019,389
Oklahoma	595,919	1.040	46,138	1.041	19,066	0.430	661,123
Oregon	881,861	1.538	68,277	1.540	101,685	2.294	1,051,823
Pennsylvania	1,230,245	2.146	95,250	2.149	18,318	0.413	1,343,813
Puerto Rico	3,043,276	5.309	235,620	5.315	23,552	0.531	3,302,448
Rhode Island	0	0.000	0	0.000	0	0.000	0
South Carolina	1,112,919	1.942	86,166	1.944	10,841	0.245	1,209,926
South Dakota	730,218	1.274	56,536	1.275	0	0.000	786,754
Tennessee	998,815	1.742	77,331	1.744	2,991	0.067	1,079,137
Texas	4,794,610	8.364	371,214	8.374	451,601	10.187	5,617,425
Utah	228,085	0.398	17,659	0.398	17,197	0.388	262,941
Vermont	224,244	0.391	17,362	0.392	374	0.008	241,980
Virginia	1,004,886	1.753	77,801	1.755	32,524	0.734	1,115,211
Washington	1,500,577	2.618	116,179	2.621	97,573	2.201	1,714,329
West Virginia	228,580	0.399	17,697	0.399	1,122	0.025	247,399
Wisconsin	1,282,651	2.238	99,307	2.240	4,112	0.093	1,386,070
Wyoming	208,881	0.364	16,172	0.365	1,869	0.042	226,922
FORMULA TOTAL	57,322,000	100.000	4,433,017	100.000	4,433,016	100.000	66,188,033
TA/NOUS.	2,351,967		0		0		2,351,967
GRAND TOTAL	59,673,967		4,433,017		4,433,016		68,540,000

[FR Doc. 89-9862 Filed 4-24-89; 8:45 am]
BILLING CODE 4510-30-C

Job Training Partnership Act (JTPA) Advisory Committee Meetings

The Job Training Partnership Act Advisory Committee was established by Notice dated June 16, 1988, and published June 28, 1988, 53 FR 24379 to advise the Department of Labor on a comprehensive review of the JTPA program. A review of experience to date of the JTPA program and request for comments on the issues to be addressed in the review were provided by Notice published August 12, 1988, 53 FR 30483. The Committee to date has met six times.

Notice is hereby given of the next two meetings of the Advisory Committee:

Date: May 16–18, 1989. The meeting will be held at the Fort Magruder Inn, Rte. 60 East, Williamsburg, Virginia 23187. The meeting will begin at 9:00 a.m. May 16 and adjourn at noon on May 18.

Date: June 27, 1989. The meeting will be held at the Vista Hotel, 1400 M Street, NW., Washington, DC 20005. The meeting will begin at 9:30 a.m. and adjourn at 4:00 p.m.

The meetings are open to the public.

For further information, contact Hugh Davies, Office of Job Training Programs, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue,. NW., Room N–4709, Washington, DC 20210. Telephone 202–535–0580.

Signed at Washington, DC, this 14th day of April, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 89–9860 Filed 4–24–89; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–89–44–C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1403–8(b) (track haulage roads) to its Blacksville No. 1 Mine (I.D. No. 46–01867) located in Monongalia County, West Virginia. The petition is filed under section 101[c] of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that track haulage roads have a continuous clearance on one side of at least 24 inches from the farthest projection of normal traffic.

2. In order to comply with the 24-inch clearance requirement the track in numbers 10 and 11 headings will have to be realigned and arches used for roof support will have to be removed thereby exposing miners to hazardous conditions.

3. As an alternate method, petitioner proposes the following procedures:

(a) Luminous signs designating "Close Clearance" would be posted at the track entrances to the affected areas;

(b) No person would be allowed to enter the area on foot without permission from the dispatcher and dumper;

(c) Telephones would be provided at the entrances to the affected areas;

(d) The dispatcher would notify all locomotive operators or other haulage vehicle operators of the location of work crews in the affected areas; and

(e) The dispatcher and dumper would be notified when the persons leave the affected areas.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 25, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: April 19, 1989.

[FR Doc. 89–9856 Filed 4–24–89; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–89–48–C]

Eastside Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standards

Eastside Coal Company, Inc., P.O. Box 161, Silt, Colorado 81652 has filed a petition to modify the application of 30 CFR 75.1100–2(b) (belt conveyors) to its Eastside Mine (I.D. No. 05–02421) located in Garfield County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that waterlines be installed parallel to the entire length of belt conveyors and equipped with firehose outlets with valves at 300-foot intervals along each belt conveyor and at tailpieces.

2. Due to freezing problems with subsequent loss of firefighting capability, the waterline along the belt line cannot be charged during the winter months.

3. As an alternate method, petitioner proposes not to charge the waterline parallel to the conveyor belt line for the first 800 feet plus approximately 200 feet of the charging line from October through March.

4. In support of this request, petitioner states that the waterline could be fully charged within five minutes or less. Signs would be posted at strategic valve locations. All personnel would be instructed in the location of the valves and also instructed in the method to charge the line in the event of an emergency. They would be instructed again every 90 days thereafter in conjunction with fire drills.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 25, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: April 19, 1989.

[FR Doc. 89–9857 Filed 4–24–89; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–89–33–C]

Island Creek Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Island Creek Coal Company, P.O. Box 11430, Lexington, Kentucky 40575 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Providence No. 1 Mine (I.D. No. 15–02156) located in Hopkins County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use belt air to ventilate the working faces and to remove restrictions on the velocity of air in the belt entries.

3. In support of this request, petitioner proposes to install an early warning fire detection system utilizing a low-level carbon monoxide (CO) detection system in all belt entries used as intake aircourses and at each belt drive and tailpiece located in intake aircourses. The monitoring devices would be capable of giving warning of a fire for four hours should the power fail; a visual alert signal would be activated when the CO level is 10 parts per million (ppm) above ambient air and an audible signal would sound at 15 ppm above ambient air. All persons would be withdrawn to a safe area at 10 ppm and evacuated at 15 ppm. The fire alarm signal would be activated at an attended surface location where there is two-way communication. The CO system would be capable of identifying any activated sensor, monitoring electrical continuity and detecting electrical malfunctions.

4. The CO system would be visually examined at least once each coal-producing shift and tested weekly to ensure the monitoring system is functioning properly. The monitoring system would be calibrated with known concentrations of CO and air mixtures at least monthly.

5. If the CO monitoring system is deenergized for routine maintenance or for failure of a sensor unit, the belt conveyor would continue to operate and qualified persons would patrol and monitor the belt conveyor using hand-held CO detecting devices.

6. The details for the fire detection system, and the permanent stoppings separating the conveyor belt entries from the intake escapeway would be included as part of the ventilation system, methane and dust control plan.

7. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 25, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: April 18, 1989.

[FR Doc. 89-9858 Filed 4-24-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-38-C]

R&B Mining; Petition for Modification of Application of Mandatory Safety Standard

R&B Mining, R.D. 4, Box 393-A, Pine Grove, Pennsylvania 17936 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity and velocity) to its No. 2 Slope (I.D. No. 36-07877) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute. The minimum quantity is required to be 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine. Ignition, explosion, and mine fire history are nonexistent for the mine. There is no history of harmful quantities of carbon monoxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Extremely high velocities in small cross-sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that:

(a) The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

(b) The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

(c) The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interestd in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 25, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

April 18, 1989.

[FR Doc. 89-9859 Filed 4-24-89; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) 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 Arts/National Assembly of State Arts Agencies/National Assembly of Local Arts Agencies Sub-Committee to the National Council on the Arts will be held on May 11, 1989, from 3:00 p.m.-5:00 p.m. in Room M-07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506

This meeting will be open to the public on a space available basis. The topics for discussion will be policy issues.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment of the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

April 19, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-9817 Filed 4-24-89; 8:45 am]

BILLING CODE 7537-01-M

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Design Advancement/Individuals Section) to the National Council on the Arts will be held on May 17-18, 1989, from 9:00 a.m.-5:30 p.m. and May 19, 1989, from 9:00 a.m.-5:00 p.m. in Room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 19, 1989 from 2:30 p.m.-5:00 p.m. The topics for discussion will be policy issues.

The remaining portion of this meeting on May 17-18, 1989 from 9:00 a.m.-5:30 p.m. and May 19, 1989, from 9:00 a.m.-2:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

April 19, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-9815 Filed 4-24-89; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Fellowships Section) to the National Council on the Arts will be held on May 16-18, 1989, from 9:00 a.m.-5:30 p.m. in Room M-14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 18, 1989 from 4:00 p.m.-5:30 p.m. The topics for discussion will be policy issues and guidelines.

The remaining portion of this meeting on May 16-17, 1989 from 9:00 a.m.-5:30 p.m. and May 18, 1989, from 9:00 a.m.-4:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

April 19, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-9816 Filed 4-24-89; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Anchorage, Alaska, on Marine Accident

In connection with its investigation of the accident involving the Grounding of the Tankship EXXON VALDEZ in Prince William Sound, Alaska, on March 24, 1989, the National Transportation Safety Board will convene a public hearing at 9:00 a.m. (local time), on Tuesday, May 16, 1989, in the Discovery Ball Room, Hotel Captain Cook, 939 West 5th Avenue, Anchorage, Alaska. For more information contact Durcella Andersen, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, DC 20594, telephone (202) 382-6603.

Bea Hardesty,

Federal Register Liaison Officer.

April 19, 1989.

[FR Doc. 89-9840 Filed 4-24-89; 8:45]

BILLING CODE 7533-01-M

Public Hearing in Kansas City, Missouri, on Series of KPL Pipeline Accidents

In connection with the investigation of a series of KPL Pipeline Accidents in Kansas and Missouri, the National Transportation Safety Board will convene a public hearing at 1:00 p.m. (local time), on Wednesday May 3, 1989, in the Summit Ballroom of the Embassy on the Park Hotel, 1215 Wyandotte, Kansas City, Missouri. For more information contact Ted Lopatkiewicz, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, DC 20594, telephone (202) 382-6605.

April 19, 1989.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 89-9841 Filed 4-24-89; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on May 3-6, in Room P-110, 7920 Norfolk Avenue, Bethesda, MD and One White Flint North, Rockville, Maryland. Notice of this meeting was published in the **Federal Register** on March 21, 1989.

Wednesday, May 3, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD

12:00 Noon-1:30 p.m.: Preparation for Meeting with NRC Commissioners (Open)—The Committee will discuss

ACRS reports to NRC regarding Generic Issue 99, Improved Reliability of Residual Heat Removal Capability in PWRs (reports dated September 14, 1988 and February 16, 1989); Unresolved Safety Issue A-45, Shutdown Decay Heat Removal Requirements (report dated September 14, 1988); and Further ACRS Comments on Implementation of the Safety Goal Policy (report dated February 16, 1989).

Commissioners Conference Room (Lobby), One White Flint North, Rockville, Maryland

2:00 p.m.–3:30 p.m.: Meeting with NRC Commissioners (Open)—The Committee will meet with the NRC Commissioners to discuss the reports noted above.

Thursday, May 4, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD

8:30 a.m.–8:45 a.m.: Comments by ACRS Chairman (Open)—The ACRS Chairman will report on items of current interest.

8:45 a.m.–10:30 a.m.: Limerick Nuclear Station, Unit 2 (Open/Closed)—The Committee will review and comment regarding proposed operation of this nuclear power plant.

Portions of this session will be closed as necessary to discuss safeguards and security information regarding this facility.

10:45 a.m.–12:00 Noon: Evaluation of Operating Experience at Nuclear Plants (Open)—The Committee will be briefed by representatives of the NRC staff regarding reports evaluating reactor operating experience, including loss of decay heat removal capability, inadequate NPSH in high pressure safety systems, and deficiencies in control room ventilation systems in nuclear power plants.

1:00 p.m.–3:00 p.m.: Reactor Risk Reference Document (Open)—The Committee will review and comment on the proposed uses and content of NUREG-1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants," Second Draft.

3:15 p.m.–4:45 p.m.: Radiobiological Exposure Criteria (Open)—The Committee will review and comment on the proposed NRC generic letter on evaluation of radiation exposure/dose from "hot particles."

4:45 p.m.–6:15 p.m.: Performance Indicator Program (Open)—The Committee will be briefed regarding development and use of performance indicators for evaluation of operations at nuclear power plants.

Friday, May 5, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD

8:30 a.m.–10:30 a.m.: Valve Surveillance and Testing (Open)—The Committee will meet with the NRC Staff and also hold a discussion of proposed ACRS comments regarding proposed NRC testing and surveillance requirements for motor-operated valves in nuclear power plants.

10:45 a.m.–12:00 Noon and 1:00 p.m.–2:30 p.m.: Human Factors (Open)—The Committee will review and comment on the proposed NRC research program plan on human factors and related NRC initiatives.

2:45 p.m.–3:15 p.m.: Future ACRS Activities (Open)—The Committee will discuss anticipated ACRS subcommittee activities and matters proposed for consideration by the full committee.

3:15 p.m.–5:45 p.m.: Emergency Planning (Open)—A briefing will be given by representatives of the NRC Staff and industry regarding the status of emergency planning and preparedness for nuclear power plants.

Saturday, May 6, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD

8:30 a.m.–12:00 Noon and 1:00 p.m.–2:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed reports to NRC regarding items considered during this meeting.

2:00 p.m.–3:00 p.m.: ACRS Subcommittee Activities (Open)—The Committee will hear and discuss reports of the status of ACRS subcommittee activities regarding designated areas including the status of implementation of ATWS and scope of ACRS activities.

3:00 p.m.–3:15 p.m.: Appointment of ACRS Members (Open/Closed)—The Committee will hear a status report regarding appointment of ACRS members.

Portions of this session will be closed as necessary to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 27, 1988 (53 FR 43487). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)) and to discuss safeguards information (5 U.S.C. 552b(c)(3)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492-8049), between 8:15 a.m. and 5:00 p.m.

Date: April 18, 1989.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 89-9787 Filed 4-24-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 55-20449; ASLBP No. 89-588-01-SP]

Rodger W. Ellingwood, Senior Operator License for Catawba Nuclear Station; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 FR 28710 (1972) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, a presiding officer is designated in the following proceeding:

Rodger W. Ellingwood, Senior Operator License for Catawba Nuclear Station

By letter dated December 7, 1988, Rodger W. Ellingwood, an applicant for a senior operator license for the Catawba Nuclear Station, was informed

by NRC's Region II office that he did not pass the written examination taken on September 26, 1988, and that it is proposed that his application be denied. On December 20, 1988, Mr. Ellingwood requested reconsideration of the proposed denial of his license application. However, the Office of Nuclear Reactor Regulation sustained the license denial on March 1, 1989. In accordance with directions in the letter of denial, Mr. Ellingwood on March 16, 1989 requested a hearing pursuant to 10 CFR 2.103(b)(2).

The presiding officer in this proceeding is Administrative Judge John H. Frye III.

Following consultation with the Panel Chairman, pursuant to the provisions of 10 CFR 2.722, the Presiding Officer has appointed Administrative Judge Frederick J. Shon to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Frye and Judge Shon in accordance with 10 CFR 2.701. Their addresses are:

Administrative Judge John H. Frye III, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Administrative Judge Frederick J. Shon, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 17th day of April 1989.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 89-9788 Filed 4-24-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Co., et al.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative (the licensee) to withdraw a portion of its October 14, 1986 application for an amendment to Facility Operating License No. DPR-49 for the Duane Arnold Energy Center located in Linn County, Iowa.

The proposed amendment would have revised the Technical Specifications to allow qualified personnel to screen proposed procedure changes on behalf of the plant Operations Committee.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 26, 1987 (52 FR 5857). However, by letter dated March 25, 1987, the licensee withdrew a portion of the proposed change.

For further details with respect to this action, see the application for amendment dated October 14, 1986 and the licensee's letter dated March 25, 1987 which withdrew a portion of the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Cedar Rapids Public Library, 500 First Street, SE., Cedra Rapids, Iowa 52401.

Dated at Rockville, Maryland this 18th day of April 1989.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects-III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-9880 Filed 4-24-89; 8:45 am]

BILLING CODE 7590-01-M

Philadelphia Electric Co.; Establishment of Atomic Safety and Licensing Board

[Docket Nos. 50-352-OL and 50-353-OL; ASLBP No. 89-587-03-OL-R]

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

Philadelphia Electric Company, Limerick Generating Station, Units 1 and 2, Facility Operating License No. NPF-39, Facility Construction Permit No. CPPR-107.

This Atomic Safety and Licensing Board is being designated pursuant to the provisions of an Order issued by the Commission on April 14, 1989 with respect to an opinion issued February 28, 1989 by the United States Court of Appeals for the Third Circuit granting a petition for review filed by intervenor Thomas Martin, who represents a group of inmates at the State Correctional Institution in Graterford, Pennsylvania. *Martin* v. *NRC*, No. 87-3190, slip op. at 77. In granting that petition, the Court ordered the Commission to give additional consideration to an inmate contention questioning whether the radiological emergency plan relating to the Graterford Institution complies with the standard of 10 CFR 50.47(b)(15) that radiological response emergency training is provided to civilian personnel (*e.g.*, bus and ambulance drivers) who may be called upon to assist in the event of an emergency that would require evacuation of the Graterford prison. *Id.* at 69-71.

The Board is comprised of the following administrative judges:

Morton B. Margulies, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Jerry Harbour, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

Issued at Bethesda, Maryland, this 14th day of April, 1989.

[FR Doc. 89-9789 Filed 4-24-89; 8:45 a.m.]

BILLING CODE 7590-01-m

[Docket Nos. 50-352-OL, 50-353-OL; ASLBP No. 89-587-03-OL-R]

Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2); Prehearing Conference

April 18, 1989.

Before Administrative Judges Morton B. Margulies, Chairman, Jerry Harbour, Jerry R. Kline.

Please take notice that in the captioned proceeding a prehearing conference will be held on May 12, 1989, at 9:30 a.m. in the U.S. Customs House, Courtroom 300, Second and Chestnuts Streets, Philadelphia, Pennsylvania.

The conference is called pursuant to the Order of the Commission of April 14, 1989, calling for a Licensing Board to conduct proceedings to consider the contention of an inmate questioning whether the radiological emergency response plan relating to the Graterford Institution complies with the standard of 10 CFR 50.47(b)(15) that radiological response emergency training is provided to civilian personnel (e.g., bus and ambulance drivers) who may be called upon to assist in the event of an emergency that would require evacuation of the Graterford prison. The Commission action was taken in furtherance of an opinion issued February 28, 1989, by the United States Court of Appeals for the Third Circuit granting a petition for review filed by Intervenor Thomas Martin. *Martin* v. *NRC*, No. 87-3190, slip op. at 69-71, 77.

The following matters will be considered:

(1) Simplication, clarification, and specification of the issue;

(2) The obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;

(3) identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;

(4) The setting of a hearing schedule; and

(5) Such other matters as may aid in the orderly disposition of the proceeding.

The parties or their counsel are directed to appear.

For the Atomic Safety and Licensing Board.

Morton B. Margulies,

Chairman, Administrative Law Judge.

Dated at Bethesda, Maryland, this 18th day of April, 1989.

[FR Doc. 89-9790 Filed 4-24-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards; Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulation Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-43, issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensee), for operation of the Kewaunee Nuclear Power Plant, located in Kewaunee County, Wisconsin.

The amendment would change the expiration date for the Kewaunee Plant Operating License from August 6, 2008, to December 21, 2013. The Technical Specifications for the plant would not be affected.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination is provided below.

The current term of the KNPP Operating License is 40 years commencing with the issuance of the construction permit (August 6, 1968). Accounting for the time required for plant construction, this represents an effective operating license term of only 35 years. Current NRC practice is to issue an operating license with a term of 40 years from the date of issuance. This amendment proposes to extend the operating license in accordance with current practices.

The licensee's request for extension of the Operating License is based primarily on the fact that the facility is designed for 40 years of operation at a load factor of 0.85. Although this does not mean that some components will not wear out during the plant lifetime, design features were incorporated to maximize the inspectability of structures, systems and equipment. Surveillance and maintenance practices which have been implemented in accordance with the ASME code and the facility Technical Specifications provide assurance that any unexpected degradation in plant equipment will be identified and corrected.

The design of the reactor vessel and its internals considered the effects of 40 years of operation at a load factor of 0.85 and a comprehensive vessel material surveillance program is maintained in accordance with 10 CFR Part 50, Appendix H. Analyses showing compliance with the NRC pressurized thermal shock screening criteria have demonstrated that expected cumulative neutron fluences will not be a limiting consideration. In addition to these calculations, surveillance capsules placed inside the reactor vessel provide a means of monitoring the cumulative effects of power operation.

Aging analyses have been performed for all safety-related electrical equipment in accordance with 10 CFR 50.49, "Environmental qualifications of electrical equipment important to safety for nuclear power plants," identifying qualified lifetimes for this equipment. These lifetimes have been incorporated into a plant preventative maintenance program and replacement practices will ensure that all safety-related electrical equipment remains qualified and available to perform its safety function regardless of the overall age of the plant.

The environmental impacts associated with a 40-year operating period were considered in the licensing of the Kewaunee Plant. The population estimates, as provided in the 1970 census data and used for licensing projections, were only carried out for 2010, three years less than the 40-year period. However, overall population has declined in the area and within the limits of projecting future populations, the 2013 plant area forecast population will be smaller than the originally forecast 2010 plant area population. Modifications to the plant and its surroundings, since the Operating License was issued in 1973, have resulted in improving the reliability of plant safety and reducing the environmental impact of plant operations.

The NRC staff concludes that extension of the operating license for the Kewaunee Nuclear Power Plant to allow a 40-year service life is consistent with the safety analysis in that all issues associated with plant aging have already been addressed. Since the proposed amendment involves no changes in the Technical Specifications or safety analyses, the staff concludes that the proposed amendment would not: (1) Involve any significant increase in the probability or consequences of an accident previously evaluated; or (ii) create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) involve any reduction in the margin of safety.

Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice. Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments

received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 25, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325–6000 (in Missouri 1 (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John N. Hannon: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to David Baker, Esq., Foley and Lardner, P.O. Box 2193, Orlando, Florida 31082, attorney for the licensee.

Nontimely filings of peititons for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 23, 1986, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Dated at Rockville, Maryland, this 18th day of April 1989.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III–3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–9881 Filed 4–24–89; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Leesa Martin, (202) 632–0728.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on March 27, 1989 (54 FR 12512). Individual authorities established or revoked under Secedule A, B, or C between March 1, 1989, and March 31, 1989, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

No Schedule A authorities were established or revoked during March.

Schedule B

No Schedule B authorities were established or revoked during March.

Schedule C

Department of Agriculture

Two Confidential Assistants to the Administrator. Effective March 9, 1989.

One Staff Assistant to the Administrator. Effective March 9, 1989.

One Private Secretary to the Secretary of Agriculture. Effective March 20, 1989.

Department of Commerce

One Confidential Assistant to the Director of the Office of Commercial Space Programs. Effective December 30, 1988. Note: This position should have appeared in the listing dated Wednesday, January 25, 1989; FR 54 3702.

One Confidential Assistant to the Secretary. Effective March 24, 1989.

One Director, Office of Business Liaison, to the Secretary of Commerce. Effective March 8, 1989.

One Director, Office of Private Sector Initiatives, to the Director, Office of Business Liaison. Effective March 20, 1989.

One Confidential Assistant to the Director General, U.S. and Foreign Commercial Service. Effective March 22, 1989.

One Confidential Assistant to the Secretary of Commerce. Effective March 22, 1989.

Department of Energy

One Staff Assistant to the Chief of Staff. Effective March 13, 1989.

One Director, Intergovernmental Affairs Division, to the Director, Office of External Affairs. Effective March 27, 1989.

One Staff Assistant to the Chief of Staff. Effective March 24, 1989.

One Staff Assistant to the Deputy Secretary. Effective March 29, 1989.

Department of Education

One Special Assistant to the Secretary. Effective March 10, 1989.

Department of Housing and Urban Development.

One Special Assistant to the Secretary. Effective March 22, 1989.

Two Special Assistants to the Secretary. Effective March 23, 1989.

One Special Assistant to the Secretary. Effective March 29, 1989.

Department of Labor

One Special Assistant to the Secretary of Labor. Effective March 1, 1989.

Two Special Assistants to the Assistant Secretary for Public and Intergovernmental Affairs. Effective March 3, 1989.

One Special Assistant to the Secretary for Policy. Effective March 3, 1989.

One Special Assistant to the Assistant Secretary for Congressional Affairs. Effective March 27, 1989.

One Senior Legislative Officer to the Assistant Secretary for Congressional Affairs. Effective March 30, 1989.

Department of State

One Special Assistant to the Under Secretary for Management. Effective March 3, 1989.

One Protocol Officer to the Chief of Protocol. Effective March 8, 1989.

One Staff Assistant to the Counselor. Effective March 13, 1989.

One Staff Assistant to the Director, Policy Planning Staff. Effective March 24, 1989.

Department of Treasury

One Special Assistant to the Director of Scheduling. Effective March 1, 1989.

One Legislative Assistant to the Assistant Secretary for Legislative Affairs. Effective March 3, 1989.

One Special Assistant to the Deputy Assistant Secretary for Departmental Finance and Management. Effective March 8, 1989.

One Special Assistant to the Assistant Secretary for Policy Development. Effective March 13, 1989.

One Confidential Assistant to the Secretary. Effective March 15, 1989.

One Director, Office of Intergovernmental Affairs to the Deputy Assistant Secretary. Effective March 29, 1989.

Action

One Assistant Director for Vista/Student Community Service Programs to the Associate Director. Effective March 10, 1989.

Office of Management and Budget

One Special Assistant to the Associate Director for Congressional Affairs. Effective March 10, 1989.

One Deputy Director of External Affairs to the Director of External Affairs. Effective March 14, 1989.

One Confidential Assistant to the Associate Director for Congressional Affairs. Effective March 15, 1989.

One Confidential Assistant to the Director, Office of Management and Budget. Effective March 24, 1989.

United States Tax Court

One Confidential Assistant to a Judge. Effective March 9, 1989.

Authority: 5 U.S.C. 3301, 3302; E.O. 10555, 3 CFR 1954–1958 Comp., P. 218.

Constance Horner,

Director, U.S. Office of Personnel Management.

[FR Doc. 89–9825 Filed 4–24–89; 8:45 am]

BILLING CODE 6325–01–M

POSTAL SERVICE

Implementation of Final Express Mail International Service Revised Rates

AGENCY: Postal Service.

ACTION: Notice of change in express mail international service rates.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, effective April 25, 1989, the Postal Service will implement a lower half-pound rate for On-Demand Express Mail International Service. A special introductory rate will precede the regular rate, which will take effect July 1, 1989. The Postal Service is reducing these rates in order to provide persons and companies in international trade with readily available, fast, economical delivery of important documents, which the half-pound pieces are most likely to contain.

EFFECTIVE DATE: 12:01 am. April 25, 1989 and 12:01 a.m. July 1, 1989.

FOR FURTHER INFORMATION CONTACT: Eugene Columbo, (202) 268–2266.

By mail: Eugene Columbo, General Manager, Market Development Division, Room 5437, U.S. Postal Service, Washington, DC 20260–6339.

SUPPLEMENTARY INFORMATION: This document provides notice that the Postal

Service is implementing a lower half-pound rate for On-Demand Express Mail International Service shipments. The lower rate will be $10.75 for pieces weighing eight ounces or less. In addition, the Postal Service is implementing a special introductory rate of $8.75 for pieces weighing eight ounces or less that will be in effect from 12:01 a.m. April 25, 1989 until 12:01 a.m. July 1, 1989. The $10.75 rate will take effect at 12:01 a.m. July 1, 1989.

Express Mail International Service is the Postal Service's premium international service. It is available to almost 100 countries and can deliver international documents and parcels in three days or less, depending on the destination and availability of transportation.

International trade is increasingly important to the United States. Persons and companies engaged in international trade need readily available, fast, economical delivery of important documents. In response to this need, the Postal Service is reducing its rate for On-Demand Express Mail International Service pieces most likely to contain documents, pieces weighing eight ounces or less. This action has been facilitated by foreign postal administrations in agreements which significantly lower the imbalance charges associated with this category of mail. The Postal Service expects this rate not only to make expedited international delivery service more affordable for those who already use it, but also to make expedited international delivery service available to new users who until now have considered expedited delivery service too expensive. In particular, lower rates are expected to benefit smaller businesses. Although it is not possible to quantify, the provision of less expensive expedited document service is expected to stimulate growth in international trade generally and in expedited parcel shipments via the Postal Service as well as via other carriers.

In view of the above considerations, the Postal Service hereby adopts a special introductory half-pound rate of $8.75 for On-Demand Express Mail International pieces that will be in effect from 12:01 a.m. April 25, 1989 until 12:01 a.m. July 1, 1989, when the rate for such pieces will be $10.75.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 89-9893 Filed 4-24-89; 8:45 am]

BILLING CODE 7710-12-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-55]

Unfair Trade Practices; Icicle Seafoods; Determination and Hearing

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of rebuttal date and correction or room number where public hearing will be held.

On March 31, 1989, a notice was published in the Federal Register (54 FR 13264) announcing that a public hearing in this matter would be held on April 26, 1989, in Court Room A, Room 100 of the U.S. International Trade Commission, 500 E Street SW., Washington, DC. The purpose of this notice is to change the original Court Room number as published in 54 FR 13264 and to give the deadline for filing rebuttal briefs. The new room number is Court Room B, Room 100 of the U.S. International Trade Commission, 500 E Street, SW., Washington, DC.

In order to assure each party an opportunity to contest the information provided by other parties, the Section 301 Committee will entertain rebuttal briefs filed by any party, in accordance with 15 CFR 2006.8(c), by noon on May 5, 1989. Rebuttal briefs may be addressed to Ms. Dorothy Balaban, Staff Assistant to the section 301 Committee, Office of the U.S. Trade Representative, Room 222, 600 17th Street, NW., Washington, DC 20506.

A. Jane Bradley,

Chairwoman, Section 301 Committee.

[FR Doc. 89-10016 Filed 4-24-89; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S-849]

Seabulk Transmarine I, Inc., et al., Application for Permission Under Section 805(a) of the Merchant Marine Act, 1936, as Amended

By letter dated April 20, 1989, Seabulk Transmarine I, Inc., Seabulk Transmarine II, Inc., and Seabulk Transmarine III, Inc. (the Seabulk companies) requested all determinations and permissions required pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended (Act).

Each of the Seabulk companies is a wholly-owned subsidiary of Hvide Marine International, Inc., which is in turn a wholly-owned subsidiary of Hvide Shipping, Incorporated (Hvide) and are operators under Operating-Differential Subsidy Agreements (ODSA), Contracts MA/MSB-440, MA-MSB-441, and MA/MSB-442.

In 1981 the Maritime Subsidy Board (Board) granted permission, pursuant to section 805(a) of the Act, with respect to Hvide's domestic operation of the harbor tugs FORT LAUDERDALE, CAPTAIN NELSON, EVERGLADES, CAPTAIN BRINN, and BREVARD (ex-HOLLYWOOD) in the harbors of Port Everglades and Port Canaveral, Florida. In granting that permission the Board observed that the applicants had made "no representation and [did] not concede that the employment of said harbor tugs constitutes engagement in the intercoastal or coastwise service." Minutes of the Maritime Subsidy Board, March 17, 1981 (at p. 12,808).

Since 1981 Hvide has added to its Port Everglades and Port Canaveral operations the harbor tugs BROWARD and CAPE CANAVERAL, which tugs are utilized exclusively in the assisting of vessels docking, undocking and shifting within the harbors. Because the Seabulk companies have been of the view that harbor tugs utilized in such "ship assist" activities are not engaged "in the domestic intercoastal or coastwise service," they did not seek permission under section 805(a) to be affiliated with the owner of such tugs. They understand, however, that Crowley Maritime Corporation, an intervenor in the pending proceedings in Docket No. S-844, contends that such tugs are engaged in such "service" within the meaning of section 805(a) and is pressing the Maritime Administration to discontinue subsidy payments to the Seabulk companies until permission covering the BROWARD and CAPE CANAVERAL has been granted.

In an effort to resolve this controversy, and without prejudice to their position that no such permission is required, the Seabulk companies request permission under section 805(a) to be affiliated with the owner and operator of the harbor tugs BROWARD and CAPE CANAVERAL.

Any person, firm, or corporation having any interest in the application for section 805(a) permission and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, by the close of business 5:00 p.m. on May 2, 1989. If such comments deal with section 805(a)

issues, they should be accompanied by a petition for leave to intervene. The petition should state clearly and concisely the grounds of interest and the alleged facts relied on for relief.

If no petitions for leave to intervene on section 805(a) issues are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will to be receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or international service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic operations.

(Catalog of Federal Domestic Assistance Programs Nos. 20.804 Operating-Differential Subsidies (ODS)).

By Order of the Maritime Administrator.

Date: April 20, 1989.

James E. Saari,

Secretary.

[FR Doc. 89-9936 Filed 4-24-89; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.[1]

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (203C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2744.

[1] On March 15, 1989, the Veterans Administration became the Department of Veterans Affairs (see 54 FR 10476).

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Office, within 30 days of this notice.

Dated: April 11, 1989.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information Management and Statistics.

Extension

1. Veterans Benefits Administration.

2. Offer to Purchase and Contract of Sale & Credit Statement of Prospective Purchaser.

3. VA Forms 26-6705 and 26-6705b.

4. VA Form 26-6705 serves as an offer to purchase and contract of sale for submitted purchase offers to VA on properties acquired through operation of the guaranteed and direct loan programs. VA Form 26-6705b is used to collect credit and income information necessary to determine whether an applicant qualifies to purchase a VA-owned property.

5. On occasion.

6. Individuals or households.

7. 165,212 responses.

8. .2347 hour.

9. Not applicable.

[FR Doc. 89-9842 Filed 4-24-89; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 78
Tuesday, April 25, 1989

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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:16 p.m. on Tuesday, April 18, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) matters relating to the possible closing of certain insured banks; and (2) a memorandum regarding the Corporation's liquidation activities.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded, by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of 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)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC

Dated: April 20, 1989.

Federal Deposit Insurance Corporation.

M. Jane Williamson,

Assistant Executive Secretary.

[FR Doc. 89-9974 Filed 4-21-89; 11:13 am]

BILLING CODE 6714-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Change in Previously Scheduled Meetings

April 20, 1989.

TIME AND DATE: The meeting previously scheduled for April 26, 1989 at 10:00 a.m. has been cancelled.

The meeting scheduled for Thursday, April 27, 1989 at 10:00 a.m. will be as follows:

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Otis Elevator Company,* Docket Nos. PENN 87-25-R, etc. and PENN 88-262. (Issues include whether Otis Elevator is an independent contractor under the Mine Act and thus liable for violations and several mandatory safety standards.)

Any person attending this meeting who needs special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(e).

TIME AND DATE: Immediately following oral argument.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Otis Elevator Company,* Docket No. PENN 87-25-R, etc. (see oral argument listing).

2. *Pennsylvania Electric Company,* Docket No. PENN 88-227. (Issues include consideration of procedural motions.)

3. *Sec. of Labor on behalf of Jerry Dale Aleshire et al. v. Westmoreland Coal Co.,* Docket No. WEVA 84-344-D. (Issues include whether the judge erred in finding that the operator did not discriminate against the complainant miners under section 105(c) of the Mine Act. 30 U.S.C. 815(c)(1).)

It was determined by a unanimous vote of Commissioners that these items be considered in closed session.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 566-2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 89-9959 Filed 4-21-89; 10:54 am]

BILLING CODE 6735-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 24, May 1, 8, and 15, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of April 24

Tuesday, April 25

10:00 a.m.—Briefing on the Status of Generic Issues (Public meeting)

Thursday, April 27

10:00 a.m.—Periodic Briefing by Advisory Committee on Nuclear Waste (ACNW) (Public meeting)

3:30 p.m.—Affirmation/Discussion and Vote (Public meeting)

a. Final Rulemaking—Fitness-for-Duty Programs (Tentative)

Week of May 1 (Tentative)

Tuesday, May 2

10:00 a.m.—Briefing on Severe Accident Research Plan (Public meeting)

2:00 p.m.—Briefing on Results of Maintenance Team Inspections (Public meeting)

Wednesday, May 3

10:00 a.m.—Briefing on Status of Second Draft of NUREG-1150 (Public meeting)

2:00 p.m.—Periodic Briefing by Advisory Committee on Reactor Safeguards (ACRS) (Public meeting)

3:30 p.m.—Affirmation/Discussion and Vote (Public meeting) (if needed)

Week of May 8 (Tentative)

Wednesday, May 10

10:00 a.m.—NPOC Briefing on the State of the Nuclear Industry (Public meeting)

2:00 p.m.—Briefing on Status of Operator Licensing Activities in the Area of Requalification Exams (Public meeting)

3:30 p.m.—Affirmation/Discussion and Vote (Public meeting) (if needed)

Week of May 15 (Tentative)

Monday, May 15

2:00 p.m.—Briefing on Interim Report on Accident Study for Plutonium Air Transport Packages (Public meeting)

Thursday, May 18

3:30 p.m.—Affirmation/Discussion and Vote (Public meeting) (if needed)

Friday, May 19

10:00 a.m.—Briefing on Final Rule and Regulatory Guide for Maintenance of Nuclear Power Plants (Public meeting)

ADDITIONAL INFORMATION: By a vote of 3-0 (Commissioner Carr was not present and Commissioner Curtiss was on travel and unavailable to participate) on April 17, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Affirmation of Commission Order Responding to a

Motion to Quash Subpoena" (Public Meeting) scheduled for April 17, be held on less than one week's notice to the public.

By a vote of 3–0 (Commissioner Carr was not present and Commissioner Curtiss was on travel and unavailable to participate) on April 20, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Affirmation of Shoreham Full Power Authorization and Issues Raised by Joseph J. Macktal in the Comanche Peak Proceedings Including a Motion to Reconsider CLI–88–12" (Public Meeting) scheduled for April 20, be held on less than one week's notice of the public.

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (recording)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

William M. Hill, Jr.,

Office of the Secretary.

April 20, 1989.

[FR Doc. 89–10003 Filed 4–21–89; 2:24 pm]

BILLING CODE 7590–01–M

UNITED STATES INSTITUTE OF PEACE

TIME AND DATE: 2:30–5:15 p.m., Tuesday, May 9, 1989.

PLACE: Cyprus Room, Carter Presidential Center, Emory University, Atlanta, Georgia.

STATUS: Open.

PURPOSE AND AGENDA: "Morality and Foreign Policy" is the eighth of a monthly series of Public Workshops scheduled by the United States Institute of Peace. This Workshop, cosponsored by the Carter Presidential Center at Emory University in Atlanta, will be a roundtable on the issue of morality and foreign policy. Both the theory and practice of the relationship will be focused upon—first, through a discussion of a new piece of work on morality and national security by University of Virginia theologian David Little and, second, by a discussion (chaired by Institute of Peace President and former U.S. Ambassador to Israel Samuel W. Lewis) of real-world situations in which morality and national security come into conflict. Panelists will be drawn from the scholarly and policy-making worlds and include former President Jimmy Carter. Public observance is welcomed.

CONTACT: Ms. Aileen C. Hefferren, Telephone 202–457–1700 or the Carter Center at 404–420–5162.

Dated: April 21, 1989.

Charles Duryea Smith,

General Counsel.

[FR Doc. 89–10018 Filed 4–21–89; 3:31 pm]

BILLING CODE 3155–01–M

Corrections

Federal Register
Vol. 54, No. 78
Tuesday, April 25, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1785

Cushion of Credit Account Computations and Procedures

Correction

In rule document 89-8022 beginning on page 13668 in the issue of Wednesday, April 5, 1989, make the following corrections:

1. On page 13669, in the first column, in the table of sections for Subpart A, the section number "1786.17" should read "1785.17".

§ 1785.17 [Corrected]

2. On the same page, in the same column, in Subpart A, a line of five asterisks should follow the heading for § 1785.17 to indicate that the text of that section remains unchanged.

BILLING CODE 1505-01-D

COMMODITY FUTURES TRADING COMMISSION

Establishment of the Commodity Futures Trading Commission Regulatory Coordination Advisory Committee

Correction

In notice document 89-9115 beginning on page 15245 in the issue of Monday, April 17, 1989, make the following corrections:

1. On page 15245, in the second column, the subject heading should read as it appears above.

2. On page 15245, in the second column, under **ACTION**, in the second line, "advisory commission" should read "advisory committee".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

34 CFR Part 690

Pell Grant Program

Correction

In rule document 89-8645 beginning on page 14788 in the issue of Wednesday, April 12, 1989, make the following correction:

On page 14788, in the first column, under **EFFECTIVE DATE**, in the second line, "May 30, 1989," should read "45 days after publication in the **Federal Register**".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-943-09-4214-10; I-06544]

Termination of Proposed Withdrawal and Reservations of Lands; Idaho

Correction

In notice document 89-6837 beginning on page 12024 in the issue of Thursday, March 23, 1989, make the following correction:

On page 12025, in the first column, under "T. 12 N., R. 12 E., (unsurveyed)", the second line should read "Sec. 6, SE¼SE¼;".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

Establishment of Second Local Public Document Room for the High-Level Waste Geologic Repository Site, Yucca Mountain, NV

Correction

In notice document 89-8619 beginning on page 14713 in the issue of Wednesday, April 12, 1989, the subject heading was inaccurate and should read as set forth above.

BILLING CODE 1505-01-D

federal register

Tuesday
April 25, 1989

Part II

Department of Labor

Employment and Training Administration

Research, Evaluation, and Pilot and Demonstration Projects Program: Availability of Funds (FY 1989) and Request for Applications (FY 1989 and 1990); Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Research, Evaluation, and Pilot and Demonstration Projects Program: Availability of Funds for Fiscal Year 1989 and Request for Applications for Fiscal Years 1989 and 1990

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of availability of funds and of solicitation for grant applications.

SUMMARY: The Employment and Training Administration announces the availability of funds for Fiscal Year (FY) 1989 for its Stewart B. McKinney Homeless Assistance Act Job Training for the Homeless Demonstration Program and is soliciting applications for FY 1989 and FY 1990.

DATES: The closing for receipt of applications under this announcement is 2:00 p.m. est on June 9, 1989. Applications submitted by mail and postmarked no later than June 5, 1989 will be considered.

Hand delivered means delivery by any private individual, messenger, courier or commercial delivery service with the exception of the U.S. Postal Service.

The term "postmark" means a printed, stamped or otherwise placed impression (exclusive of postage meter machine impression) that is readily identifiable without further action as having been supplied or affixed on the date of mailing by employees of the U.S. Postal Service.

ADDRESS: It is preferred that applications be mailed. Mail or hand deliver applications to: U.S. Department of Labor, Employment and Training Administration, Office of Financial and Administrative Management, Division of Acquisition and Assistance, Room C–4305, 200 Constitution Avenue NW., Washington, DC 20210, Attention: John Mitchka, Reference: SGA/DAA 89–301. To obtain an application package, contact John Mitchka, Division of Acquisition and Assistance, Telephone: (202) 535–0884.

FOR FURTHER INFORMATION CONTACT: John Mitchka, Division of Acquisition and Assistance, Telephone: (202) 523–7092.

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) announces the availability of funds for its Job Training for the Homeless Demonstration Program for FY 1989 and a Solicitation for Grant Applications under that program for FY 89 and FY 90. Funding for these grants is authorized by the Stewart B. McKinney Homeless Assistance Act, Pub. L. 100–77, section 731(a), 42 U.S.C. 11441, as amended by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100–628).

This program announcement consists of four parts. Part I provides background information on the ETA Research, Evaluation, and Pilot and Demonstration Projects Program. It describes the need for and the legislative background of job training for the homeless. Part II describes the program for which ETA solicits applications for funding of job training projects for homeless individuals. Part III describes the grant application process, and Part IV provides guidance on how to prepare and submit an application.

Part I—Background

A. ETA's PY 1988 and FY 1989 Research, Evaluation, and Pilot and Demonstration Program

This Solicitation for Grant Applications (SGA) notice, covering the general subject of job training for the homeless, is one of a series of such notice pertaining to different subject areas for which grant and contract awards will be made by ETA during Program Year (PY) 1988 (July 1, 1988–June 30, 1989) and during Fiscal Year (FY) 1989 (October 1, 1988–September 30, 1989), for research, evaluation, and pilot and demonstration (REP&D) projects.

These projects support the Department of Labor's (DOL) Workforce 2000 mission. According to recent DOL studies, the bulk of labor force entrants between now the year 2000 will consist of groups that have been traditionally underutilized or have experienced labor market barriers—*e.g.*, women, minorities, immigrants, and the homeless. At the same time, the employment base of the economy is changing in structure from that of manufacturing to services. Many new jobs will require higher levels of reading, communication, mathematical and problem-solving skills than at present.

We now face an unprecedented opportuntiy and need to help prepare those who have suffered chronic unemployment or underemployment—including homeless individuals—to meet the evolving requirements for workforce participation. The purpose of this program announcement is to solicit projects that will provide the information and data that are necessary before a national policy on training for the homeless may be developed.

In FY 1989, ETA will make grant awards for demonstration projects that provide for job training activities for homeless individuals. It is anticipated that a maximum of $6.809 million will be available in FY 1989 to support approximately 35 demonstration projects nationwide. The maximum amount for any of these grants will be $600,000. ETA intends to make grant awards during the fourth quarter of FY 1989 with a starting date of October 1, 1989. These funds must be expended by grantees by September 30, 1990. EPA may, at its option, extend these grants in FY 1990 and provide additional funding, if funds are available, performance has been acceptable, and it is determined to be in the best interest of the Government to do this. ETA may also, if funds are available for FY 1990, support additional projects from applications submitted under this notice.

B. The Homeless—Their Need for Employment and Training

No one knows exactly how many homeless people live in the United States. The estimates range from 250,000 to over 3 million individuals. It follows, therefore, that the number of proportion of the homeless who are employed, unemployed or employable is also unknown.

We do know that homeless persons often have a history of poverty. Further, while there are multiple and interrelated factors contributing to homelessness, the factor most often cited as contributing to homelessness is unemployment. Other factors often mentioned are the decline in the supply of low-income housing, and the deinstitutionalization of mentally ill patients.

We also know that the composition of the homeless population has changed. Unlike the stereotype of the Skid Row inhabitant of the past, in the 1980s the homeless are a heterogeneous population comprised of many subgroups. The homeless population is becoming younger, with an increase in minorities, women and families. There are more children (including runaways), veterans, immigrants, migrants, abuse victims, elderly, and handicapped people who are homeless. Many of the homeless are high school graduates and, despite unemployment being cited as a contributing factor to homelessness, many are employed.

While the unemployment rate has gone down dramatically since 1983, the impact the lower rate is having on those already homeless is unknown. Many homeless people acquire new problems from living on the streets and may not now be able to hold a job. Having no

fixed address or home phone number compounds the difficulty in finding jobs.

C. Legislative Background

In July 1987, the Stewart B. McKinney Homeless Assistance Act (McKinney Act) become law. It is the first comprehensive Federal law to address the complex problem of homelessness in America. The law was amended effective November 7, 1988 (Pub. L. 100–628).

The McKinney Act was the result of Congress responding to its findings that the Nation faces a crisis due to lack of shelter for a growing number of individuals and families. Congress further found that the problem is expected to become worse because "the causes of homelessness are many and complex, and homeless individuals have diverse needs; [and] there is no single, simple solution to the problem because of the * * * different causes of homelessness, and the different needs of homeless individuals". McKinney Act, section 102(a) (3) and (4), 42 U.S.C. 1130(a) (3) and (4).

As part of the McKinney Act's comprehensive approach to addressing the problems of the homeless, section 731 of the McKinney Act (42 U.S.C. 11441) authorizes the Secretary of Labor to award grants for new job training demonstration projects for homeless individuals. The grants are administered by ETA. The overall program is called the Job Training for the Homeless Demonstration Program (JTHDP). It is intended to develop knowledge for future policy decisions on job training for the homeless. It authorizes funds for grants on a competitive basis to projects throughout the country that represent promising employment and training approaches for the homeless. Authorized activities for JTHDP grantees include remedial education, job search, job training, basic skills instruction, supportive services, outreach and coordination with related community programs. The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100–628), section 503, extended eligibility for grants to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. It also extended authorization for the program through FY 1990.

For FY 88, an appropriation of $7.7 million was received in December 1987. The Employment and Training Administration (ETA) began developing a grant solicitation notice in the fall of 1987 to move quickly when the money became available. The notice of fund availability and solicitation for grant applications was published in the **Federal Register** in April 1988. Applications were due June 20. As a result of the solicitation, ETA received 175 applications. These applications were reviewed by a technical panel. Thirty-three grants were awarded in late September and the grantees are currently operating projects.

ETA also administers the Job Training Partnership Act (JTPA), the Nation's major job training program for economically disadvantaged adults and youth. 29 U.S.C. 1501 *et seq.* JTPA does not specifically target programs on homeless individuals, although JTPA funds are being used to provide job training for homeless individuals in a number of localities. The job training demonstration program in the McKinney Act thus represents the first Federal effort specifically addressing employment-related problems of *all types* of homeless individuals.

In 1987, prior to the passage of the McKinney Act, the Office of the Assistant Secretary for Veterans' Employment and Training (OASVET) began targeted assistance for one subgroup of the homeless—the Jobs for Homeless Veterans Program—with discretionary funds set aside from Title IV, Part C, of JTPA (Veterans' Employment Programs). 29 U.S.C. 1721. Grantees (governmental units in selected cities) hire, trained and supervised veterans who have experienced homelessness to perform outreach to homeless veterans.

The McKinney Act at section 738 (42 U.S.C. 11448) provides for Homeless Veterans' Reintegration Projects (HVRP). The experience of the Jobs for Homeless Veterans Program will be used in the design and implementation of the HVRP. This program is administered by OASVET. The HVRP has also been reauthorized through FY 1990. It is a separate effort from the job training demonstration program discussed in this solicitation.

Part II—Program Description

A. Program Purpose and Goals

ETA's demonstration program is designed to be highly responsive to the intent of the McKinney Act. It has an overall purpose and two supporting goals. The overall purpose is:

—To provide information and direction for the future of job training programs for homeless Americans. The conferees acknowledged "that additional information and data are necessary before a detailed national policy on training for the homeless may be developed."

The supporting goals are:

—To gain information on how to provide effective employment and training services to homeless individuals to address the employment-related causes of homelessness and their job training needs; and

—To learn how States, local public agencies, private nonprofit organizations, and private businesses can develop effective systems of coordination to address the causes of homelessness and meet the needs of the homeless, including attainment of transitional or permanent housing outside of shelters.

The focus is on knowledge building to inform national policy, program content, and system development.

Recognizing the diversity of subgroups within the homeless population, ETA intends that the demonstration program as a whole will include the full spectrum of homeless people—not only the most job ready or those easiest to serve. Applicants may, however, propose projects that emphasize assistance to *subgroups* within the homeless population. These include—but are not limited to—the chronically mentally ill, substance abusers, families with children, single men, single women, and homeless youth. Because there is a separate program for homeless veterans under section 738 of the McKinney Act, 42 U.S.C. 11448, applicants may not propose programs that are limited solely to veterans.

ETA suggests that the "case management" approach is a preferred method for providing job training for the homeless. That is, one or more managers are charged with moving an individual through all the services necessary for placement and retention (for at least 13 weeks) in a stable job. The case management approach provides homeless individuals with a personal advocate to help negotiate bureaucratic obstacles. This approach has proved useful where there are multiple problems and an array of individual needs. This is not the only model, however, and other approaches will be considered.

B. Target Population

For purposes of this solicitation, the target population includes persons 14 years of age or older who are homeless. The term "homeless" or "homeless individual" includes persons who lack a fixed, regular, and adequate nighttime residence. It also includes persons whose primary nighttime residence is either a supervised public or private shelter designed to provide temporary living accommodations; an institution that provides a temporary residence for

individuals intended to be institutionalized; or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

C. Activities for Which Support Is Available

ETA is interested in demonstrating innovative and replicable approaches to providing job training to the target population. Each project must: (1) Provide coordination and outreach activities designed to achieve referral of homeless people to these demonstration projects; (2) provide in-shelter outreach and assessment activities and, where practicable, pre-employment services in order to increase participation of the target population; and (3) provide or contract for job training activities. These activities must include one or more of the following:

—Remedial education activities and basic skills instruction;

—Basic literacy instruction;

—Job search activities;

—Job counseling;

—Job preparatory training, including resume writing and interviewing skills; and

—Any other activities described in section 204 of JTPA (29 U.S.C. 1604) which will contribute to carrying out the purposes and goals of these demonstration projects. (See Appendix A of this notice for the language of JTPA, section 204, 29 U.S.C. 1604).

Five of the activities in JTPA section 204 (29 U.S.C. 1604) that ETA wishes to single out as especially important to the homeless population for placement and retention in stable jobs are institutional skill training, on-the-job training, work experience, followup services, and supportive services.

Given the multiple problems and needs of many homeless individuals, ETA will give special consideration to applications that emphasize approaches to job training for adults (over age 21) that provide a continuity of service to individuals from application through the end of the retention-in-employment period. Applications that propose to serve homeless youth (ages 14 through 21) may emphasize approaches that emphasize employability enhancement, such as high school completion, rather than job placement.

D. Evaluation Component

All grantees will be required to participate in an evaluation process. Evaluation will be conducted at two levels: (1) Individual project evaluations; and (2) national evaluation across all grantee projects.

The national evaluation is being managed by ETA as specified in section 736 of the McKinney Act, 42 U.S.C. 11446. It must complete a report to the President, to the Congress, and to the Interagency Council by April 1, 1990. The national evaluation is anticipated to continue past the April 1990 reporting date in order to capture the experience of projects that continue in operation past that date. In addition to the Department of Labor's evaluation, the Interagency Council must evaluate each project receiving assistance.

Both individual project evaluations and the national evaluation shall include (as specified by section 736(b) of the McKinney Act, 42 U.S.C. 11446), information on:

—The number of homeless individuals served;

—The number of homeless individuals placed in jobs;

—The average length of training time under the project;

—The average training cost under the project; and

—The average retention rate of placements of homeless individuals after training. ETA defines the period over which retention is to be measured as 13 weeks.

Other measures, such as the number of homeless individuals placed in transitional or permanent housing outside of shelters, may be added to the national evaluation.

Grantees will participate in this effort by providing staff to administer the project evaluation, make data available for the project and national evaluations, and submit preliminary and final individual project evaluation reports. Grantee budgets must include expected costs for evaluation activities. A grant will not be awarded to an applicant unless it has included an evaluation component in its application.

The national evaluation is being conducted to (1) determine the effectiveness of the national demonstration program and (2) compare, to the extent possible, outcomes in different programs and/or communities. Effectiveness will be measured primarily in terms of the degree to which grantees have met program performance standards. The national evaluation staff will provide technical assistance to grantees on all aspects of the evaluation (including developing formats for acquiring compatible information from the grantees), conduct aggregate-level data analysis, and prepare the preliminary and final national evaluation reports.

E. Coordination

Section 732 of the McKinney Act (42 U.S.C. 11442) requires States to describe in their Comprehensive Homeless Assistance Plan (CHAP) how the State will coordinate job training demonstration projects with other services for homeless individuals under the Act. The CHAP is required in section 401 of the McKinney Act (42 U.S.C. 11361). To assist in this coordination, all applications must be reviewed for consistency prior to submittal to ETA by the organization in each State responsible for development of the CHAP.

F. Reporting Requirements

The grantee shall furnish the reports and documents listed below:

1. Financial Reports

The grantee shall submit quarterly, to the Grant Officer, Department of Labor, an original and two copies of standard form 269, Financial Status report.

2. Program Reports

(a) *Quarterly Progress Reports.* The grantee shall submit to the Federal Representative within 20 days following the end of each quarter, three copies of a quarterly progress report, which provides a detailed account of services provided during each quarter of grant performance. Reports shall include, in brief narrative form, such information as:

(1) A description of overall progress of work activities accomplished during the reported period;

(2) An indication of any current problems which may delay performance, and proposed corrective action, if any; and

(3) Program status and financial data/information relative to expenditure rate versus budget, anticipated staff changes, etc.

(b) *Detailed Content Outline of the Evaluation Report.* Five copies must be submitted.

(c) *Preliminary Evaluation Report.* This report shall summarize project activities and results and shall be submitted in 10 copies.

(d) *Final Evaluation Report.* This report shall summarize project activities and results and shall be submitted in 10 copies by the grant expiration date.

Part III—Application Process

A. Eligible Applicants

As specified in section 731(a) of the McKinney Act, 42 U.S.C. 11441(A), applications for 12 month projects may be submitted by State and local public agencies, by private non-profit organizations, and by private

businesses. Applications may also be submitted by Indian tribes as specified in section 762(b) of the McKinney Act, 42 U.S.C. 11472.

Eligible applicants include—but are clearly *not* limited to—JTPA Private Industry Councils (PICs) and/or JTPA administrative entities at the State and local level. Individuals are not eligible to apply. ETA encourages applications that are developed jointly by State and local agencies, by private non-profit organizations and/or by private businesses because this helps to coordinate resources and achieve maximum benefit from the grant funds.

B. Federal Fiscal Requirements

Section 735 of the McKinney Act (42 U.S.C. 11445) limits the Federal share of the cost of activities. ETA will make grant awards for at least 50 percent and no more than 90 percent of the cost of activities described in the application. Applicants are encouraged to provide the highest feasible non-Federal share of the cost of the project. High cost-sharing demonstrates applicant commitment to continue the activities and enables limited Federal resources to produce the maximum amount of information useful for the future of job training programs for homeless Americans.

As specified in section 762(a)(1) of the McKinney Act, 42 U.S.C. 11472(a)(1), a minimum of 1.5 percent of the FY 1989 and 1990 appropriations will be allocated to Indian-tribe applicants.

Pursuant to section 735(c) of the McKinney Act 42 U.S.C. 11445(c), ETA will not make grants in any State under this solicitation in an aggregate in excess of 15 percent of the amount appropriated in FY 1989 and FY 1990 for this grant program. Grants to Indian tribes will count toward this per-State aggregate limitation.

C. Criteria for Screening and Review

All applications that meet the deadline will be screened to determine completeness and conformity to the requirements of this announcement. Complete, conforming applications will then be reviewed and evaluated competitively against the evaluation criteria specified below in 2.) Evaluation Criteria.

1. Screening Requirements

In order for an application to be in conformance it must include the following:

(a) SF 424, application for Federal Assistance.

(b) SF 424A, Budget information-non construction.

SF 424 and SF 424A with instructions may be obtained by contacting John Mitchka, Division of Acquisition and Assistance, Telephone: (202) 523–7092.

(c) Applicants are required to assure that they will pay the non-Federal share of the activities from non-Federal sources. The non-Federal share may be in cash or in kind, fairly evaluated, including plant, equipment and resources. The Non-Federal share specified in the application shall not be less than ten percent and not be more than 50 percent of total estimated costs.

(d) Project Narrative: The narrative portion of the application must not exceed twenty (20) double-spaced pages, typewritten on one side of the paper only. The capability statement must not exceed two doubled-spaced typewritten pages.

The narrative must address the elements specified in Section 733 of the McKinney Act, 42 U.S.C. 11443:

—A description of activities for which assistance is sought (what the project will do and how the project will be conducted);

—Plans for coordination and outreach activities, particularly with case managers and care providers, designed to achieve referral to the proposed project;

—Plans to offer in-shelter outreach and assessment activities and, where practicable, pre-employment services, to increase participation of homeless individuals;

—A description of the standards by which performance will be measured under the project (these standards need not bear any relationship to those required by JTPA section 106, 29 U.S.C. 1516, for adult and youth programs under JTPA Title IIA).

—Assurance that a preliminary evaluation will be completed not later than the end of the first calendar year of project assistance; and

—Assurance that the applicant will pay the non-Federal share of the activities from non-Federal sources.

(e) Letter from the relevant State agency indicating that the application has been reviewed for consistency with the Comprehensive Homeless Assistance Plan, as specified above in II E.

(f) Certification regarding a drug-free workplace

(a) Definitions. As used in this provision,

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11–1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

"Drug-free workplace" means a site for the performance of work done in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) By submission of its offer, the offeror, if other than an individual, who is making an offer that equals or exceeds $25,000, certifies and agrees, that with respect to all employees of the offeror to be employed under a contract resulting from this solicitation, it will—

(1) Publish a statement notifying such employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish a drug-free awareness program to inform such employees about—

(i)) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this provision;

(4) Notify such employees in the statement required by subparagraph (b)(1) of this provision, that as a condition of continued employment on the contract resulting from this solicitation, the employee will—

(i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug statute conviction for a

violation occurring in the workplace no later than five (5) days after such conviction;

(5) Notify the contracting officer within ten (10) days after receiving notice under subdivision (b)(4) (ii) of this provision, from an employee or otherwise receiving actual notice of such conviction; and

(6) Within 30 days after receiving notice under subparagraph (a)(4) of this provision of a conviction, impose the following sanctions or remedial measure on any employee who is convicted of drug abuse violations occurring in the workplace;

(i) Take appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this provision.

(c) By submission of its offer, the offeror, if an individual who is making an offer of any dollar value, certifies and agrees that the offeror will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of the contract resulting from this solicitation.

(d) Failure of the offeror to provide the certification required by paragraphs (b) or (c) of this provision, renders the offeror unqualified and ineligible for award. (See FAR 9.104–1(g) and 19.602–1(a)(2)(i).)

(e) In addition to other remedies available to the Government, the certification in paragraphs (b) or (c) of this provision concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

2. Evaluation Criteria

Reviewers will score the applications, basing their scoring decisions on the following criteria.

(a) *Need for the Project: 10 points.* The application shall describe, in concrete terms, the problems of homeless individuals that prompt the applicant to propose the project. The application must discuss the need for the project in terms of its State and/or local significance, including estimates of the number of homeless individuals of the type proposed to be served in the area to be served. It must describe the importance of the issues to be addressed and how they relate to sec. 102 (Findings and Purpose) of the McKinney Act (42 U.S.C. 11301).

(b) *Project Service Methodology: 25 points.* The application must describe specific plans for conducting the project in terms of the tasks to be performed.

Project service methodology includes the following application elements, as specified in section 733 of the McKinney Act, 42 U.S.C. 11443:

—A description of activities for which assistance is sought (what the project will do and how the project will be conducted);

—Plans for coordination and outreach activities, particularly with case managers and care providers, designed to achieve referral to the proposed project. Coordination includes other services for homeless individuals discussed in the State CHAP;

—Plans to offer in-shelter outreach and assessment activities and, where practicable, pre-employment services, to increase participation of homeless individuals;

In addition to these elements of the application contained in the McKinney Act, the application must include:

—Discussion of the "plausibility" of the proposed project—the key assumptions underlying the project and evidence to support why the approach proposed is likely to accomplish the project objectives.

—Discussion (preferably incorporating a chart) providing a time-phasing of tasks and their interrelationships and demonstrating how the project will be started up, operated and phased out or supported when the grant period ends on September 30, 1990, and

—Discussion (preferably including client flow chart) which depicts the planned sequence of services to be provided to clients and the role of each participating organization.

(c) *Evaluation Methodology: 15 points.* Evaluation methodology includes the following application element, as specified in section 733 of the McKinney Act, 42 U.S.C. 11443:

—Assurance that a preliminary evaluation will be completed not later than the end of the first year of project assistance.

The application will also be scored on its description of evaluation activities, including methodology, measures, data sources, organization arrangements. This description must be consistent with the "Evaluation Component" section of Part II D, above, and should be consistent with the description of "Expected Outcomes," below.

(d) *Expected Outcomes: 10 points.* The proposed project is intended to result in a measurable, concrete reduction of a significant problem associated with homelessness that can be addressed by job training. Outcomes as opposed to process measures are preferred. These outcomes must include a clear description of project's performance standards as required by section 733(4) of the McKinney Act, 42 U.S.C. 11443(4). For the homeless population, ETA is especially interested in a high number of placements for adults and a high retention rate of placements over at least a 13-week period.

(e) *Level of Effort: 10 points.* The resources needed to conduct the project must be specified including personnel, time, funds, and facilities. These resources should be adequate to the work described in the application. The staff should be qualified and should have the skills required and demonstrated ability to produce the expected outcomes. The staffing pattern must clearly link responsibilities to project tasks. The total cost of the project must be reasonable in view of anticipated results. Collaborative efforts with other agencies or organizations must be clearly identified and written assurances referenced. A description by category (personnel, travel, etc.) of the total funds required and of the sources of outside support that will be used to meet the matching requirements must be included. The funds (total of Federal share and non-Federal share) must be specified. Projects proposing a higher non-Federal share will be considered more favorably under this criterion.

(f) *Organizational Capability: 30 points.* The application must provide a (maximum 3 pages double-spaced) background description of how the applicant organization (or the particular division of a larger organization which will have responsibility for this project) is organized and the types and quality of services it provides. It may include descriptions of any current or previous relevant experience in administrating and evaluating projects similar to those proposed for support in this solicitation (e.g., job training programs for homeless persons) and/or describe the competence of the project team and its demonstrated ability to produce service and evaluation results of the type proposed for support. It may include a description of the qualifications of key staff described in a few paragraphs rather than in formal vitae. This statement must include the names of contact persons from two organizations

to which the applicant organization has provided services within the past 6 months. (If the applicant organization does not provide services to other organizations, the contact persons listed should be persons who can supply an independent assessment of the organizational capacity of the organization.) The statement must include the position of these contact persons within their organizations and their telephone numbers.

These evaluation criteria correspond to the narrative section of the application as specified in Part IV below. The descriptions of the six criteria above should be considered in developing the program narrative.

Applicants are advised that discussions may be necessary in order to clarify any inconsistencies in their applications. The final decision on the award will be based on what is most advantageous to the Federal Government as determined by the ETA Grant Officer. Evaluation by reviewers are advisory only to the Grant Officer.

Part IV—Instructions for Completing Applications

A. Contents

You are required to send an original and two copies of an application. Each application must contain five parts.

1. SF 424.

2. Project Narrative—should be no more than twenty (20) double-spaced typewritten pages, using one side of the paper only. Your narrative should provide information on how the application meets the evaluation criteria in Part III of this announcement.

We strongly recommend that you follow this format and page suggestions for the narrative:

a. Need for the Project (2 pages double-spaced).

b. Project Service Methodology (5–6 pages double-spaced).

c. Evalulation Methodology (2–3 pages double-spaced).

d. Expected Outcomes (3 pages double-spaced).

e. Level of Effort (2 pages double-spaced).

f. Organizational Capability Statement (3 pages double-spaced).

3. Letter from the appropriate State Agency reviewing application for consistency with the CHAP.

4. Certification Regarding a Drug-Free Workplace

The application may also contain letters that show collaboration or substantive commitment to the project by organizations other than the applicant organization. ETA suggests but does not require that applicants obtain such letters from local Private Industry Councils (PIC) and from chief elected officials (as defined in JTPA, section 4(4), 29 U.S.C. 1503(4), the State Governor or the governing body within a Service Delivery Area). Such letters are not part of the narrative and, therefore, are not counted against the twenty-page limit for the narrative. Letters received after the closing date will not be considered in the evaluation process.

5. SF 424 A. (Non-Construction)

Signed at Washington, DC, on April 17, 1989.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

Appendix A—Section 204 of the Job Training Partnership Act (29 U.S.C. 1604)

Sec. 204. Services which may be made available to youth and adults with funds provided under this title may include, but need not be limited to—

(1) Job search assistance,
(2) Job counseling,
(3) Remedial education and basic skills training,
(4) Institutional skill training,
(5) On-the-job training,
(6) Programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment,
(7) Training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply,
(8) Outreach to make individuals aware of, and encourage the use of employment and training services,
(9) Specialized surveys not available through other labor market information sources,
(10) Programs to develop work habits and other services to individuals to help them obtain and retain employment,
(11) Supportive services necessary to enable individuals to participate in the program and to assist them in retaining employment for not to exceed 6 months following completion of training,
(12) Upgrading and retraining,
(13) Education-to-work transition activities,
(14) Literacy training and bilingual training,
(15) Work experience,
(16) Vocational exploration,
(17) Attainment of certificates of high school equivalency,
(18) Job development,
(19) Employment generating activities to increase job opportunities for eligible individuals in the area,
(20) Pre-apprenticeship programs,
(21) Disseminating information on program activities to employers,
(22) Use of advanced learning technology for education, job preparation, and skills training,
(23) Development of job openings,
(24) On-site industry-specific training programs supportive of industrial and economic development,
(25) Followup services with participants placed in unsubsidized employment,
(26) Coordinated programs with other Federal employment-related activities,
(27) Needs-based payments necessary to participation in accordance with a locally developed formula or procedure, and
(28) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training.

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federal register

Tuesday
April 25, 1989

Part III

Office of Management and Budget

Cumulative Report on Recissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

April 1, 1989.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of April 1, 1989 of six rescission proposals and 14 deferrals contained in the first three special messages of FY 1989. These messages were transmitted to the Congress by President Ronald Reagan on September 30 and November 29, 1988, and January 9, 1989.

Rescissions (Table A and Attachment A)

As of April 1, 1989, there are no funds being withheld related to rescission proposals. Two of the six rescission proposals made by the prior Administration (R89–5 and R89–6, as described in Attachment A) continue to be supported by President Bush as offsets to supplemental requests.

Deferrals (Table B and Attachment B)

As of April 1, 1989 $6,448.2 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1989.

Information From Special Messages

The special messages containing information on the rescission proposals and deferrals covered by this cumulative report are printed in the **Federal Register** listed below:

Vol. 53, FR p. 39879, Wednesday, October 12, 1988

Vol. 53, FR p. 49530, Wednesday, December 7, 1988

Vol. 54, FR p. 1650, Friday, January 13, 1989

Richard G. Darman,

Director.

BILLING CODE 3110–01–M

TABLE A

STATUS OF 1989 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by President Reagan.....	143.1
Accepted by the Congress as of April 1, 1989.....	0
Funding made available.....	123.1
Funding never withheld.....	20.0

NOTE: President Bush continues to support two rescission proposals (identified as R89-5 and R89-6 in Attachment A) as offsets to pending supplemental requests, even though the related funds have been made available. They total $6.4 million.

****

TABLE B

STATUS OF 1989 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by President Reagan.....	8,942.5
Routine Executive releases through April 1, 1989.. (OMB/Agency releases of $2,500.3 million and cumulative adjustments of $6.0 million)	-2,494.3
Overturned by the Congress.....	0
Currently before the Congress.....	6,448.2

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1989

As of April 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congression Action
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs:								
Subsidized housing programs.....	R89-1	20,000		1-9-89		(See note below.)		
Community Planning and Development:								
Urban development action grants.....	R89-2	51,651		1-9-89		51,651	2-28-89	
DEPARTMENT OF THE INTERIOR								
Fish and Wildlife Service:								
Land acquisition.....	R89-3	30,000		1-9-89		30,000	2-28-89	
National Park Service:								
Land acquisition and State assistance.....	R89-4	35,000		1-9-89		35,000	2-28-89	
DEPARTMENT OF JUSTICE								
Office of Justice Programs:								
Justice assistance.....	R89-5	5,000		1-9-89		5,000	3-16-89	
DEPARTMENT OF LABOR								
Employment Standards Administration:								
Black lung disability trust fund.....	R89-6	1,445		1-9-89		1,445	3-16-89	
TOTAL, RESCISSIONS.....		143,096				123,096		

NOTE. - The $20 million proposed for rescission in Rescission Proposal No. 89-1 was never withheld from obligation. Therefore, there was no need to release the funds.

Attachment B - Status of Deferrals - Fiscal Year 1989

As of April 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change (+)	Date of Message	Cumulative OMB/Agency Releases (-)	Congressionally Required Releases (-)	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 4-1-89
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit	D89-11	4,122,750		11-29-88	1,267,000				2,855,750
Economic support fund	D89-01	592,760		09-30-88					
	D89-01A		2,054,000	11-29-88	1,014,034				1,632,726
Military assistance	D89-12	457,000		11-29-88	141,500				315,500
International military education and training	D89-13	37,400		11-29-88	37,400				0
Agency for International Development									
International disaster assistance	D89-14	18,125		11-29-88	15,164				2,961
Special Assistance for Central America									
Promotion of stability and security in Central America	D89-2	1,000		09-30-88	1,000				0
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D89-3	144,649		09-30-88	751				143,898
Cooperative work	D89-4	335,263		09-30-88					335,263
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D89-5	1,212		09-30-88					1,212
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Southwestern Power Administration, Operation and maintenance	D89-6	2,800		09-30-88					2,800

Attachment B - Status of Deferrals - Fiscal Year 1989

As of April 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change (+)	Date of Message	Cumulative OMB/Agency Releases (-)	Congressionally Required Releases (-)	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 4-1-89
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction).....	D89-7	6,745		09-30-88					6,745
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund.....	D89-8	90,000		09-30-88					90,000
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive.....	D89-9	26,135		09-30-88					
	D89-9A		27,000	11-29-88	23,492			6,001	35,644
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).....	D89-10	823,608		09-30-88					
	D89-10A		202,084	11-29-88					1,025,692
TOTAL, DEFERRALS.....		6,659,446	2,283,084		2,500,341	0		6,001	6,448,190

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federal register

Tuesday,
April 25, 1989

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

Fair Housing Initiatives Program; Competitive Solicitation; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N-89-1960; FR-2618]

Fair Housing Initiatives Program; Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of funding availability.

SUMMARY: This notice solicits applications, from eligible State and local fair housing agencies and from public or private organizations formulating or carrying out programs to prevent or eliminate discriminatory housing practices, for funding under the Fair Housing Initiatives Program (FHIP). Applicants must meet specific eligibility criteria set forth in this notice and in 24 CFR Part 125 in order to qualify for consideration under this program. This notice pertains to competitive funding applications under the Education and Outreach Initiative which are State, local or regional in scope and to applications under the Private Enforcement Initiative. A separate notice will announce the funding of applications under the Education and Outreach Initiative which are national in scope.

FOR FURTHER INFORMATION CONTACT: Maxine B. Cunningham, Director, Federal, State and Local Programs Division, Office of Fair Housing and Equal Opportunity, Room 5212, 451 Seventh Street SW., Washington, DC 20410-2000. Telephone: (202) 755-0455. (V and TDD) (This is not a toll-free number.) Application kits are available upon written or telephone request from the above. To ensure a prompt response, it is suggested that requests for application kits be made by telephone.

DATES: An application for funding under this notice must be submitted between May 16, 1989 and June 16, 1989, unless it qualifies for a late application exception as specified in the application kit and is received before funds are awarded.

SUPPLEMENTARY INFORMATION: The legislation creating the Fair Housing Initiatives Program (FHIP), approved by the President on February 5, 1988, authorizes the Secretary to provide funding to State and local government or their agencies, public or private non-profit organizations, or other public or private entities formulating or carrying out programs to prevent or eliminate discriminatory housing practices. These funds will enable the recipients to carry out activities designed to obtain inforcement of the rights granted by the Federal Fair Housing Act or by substantially equivalent State or local fair housing laws, and education and outreach activities designed to inform the public concerning rights and obligations under such Federal, State or local laws prohibiting discrimination. Funding of enforcement of Fair Housing laws may include activities involving use of judical as well as administrative enforcement procedures.

The FHIP has three funding categories: The Administrative Enforcement Initiative, the Education and Outreach Initiative, and the Private Enforcement Initiative. This notice announces the availability of funding under the Education and Outreach Initiative for applications that are State, local or regional in scope and the availability of funding under the Private Enforcement Initiative.

Funds under the Education and Outreach Initiative which are State, local or regional in scope are available to State and local fair housing agencies, Community Housing Resources Boards, traditional civil rights organizations and other governmental, public and private agencies and organizations. Funding will be based upon the submission of applications for projects designed to inform and educate the general public and housing groups about fair housing rights and responsibilities under Federal, State and local fair housing laws and upon applications for outreach projects which promote specialized support and coordinated methods to provide for fair housing.

Funds under the Private Enforcement Initiative are available to non-profit organizations and other private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices. The purpose of these awards is to assist in developing, implementing, carrying out, or coordinating programs or activities designed to obtain enforcement of the rights granted by the Fair Housing Act or State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in the Fair Housing Act. Projects eligible for funding include: (1) Conducting investigations to document systemic discrimination in housing, (2) professionally conducting testing or other investigative support for administrative and judicial enforcement, (3) linking fair housing organizations regionally to address broader market discriminatory practices, and (4) establishing effective means of meeting legal expenses related to the litigation of fair housing cases.

Background

Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3600-20 (The Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Federal Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and to render technical assistance to public or private entities carrying out programs to prevent or eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987 (Pub. L. 100-242) established the Fair Housing Initiatives Program to strengthen the Department's effort to enforce the Federal Fair Housing Act and to further fair housing. This program is intended to assist projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws.

Other Matters

The program components of the Fair Housing Initiatives Program are described in the Catalog of Federal Domestic Assistance at 14.408, Administrative Enforcement Initiative; 14.409, Education and Outreach Initiative, and 14.410, Private Enforcement Initiative.

Application requirements associated with this program have been approved by OMB and assigned approval number 2529-0033.

An independent evaluation of the FHIP Testing Guidelines will be conducted during the implementation of the programs funded under this notice. This evaluation will be conducted by HUD's Office of Policy Development and Research. Recipients of funds will be required to cooperate fully with this evaluation, including collecting and reporting a minimal amount of information.

I. General Provisions Governing Applications for Assistance

Each application for funding under the Fair Housing Initiatives Program must contain the items set forth below. Each application will be assessed against the general selection criteria set forth in this Notice of Funding Availability.

Recipients will be expected to comply with the requirements of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and 24 CFR Part 8. Section 504 prohibits discrimination based on handicap in federally assisted programs.

A. A description of the practice (or practices) at the community, regional or national level which has affected adversely the achievement of the goal of fair housing. This description must include a discussion and analysis of the housing practices identified, including available information and studies relating to discriminatory housing practices and their historical background, and relevant demographic data indicating the nature and extent of the impact of such practices on persons seeking dwellings or services related to the sale, rental and financing of dwellings, in the general location where the applicant proposes to undertake activities;

B. A description of the specific activities to be conducted with FHIP funds, including the final products and any reports to be produced, the cost of each activity proposed and a schedule for completion of the funded activities;

C. A description of the applicant's experience in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

D. A statement indicating the need for Federal funding in support of the proposed project; and an estimate of such other public or private resources as may be available to assist the proposed activities;

E. A description of the procedures to be used by the applicant for monitoring the conduct and for assessing the results of the proposed activities;

F. A description of the benefits which successful completion of the project will produce to enhance fair housing and the concerns identified, and the indicators by which these benefits are to be measured; and

G. A description of the expected long term viability of project results.

II. General Selection Criteria for Ranking Applications for Assistance

All projects proposed in applications will be ranked on the basis of the following criteria for selection:

A. The anticipated impact of the project proposed on the concerns identified in the application (25 points);

B. The extent to which the applicant's professional and organizational experience will further the achievement of project goals (25 points);

C. The extent to which the project will provide benefits in support of fair housing after funded activities have been completed 20 points);

D. The extent to which the project utilizes other public or private resources that may be available 20 points); and

E. The extent to which the project will provide the maximum impact on the concerns identified in a cost-effective manner (10 points).

F. Further Clarification of Factors for Award

1. In determining the anticipated impact of the proposed project, HUD will consider the degree to which a proposed project addresses problems and issues that are significant fair housing problems and issues within the jurisdiction, as explained in the application or based upon other information available to HUD. Clarity and thoroughness of project description can be considered in this determination.

2. In determining the extent to which the applicant's professional and organizational experience will further the achievement of project goals, HUD will consider the experience and qualifications of existing personnel identified for key project positions, or a description of the process and qualifications to be used for selection of key personnel, including subcontractors/consultants, as well as the organization's past and current experience. Such experience should include both fair housing experience and experience in implementing education or outreach programs.

3. In determining the extent to which the project will provide the maximum impact on the concerns identified in a cost-effective manner, HUD will consider reasonableness of the proposed timetable for implementation and completion of the project, as well as the adequacy and clarity of proposed procedures to be used by the agency for monitoring progress of the project and ensuring timely completion. HUD will also consider information provided regarding how the project is cost effective.

4. In determining the extent to which the project will provide benefits after funded activities have been completed, HUD will consider the degree to which other project is of continuing use in dealing with housing discrimination.

5. In determining the extent to which other public or private resources are available, HUD will consider both monetary and in-kind resources.

G. Cost Factors—Cost will be the deciding factor when complete and eligible applications are evaluated against the factors for award and considered to be technically equivalent. Furthermore, an application may not be funded when costs are determined to be unrealistically low or unreasonably high.

H. Program Policy Factor-After eligible applications are evaluated against the factors for award, the Assistant Secretary will review the geographical distribution of potential recipients. In making awards, the Assistant Secretary may exercise discretion to make awards out of rank order for the purpose of ensuring equitable geographic distribution, or to minimize duplication of education and outreach efforts in a given State, region or locality.

II. The Education and Outreach Initiative

A. Eligibility

The following types of organizations are eligible to receive funding under the Education and Outreach Initiative:

1. State or local governments;

2. Public or private non-profit organizations or institutions, and other public or private entities (including Community Housing Resource Boards) that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices.

B. Scope

Applications are solicited for specialized project proposals as described in 24 CFR 125.303 and in this section III.B.

This notice announces funding under this Initiative for the development of State, regional or local media campaigns or other special efforts to educate the general public and housing industry groups about fair housing rights and obligations.

All projects must address or have relevance to housing discrimination based on race, color, religion, sex, handicap, familial status or national original.

Educational projects that may be funded under the Education and Outreach Initiative may include (but are not limited to) the following:

1. Developing informative material on fair housing rights and responsibilities;

2. Developing fair housing and affirmative marketing instructional material for education programs for State, regional and local housing industry groups;

3. Providing educational seminars and working sessions for civic associations, community-based organizations and other groups; and

4. Developing educational material targeted at persons in need of specific or additional information on their fair housing rights.

Outreach projects that may be funded under the Educational and Outreach Initiative may include (but are not limited to) the following:

1. Developing State, regional or local media campaigns regarding fair housing;

2. Bringing housing industry and civic or fair housing groups together to identify illegal real estate practices and to determine how to correct them;

3. Designing specialized outreach projects to inform persons of the availability of housing opportunities;

4. Developing and implementing a response to new or more sophisticated practices that result in discriminatory housing practices; and

5. Developing mechanisms for the identification of and quick response to housing discrimination cases involving the threat of physical harm.

C. Applications for Funding

In addition to meeting the application requirements contained in Section I. above, all applications for Education and Outreach Initiative funding must describe how the activities or the final products of the project can be used by other agencies and organizations within the jurisdiction and in other jurisdications and what modifications, if any, would be necessary.

D. Coordination of Activities

Each non-governmental applicant for funding which is located within the jurisdiction of a State or local enforcement agency or agencies administering a fair housing law which has been recognized by the Department under 24 CFR Part 115 as being a substantially equivalent fair housing law must provide with its application evidence that it is has consulted with the agency or agencies to coordinate activities to be funded under the Education and Outreach Initiative.

E. Program Totals and Funding Estimates

Approximately $300,000 is available under this Notice for Education and Outreach funding. HUD estimates that approximately ten applications will be funded.

F. Applications

An applicant may submit only one application, but may propose more than one type of activity under this Initiative. Applicants must submit all information required in the application kit and must include sufficient information to establish that the application meets the criteria set forth at sections I., II. and III.C, above.

Applicants must provide information to establish that they meet the eligibility criteria in III.A. above. Projects should be no longer than 12 months in duration.

Projects shall not be proposed that are planned for implementation with applicant funds and would simply substitute FHIP funds for applicant funds. Projects that appear to be aimed solely or primarily at research or data gathering unrelated to existing or planned fair housing education or outreach programs will not be approved. Data gathering activities will require OMB approval under the Paperwork Reduction Act before commencement of the activity.

G. Award Procedures

Applications for funding under this initiative will be evaluated competitively, and awarded points based on the Factors for Award identified in section II above. Applications will be reviewed by a HUD Technical Evaluation Panel. The final decision rests with the Assistant Secretary or the Assistant Secretary's designee.

IV. Private Enforcement Initiative

A. Eligibility

The types of organizations which are eligible to receive assistance under the Private Enforcement Initiative are private non-profit organizations and other private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices. Organizations which can be eligible include, for example, private non-profit fair housing and civil rights groups.

All applications for funding must have relevance to matters pertaining to housing discriminations based on race, color, religion, sex, handicap, familial status or national origin.

B. Scope

Applications are solicited for specialized project proposals as described in 24 CFR 125.403 and 125.404 and in this notice.

Project applications may involve:

1. Conducting investigations of systemic housing discrimination;

2. Professionally conducting testing or other investigative support for administrative and judicial enforcement;

3. Linking fair housing organizations regionally in enforcement activities designed to combat broader market discriminatory practices; and

4. Establishing effective means of meeting legal expenses in support of litigation of fair housing cases.

No recipient of assistance under the Private Enforcement Initiative may use any funds provided by the Department for the payment of expenses in connection with litigation ag ıinst the United States.

Recipients of funds under this initiative shall be required to record in a standardized format, to be supplied by HUD, information appropriate to the funded project relating to the number of complaints or allegations of discrimination received; the basis of these complaints; type and number of tests utilized in the investigation of each allegation; time of case processing, including administrative or judicial case processing; the cost of testing activities and case processing; and case outcome or relief provided.

C. Applications for Funding

In addition to meeting the application requirements contained in Section I. above, all proposals for testing under the Private Enforcement Initiative must include:

1. Documentation that the applicant has at least one year of experience in carrying out a program to prevent or eliminate discriminatory housing practices and has sufficient knowledge of fair housing testing to enable the applicant to implement a testing program successfully;

2. A certification providing that the applicant will not solicit funds from or seek to provide fair housing educational or other services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing by the applicant for a 12-month period following a test;

3. A description of the process to be used to recruit testers;

4. A description of the tester training program;

5. Copies of forms used to document allegations and to record the experience of testers; and

6. A written agreement to cooperate fully with the HUD sponsored evaluation of this program.

A recipient failing to comply with the testing requirements or the procedures set forth in its application for funding shall be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the initiative, reduction or limitation of further funding for investigatory activities, and denial of further participation in programs of the Department or of any Federal agency.

The recipient must agree to notify HUD of all complaints of all cases involving matters cognizable under the Federal Fair Housing Act.

D. Guidelines for Conduct of Funded Testing

Testing activities funded under the Private Enforcement Initiative must conform to the guidelines in 24 CFR 125.405. These guidelines are not intended to restrict individuals or entities participating in the Fair Housing Initiatives Program from pursuing any right or remedy guaranteed by Federal law, or from the conduct of other testing or other investigative activities not funded under the Private Enforcement Initiative.

Eligible testing activities must be conducted in accordance with procedures contained in the application for assistance. These procedures shall include the following:

1. A formal recruitment process designed to obtain a pool of credible and objective persons to serve as testers. Recuits must not have prior felony convictions or convictions of crimes involving fraud or perjury.

2. A tester training program which will

a. Require the careful recordation of all relevant information on standardized forms, signed by the respective testers, following completion of the test;

b. Prohibit any communication between pairs of testers relating to the conduct of the test or to testing experiences or results until all information has been recorded and the testers debriefed by the testing coordinator;

c. Require that the same or substantially equivalent type of housing accommodations, financing, or service be requested; and

d. Require that, to the extent practicable, testers identify themselves as having the same or substantially equivalent housing needs and demographic profile as the person who made the bona fide allegation, except for the race, color, religion, sex, handicap, familial status, nationality, or other attribute which is the basis of the alleged discrimination. In cases of testing for systemic discrimination (e.g., a pattern or practice of discriminatory housing practices by a housing provider or lender), demographic profiles may vary from that of the person who made the bona fide allegation so long as the test of each agent or owner is a "paired" test. For the purpose of these guidelines, a "paired test" means that the two testers who conduct the "paired test" shall

i. Have the same or substantially similar demographic profiles except for their race, color, religion, handicap, familial status, sex, nationality, or other attribute which is the basis of the alleged discrimination;

ii. Have the same or substantially similar housing requirements;

iii. Initiate the test at the same office or in the same or substantially similar transactional conditions and circumstances; and

iv. Conduct the test in a timely manner.

3. A tester assignment and control system which will assure that neither the tester, nor the organization conducting the test, including its employees and agents

a. Has an economic interest in the outcome of the test, (without prejudice to the right of any person or entity to recover damages for any cognizable injury); or

b. Has a specific bias toward either the person who made the bona fide allegation or the respondent; is a relative of one of the parties in the case; has had any employment or affiliation within one year with the person or organization to be tested; is a licensed competitor of such person or organization in the listing, rental, sale, or financing of real estate property; or has any other specific bias or conflict of interest which would prevent or limit his or her objectivity or fairness.

E. Program Totals and Funding Estimates

Approximately $3,000,000 is available under this notice for the Private Enforcement Initiative. Approximately $2,550,000 will be reserved for funding of testing activities; however, HUD retains the right to shift funds to other activities if we do not receive sufficient number of acceptable applications for testing activities. Acceptability will be determined based upon criteria for eligibility, completeness of budget information, and factors for award. HUD anticipates that approximately 30 projects will be funded.

F. Applications

Applicants may submit only one application; but may propose more than one type of activity in that application. Applicants must submit all information required in the application kit and must include sufficient information to establish that the application meets the criteria set forth at sections I. and IV.C., above.

Projects should be no longer than 12 months in duration. Projects that appear to be aimed solely or primarily at research or data gathering unrelated to existing or planned fair housing enforcement programs will not be approved. Data gathering activities will require OMB approval under the Paperwork Reduction Act before commencement of the activity.

G. Award Procedures

Applications for funding under this initiative will be evaluated competitively, and awarded points based on the Factors for Award identified in section II above. HUD will review the applications and assess them against the materials submitted by the applicant in its application. The final decision rests with the Assistant Secretary or the Assistant Secretary's designee.

V. Applicant Notification and Award Procedures

The following procedures are applicable to all funding under this notice.

A. Notification

No information will be available to applicants during the period of HUD evaluation except for notification in writing to those applicants that are determined to be ineligible. Awards are expected to be announced by HUD within three months of the closing date.

B. Negotiations

After HUD has ranked the applications and made an initial determination of applicants whose scores are above the funding threshold (but before the actual award), HUD may require that applicants in this group participate in negotiations and submit application revisions resulting from those negotiations. In cases where it is not possible to conclude the necessary negotiations successfully, awards will not be made. Negotiations will not be used to raise the rankings of applications that would otherwise fall below the funding threshold.

If an award is not made to an applicant whose application above the initial funding threshold because of an inability to complete successful negotiations, and if funds are available to fund any applications that may have fallen below the initial threshold, HUD will establish a new funding threshold and proceed as described in the preceding paragraph.

C. Funding Instrument

HUD expects to award a cost reimbursable cooperative agreement to each successful applicant. HUD reserves the right, however, to use the form of assistance agreement determined to be most appropriate after negotiation with the applicant.

Authority: Section 561 of the Housing and Community Development Act of 1987 (Pub. L. 100–242, approved February 5, 1988); Title VIII, Civil Rights Act of 1968 (42 U.S.C. 3600–

20); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Date: April 17, 1989.

Thomas D. Casey,

Acting General Deputy, Assistant Secretary for Fair Housing and Equal Opportunity.

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Tuesday
April 25, 1989

Part V

Department of Transportation

Urban Mass Transportation Administration

49 CFR Part 611

Major Capital Investment Projects; Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 611

[Docket No. 89-A]

RIN 2132-AA22

Major Capital Investment Projects

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is issuing this notice of proposed rulemaking to implement the requirements of section 303 of the Surface Transportation and Uniform Relocation Assistance Act of 1987. The proposed regulation defines the procedures applicants must follow in developing fixed guideway (i.e., "new start") projects. It further sets forth the means by which UMTA will evaluate cost-effectiveness, the results of alternatives analysis, and the degree of local financial commitment as required by law.

DATES: Comment due date: Written comments should be received by June 26, 1989.

ADDRESS: Written comments should be addressed to: U.S. Department of Transportation, Urban Mass Transportation Administration, Office of the Chief Counsel, Docket No. 89–A, 400 Seventh Street, SW., Room 9316, Washington, DC, 20590. Comments will be available for review by the public at this address from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Samuel L. Zimmerman, Director, Office of Planning Assistance, UMTA, Washington, DC, (202) 366–2360.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Government has provided a large share of the Nation's capital investment in urban mass transportation since the early 1970's. By the mid–1970's, because of the magnitude and scheduled duration of commitments being proposed, the Department found it useful to publish a statement of Federal policy to ensure that available Federal resources would be utilized in the most prudent and effective manner. Such a statement was issued in 1976, and was supplemented and revised in 1978, 1980, and 1984. The policy statements defined the procedures to be followed to advance proposed fixed guideway projects to the point where a commitment of Federal discretionary funds could be considered. In addition, in the 1984 policy, a rating system was estabilised for identifying those projects that were considered to be the best candidates for the limited Federal discretionary funding available. The rating system was deemed to be necessary because the demand for Federal new start funding far exceeded the amount of discretionary funding that was likely to be available.

The key precepts of these policy statements were incorporated into law when Congress enacted the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). In section 303 of STURAA, which added subsection 3(i) to the Urban Mass Transportation Act of 1964, as amended (UMT Act), Congress established a set of criteria to be used to determine fixed guideway transit projects eligible for Federal discretionary funding. Specifically, the law states that "[n]o grant or loan for construction of a new fixed guideway system or extension of any fixed guideway system may be made under this section unless the Secretary determines that the proposed project (1) is based on the results of an alternatives analysis and preliminary engineering, (2) is cost-effective, and (3) is supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension." Section 303 further directs the Secretary to promulgate a regulation setting forth the means "by which the Secretary will evaluate cost-effectiveness, results of alternatives analysis, and the degree of local financial commitment." In section 304 of STURAA, the Congress directs the Secretary to transmit, by January 20 of each year, a report which contains "a proposal of the allocation of the funds to be made available to finance grants and loans for the construction of new fixed guideway systems and extensions of fixed guideway systems among applicants for such assistance."

This proposed rulemaking would constitute the regulation called for by STURAA section 303. Readers should note that the proposed regulation consists of three parts: the text of proposed §§ 611.1 through 611.15, and Appendices A and B. Appendix A to Part 611 sets out the policies and procedures for the development of major urban mass transportation investments. Appendix B to Part 611 explains the rating system the Department would use each year to prepare its recommended allocation of section 3 new start funds.

It also should be noted that, for the past several years, the Department has opposed a continuation of the section 3 program, including discretionary funding for new starts. Specifically, the Department proposed to terminate the discretionary transit grant program funded by one penny of the Federal gasoline tax and distribute these funds by formula. This proposal reflected the need to reduce the Federal budget deficit through reductions in spending. The purpose of this notice of proposed rulemaking is to comply with the requirements of STURAA section 303, and readers of this notice should not infer that the current Administration supports a continuation of the section 3 New Start Program.

Agency Policy Statements

A brief review of the elements of the earlier agency policy statements provides a useful perspective. Experience with these policies has shown that fixed guideway transit systems are not, in many cases, as cost-effective as less capital intensive solutions to local transportation problems. Nevertheless, rail transit and bus guideway projects may be cost-effective solutions to local transportation problems in heavily traveled corridors with large concentrations of employment and other urban activities.

A 1976 policy statement established a process-oriented approach, designed to allow each urban area to take into account its unique characteristics in the planning, design and implementation of transportation improvements. It required as a condition of eligibility for Federal assistance that alternative investment strategies be considered in order to determine which investment best served the locality's transportation needs, promoted its social, economic, environmental and urban development goals, and supported national aims and objectives. Cost-effectiveness was defined in these general terms and a demonstration of cost-effectiveness was required for projects to be advanced for Federal funding assistance. The 1976 statement stressed the need to consider combinations of transit modes and technologies appropriate to the transportation service requirements of specific corridors, and required major fixed guideway systems to be implemented incrementally, with priority given to the most immediate needs of the locality. It called for the analysis of a comprehensive Transportation System Management (TSM) alternative, representing the best that can be done to improve transit

service without making a major capital investment. These TSM actions typically include expanded bus service, paratransit, ridesharing, traffic engineering and regulatory and pricing strategies (but not fixed guideways) to facilitate transit and high-occupancy vehicle flow on existing highway facilities. It also called for actions to enhance a project's accessibility and convenience, and to improve the quality of transportation service in other parts of the metropolitan area which would not be served by the fixed guideway project. Finally, the 1976 statement emphasized the importance of public involvement throughout the development process.

A 1978 agency policy reinforced the 1976 policy and added further considerations. It explicitly stated that approval of a preliminary engineering grant would not imply any commitment to finance construction of a project. It required the development of a stable and reliable source of funding to cover operating deficits, and specified that construction grant contracts would be negotiated with a fixed ceiling on the Federal contribution, subject to a defined method of adjustment for inflation (the full funding contract). The 1978 statement suggested that the formal pledge of assistance known as the Letter of Intent be considered after preliminary engineering. Finally, it required local commitment to enhance prospects for economic viability of fixed guideway projects; for example, zoning policies and development incentives to stimulate high density private real estate development around selected transit stations.

A 1980 revised agency policy linked project development procedures more closely to the environmental impact statement (EIS) process. It allowed conceptual engineering studies during the preparation of the alternatives analysis and draft EIS, and completion of the final EIS during preliminary engineering rather than before that stage. The 1980 revised policy specified that a Letter of Intent would be considered only upon completion of circulation of the final EIS, and that it had to be based upon a comparison of the proposed project with other projects then pending. However, neither this statement nor the earlier ones specified how such an intercity comparison of projects might be made, describing only a process for sorting out alternatives within each urban area.

On May 18, 1984, UMTA published a revised Statement of Policy on Major Urban Mass Transportation Capital Investments in the **Federal Register** (49 FR 21284). The basic tenets and processes of the earlier statements were essentially retained and described anew in a section entitled "Project Development Process and Procedures," which also took into account recent legislation. The important addition, however, was that UMTA's own evaluation process was made more explicit. The policy described an intention to use more quantifiable techniques for evaluating proposals. Two primary criteria—cost-effectiveness and local fiscal effort—were established for rating new start projects and identifying those most worthy of Federal discretionary funding. The policy also identified threshold criteria that must be met before a project would be advanced from system planning to alternatives analysis and from alternatives analysis to preliminary engineering. In these respects, the 1984 statement was an attempt to make more operational the policy framework developed in earlier statements. It also responded to the legislative history of the Surface Transportation Assistance Act of 1982 which spoke to financing cost-effective fixed guideway projects and to extra local fiscal effort being taken into account. Specifically, the 1984 statement reflected language in the 1984 Senate Appropriation Report, Adopted in the Conference Report, suggesting that the principal factors to be considered should be the results of alternatives analysis, cost-effectiveness, and the degree of local financial commitment, including evidence of stable and reliable funding sources to maintain and operate the system. The conference report also suggested that UMTA consider the degree of local government support, private sector support, community support, and participation of minority business in new start projects.

The position taken in the 1984 statement was that if these policy tenets were given better definition and clarity in an operational rating system, fixed guideway investments had a place in the array of projects which would be considered for Federal transit funding. The alternative of trying to cope with unconstrained local demand without a clear evaluation system was viewed as unworkable.

With the enactment of section 303 of STURAA, Congress specifically has endorsed the principle that UMTA fund only those new start projects most deserving of Federal investment. As further noted in the STURAA legislative history, Congress clearly has directed that new start projects which are recommended for funding should be those, based on the results of alternatives analysis and preliminary engineering, which best contribute to the achievement of program goals, are cost-effective relative to other projects, and are supported by an acceptable degree of financial commitment, including evidence of stable and dependable funding sources to construct, maintain and operate the proposed project, along with the rest of the transit system in the area.

II. Today's Proposed Rule

This proposed rulemaking would constitute the regulation called for by section 3(i) of the UMT Act, as added by section 303 of STURAA. This rule, once promulgated, would be used by UMTA to evaluate cost-effectiveness, the results of alternatives analysis, and the degree of local financial commitment. This section of the preamble discusses the major elements of the proposed rule.

To a large degree, this proposed regulation builds upon the 1984 policy statement. It contains three parts: the text of proposed §§ 611.1 through 611.15, and two appendices. In gist, the text of proposed §§ 611.1 through 611.15 is drawn from the "Project Development Process and Procedures" section of the 1984 policy statement. The process for developing major urban mass transportation investments includes four general phases prior to actual construction: system planning, alternatives analysis, preliminary engineering, and final design. Approval by the UMTA Administrator is required before initiating the alternatives analysis, preliminary engineering, and final design phases. As proposals are advanced through these phases, estimates of their costs, effects, and impacts are developed and refined.

Appendix A, entitled "Policies and Procedures on the Development of Major Urban Mass Transportation Investments," is similarly an extension of the "Project Development Process and Procedures" section of the 1984 policy statement. Appendix B, "Description of the Major Investment Rating System," is drawn from the section of the 1984 policy statement entitled "Description of the Rating System."

This proposed rule also reflects UMTA's new incentive program for discretionary transit grants. On March 13, 1989, Secretary of Transportation Samuel Skinner announced a number of proposals to encourage transit agencies to "overmatch" Federal grant funds (i.e., to provide more than the legally stipulated non-Federal matching share of 25 percent).

A. Cost-Effectiveness

In this NPRM, UMTA is proposing to rely upon the cost-effectiveness criteria and cost-effectiveness thresholds established by the 1984 policy statement to determine whether or not a project is cost-effective per section 3(i) of the UMT Act.

The cost-effectiveness indices and thresholds are derived from the statutory objectives expressed in section 2 of the UMT Act. These objectives recognize that, while the primary responsibility for mass transit rests with State and local governments, there is a Federal interest in the provision of an essential level of urban mobility for the public by financially assisting the development of efficient urban mass transportation networks. The Federal interest is not necessarily an interest in networks which may provide maximum comfort, convenience, amenity and other such benefits.

Projects that fail to meet one of UMTA's cost-effectiveness thresholds will not be considered eligible for Federal participation under section 3 of the UMT Act. These thresholds rely on numerical indices that represent the ratio formed by dividing project-related costs by measures of transportation benefit. Appendix B explains how these indices are computed.

In summary, two cost-effectiveness indices are used to provide a quantitative measure of cost-effectiveness: The "new trip index" and the "user benefit index." The new trip index, introduced in UMTA's 1984 Major Capital Investment Policy, recognizes two measures of benefit for fixed guideway projects: changes in transit ridership and travel time savings for existing riders. The index is computed as a ratio in which annualized capital and operating costs comprise the numerator, and ridership changes constitute the denominator. Travel time savings are converted to their monetary equivalent using an average value of time, and are incorporated in the index as an offset to costs. The index takes the form of incremental cost (annualized capital and operating, less travel time offsets) per new transit trip.

The user benefit index has been developed to overcome several computational problems UMTA has encountered in using the new trip index over the past four years, as well as to respond to comments on the 1984 policy statement. This new measure combines ridership increases with travel time savings into a single measure of user benefits, and takes the form of cost (annualized capital and operating) per hour of user benefit. In theory, the user benefit measure should provide a more valid basis for project evaluation, but it has not been tested widely in practice and many local studies have not yet produced the data needed to compute user benefits. UMTA is requesting local agencies currently engaged in major investment project planning to prepare information that can be used to compute the user benefit measure. UMTA intends to use both the old measures of benefit (ridership increases and travel time savings) and the new user benefit measure to determine cost-effectiveness.

The thresholds to be used in UMTA's cost-effectiveness determination are based upon the value of a new transit rider and the value of an hour of user benefit. The thresholds identify, from the Federal perspective, the point beyond which the cost of achieving new transit ridership or user benefits is clearly excessive. Thus, these thresholds delineate the point beyond which a project cannot be considered cost-effective, and should not be funded.

For the new trip index, UMTA proposes a threshold of $6 per new trip, which matches the threshold that UMTA established for entering preliminary engineering under the 1984 policy statement. This threshold is based upon a 1984 study which found that a new transit trip would produce, on average, about $2.80 in direct user benefits. The calculation of direct user benefits in this study was based on a generous estimate of potential savings in parking costs, travel time, and auto operating costs for the average commuter who shifts from auto to transit. UMTA has factored the estimate from this study upward to $6, recognizing that fixed guideways may also produce indirect benefits, such as reduced emissions of air pollutants and support for desirable urban development. UMTA believes that this factoring—which is essentially a doubling of direct benefits—gives the benefit of any doubt to projects that might otherwise be deemed of questionable merit.

For the user benefit index, UMTA proposes a threshold of $8 per hour of user benefit. This threshold assumes that the perceived value of travel time for work trips is $4 per hour, reflecting 1984 wage rates and the relationship between wage rates and travel time values established by research literature. The perceived value of travel time also was factored upward to recognize potential indirect benefits. As with the cost per trip index, direct benefits have been doubled to establish this threshold value.

These thresholds are currently under review to make sure they relect the current cost of owning and operating an automobile and current wage rates. Accordingly, the final rule may contain updated values for the thresholds. Interested parties are encouraged to review and comment on the proposed thresholds.

The cost-effectiveness indices and thresholds that UMTA chooses to use in evaluating projects will directly reflect a project's ability to save travel time for existing transit users and to attract new transit riders. These measures are used because there is a close relationship between them and a project's ability to advance the essential goal of the Federal transit program, which is to assist in providing a basic level of public mobility. The achievement of other goals and objectives of public transportation investments, such as the reduction of energy consumption and air polluant emissions and the promotion of economic development, also are closely related to a project's ability to improve the level of transit service for existing transit riders and attract new riders. Thus, projects that provide substantial travel time savings and ridership increases are likely to not only satisfy the basic mobility objective, but also meet transit's other objectives as well.

B. Local Financial Commitment

Appendix A identifies the threshold criteria UMTA proposes to use to evaluate the degree of local financial commitment. The importance of the financial commitment criterion reflects the reality that some transit agencies do not have sufficient financial capacity to construct, operate, and maintain a new fixed guideway project while at the same time continuing to operate and maintain their existing transit systems. Recently, in fact, some urban areas have found it necessary to reduce bus service to provide capital and operating resources for new fixed guideway projects. This invariably has led to lower total public transportation usage, the opposite of what the Federal government is trying to achieve with its mass transportation grant programs.

Specifically, Appendix A sets forth several factors that UMTA will consider in assessing a potential grantee's financial capacity to undertake a new fixed guideway project. UMTA will focus, principally, on a grantee's proposed capital financing commitment, to ensure that all necessary State, local, and private revenues are indeed committed or dedicated to the project. UMTA also will consider a region's historical support for transit, and the grantee's projected operating costs and revenues. Where UMTA determines, based on this assessment, that the

prospective grantee lacks the necessary financial capacity to undertake a new start, the project will be deemed ineligible for funding under the discretionary program.

In considering a region's historical support for transit, specifically, UMTA will be focusing on the stability and reliability of the applicant's funding sources over the recent past. Where an applicant can demonstrate a consistent or growing level of support for transit over time, there is less risk that that applicant would be unable to operate the new fixed guideway as planned, or would be compelled to reduce bus service in order to operate the fixed guideway. To assess an applicant's historical support for transit, UMTA will consider how well the applicant has maintained its existing mass transit equipment and facilities. UMTA also will consider whether the applicant has reduced service over the most recent three year period due to financial constraints.

It should be understood clearly that it is not UMTA's intention to favor grantees that historically have enjoyed comparatively large support from State and local revenues—given, for example, that they have had fixed guideway transit systems in place for many years—as opposed to grantees in younger, growing localities that have never had a guideway system. In short, UMTA will favor applicants in the best of fiscal health. Indeed, many of the potential applicants that are now in the best fiscal health are those serving younger, growing metropolitan areas.

In evaluating a grantee's financial planning, UMTA will take an approach similar to that used by bond rating agencies such as Moody's and Standard & Poor's. Fundamentally, UMTA will compare a grantee's financial forecasts with past performance. UMTA expects that most financial planning will rely on forecasts of farebox revenues; State, local, and Federal subsidies, both dedicated and appropriated (e.g., sales tax revenues); systemwide operating and maintenance costs, based on future levels of operations; and normal capital replacement needs. UMTA anticipates, also, that some grantees' financial planning will rely on assumptions regarding population, economic growth in the region, and other factors affecting transit ridership, such as auto operating costs, fares, and parking fees. UMTA will examine all of these forecasts and assumptions critically. Where these forecasts or assumptions differ from past trends, or are implausible, UMTA may choose to require revisions or further explanations before allowing a grantee to proceed to final design and construction.

In sum, UMTA will evaluate the logic and the health of a grantee's financial plan. In the usual course of events, some forecasts will not be realized, and some assumptions will prove inaccurate. UMTA is concerned that an overall local financial commitment to transit be strong and realistic enough that deviations from forecasts and assumptions will not require curtailments of mass transit service or excessive fare increases. Toward this end, UMTA will evaluate a composite financial plan, and the components of that plan, not to determine whether the specific figures are necessarily the most likely figures, but whether the local financial commitment is sufficient to absorb the fiscal shortfalls that could occur from a failure to achieve the forecasts. Thus, UMTA will analyze a financial plan from the vantage of a prudent banker or investor, whose primary concern would be that the plan make allowances for managing project costs under all normal variations in forecasting for the project. To define what variations might be reasonably expected for a project, UMTA will closely examine past trends for both the grantee's operations and the region, and experience across the Nation.

Interested parties are urged to provide comments on these proposed mechanisms for implementing the requirements of section 3(i) of the UMTA Act, and to suggest alternative mechanisms for meeting the intent of the law.

C. Rating System

The new start rating system, which was established in the 1984 policy statement, will be used to prioritize those projects that meet the threshold requirements of section 3(i) as outlined above. The agency anticipates that a number of the new start projects currently advancing through the project development process may satisfy section 3(i), and that Federal funding availability will not be sufficient to support all of these proposals. Thus, there will be a continuing need to identify, from among those projects eligible for section 3 funding, those which are most deserving of Federal assistance. This need is recognized in section 304 of the STURA Act (section 3(j) of the UMT Act) which directs the Department to provide Congress with a recommended allocation of section 3 funds. It is expected that the rating system would be the basis for the Department's funding recommendations for the new start program.

The new start rating system is proposed to be Appendix B to Part 611. As described in this Appendix, the primary factors affecting a project's rating will be cost-effectiveness and local financial commitment. Appendix B reflects the agency's 1984 policy, as amended to reflect response to comments raised about the policy, as well as an incentive program for discretionary grants that Secretary Skinner announced on March 13, 1989.

Secretary Skinner's initiative embraces several provisions from the 1984 policy, namely the rating system's emphasis on capital overmatch and the preference for cash rather than in-kind local share. What is new is that, other things being equal, under this proposal, a privately raised overmatch will rank an application higher than a publicly raised overmatch. Special priority will be given to applications containing innovative funding techniques which maximize local efforts to leverage and encourage private sector funding contributions in a manner that will reduce the net public cost of the system.

Appendix B also reflects agency response to comments received on the 1984 policy. First, as noted above, a second cost-effectiveness measure has been developed to overcome shortcomings in the cost per new trip index. Both the cost per new trip index and the cost per hour of user benefit index will be used in the rating system. Second, Appendix B explicitly recognizes the need to expand the scope of the evaluation beyond cost-effectiveness and local financial commitment. Other factors—such as the degree of local support, the status of local efforts to attain and maintain the National Ambient Air Quality Standards, and disadvantaged business enterprise participation—will be used to distinguish between projects that rate similarly in terms of cost-effectiveness and local financial commitment.

UMTA at this point has not established measures for comparing projects in terms of these other factors. Local officials are invited to provide whatever supporting information they can provide. In terms of community support, however, UMTA would be particularly interested in receiving information on: (1) Local commitments to land use and transportation policies that enhance the proposed project's cost-effectiveness and financial feasibility; (2) overall levels of local funding for the transit system over the most recent 5 year period; and (3) a comparison between local funding commitments and local ability to generate revenues for transit.

III. Section-By-Section Analysis

A. Section 611.1: Purpose and contents

This section states that this part defines the process applicants must follow to be considered eligible for a UMTA capital grant for a major urban mass transportation investment. It further states that the proposed regulation would serve as the rule mandated by section 3(i) of the UMT Act. It further specifies that the proposed regulation is comprised of §§ 611.1 through 611.15 and Appendices A and B.

B. Section 611.3: Applicability

This section states that this part applies to all major urban mass transportation investment projects proposed for UMTA funding. This basic principle is the same as that of the 1984 policy statement, that the project development process applies to all major urban mass transportation investments. The 1984 policy further stated that the rating system would not apply to proposals fully funded through the formula allocated programs. This is still UMTA's intent, as discussed in proposed Appendix B. The applicability of the threshold criteria to projects funded under both the discretionary and formula programs is discussed in proposed Appendix A.

C. Section 611.5: Definitions

The key terms in this part are defined in this section. These definitions are essentially unchanged from the 1984 policy statement, except that the proposed rule adds a definition for the term "cost-effectiveness evaluation."

In the 1984 policy, the definition of "major urban mass transportation investment" stated that, typically, the cost of a major investment will be in excess of $100 million. This statement was intended as a general guide to the order of magnitude of projects covered by the policy, not as an absolute threshold, but was often misinterpreted. To eliminate any confusion, and to reflect the requirements of section 3(i), which does not identify any such threshold, the reference to $100 million has been deleted from the definition. All grantees seeking UMTA funding for a new fixed guideway facility or extension will be expected to meet the requirements of this rule.

The definition of "fixed guideway" in the proposed rule is slightly different from the definition in section 12 of the UMT Act. In the UMT Act, public transportation systems that utilize a fixed catenary system (i.e., overhead wires) are included within the definition of fixed guideway. In the proposed rule, fixed catenary systems are not mentioned because some such projects—electrically powered trolley buses being the best example—are generally much less costly than projects with an exclusive right-of-way, do not normally require the same level of analysis and evaluation, and are not funded under the new start category. Fixed catenary systems that involve a reserved right-of-way or rails, such as light rail projects, do fall within the definition of fixed guideway in the proposed rule.

D. Section 611.7: Project development process

This section identifies the four phases of project planning and development, the general requirements applicable to these phases, and provisions regarding public involvement. These requirements have been extracted from the Project Development Process and Procedures section of the 1984 policy.

The need to obtain UMTA approval before initiating alternatives analysis, preliminary engineering, and final design stages is stipulated in this section. The threshold criteria to be used in evaluating these requests are spelled out in this section (and are further explained in Appendix A). These threshold criteria are intended to screen out, early in the process, those projects that are unlikely to meet the requirements of section 3(i) of the UMT Act. UMTA approval to advance through the project development process should be expected only where there is a reasonable possibility that a project will emerge that is cost-effective and supported by an acceptable degree of local financial support.

It should be noted that UMTA presently is reconsidering the cost-effectiveness threshold for entering the alternatives analysis phase. Since 1984, the threshold for entering alternatives analysis has been set at $10 per new transit trip, significantly higher than the $6 per new trip index for entering preliminary engineering. This was done to recognize the preliminary nature of cost and ridership estimates at the start of alternatives analysis. Experience has shown, however, that cost estimates tend to increase as a project advances through the project development process while ridership forecasts decline. This suggests that the threshold for entering alternatives analysis should be no higher than the threshold for entering preliminary engineering. The results of this reconsideration will be reflected in the final rule.

Paragraph (e) of this section, Project Management Oversight, refers to Part 633 of this title. Part 633 is still being developed. A Notice of Proposed Rulemaking was published in the **Federal Register** on August 11, 1987 (52 FR 29709).

E. Section 611.9: System planning phase

This section presents the requirements applicable to the system planning phase of project development. It consists of those critical system planning provisions of the 1984 policy statement.

The remaining provisions of the 1984 statement appear in Appendix A.

F. Section 611.11: Alternatives analysis phase

This section presents the requirements applicable to the alternatives analysis phase of project development. It consists of those critical alternatives analysis provisions of the 1984 policy statement. The remaining provisions of the 1984 statement appear in Appendix A.

G. Section 611.13: Preliminary engineering phase

This section presents the requirements applicable to the preliminary engineering phase of project development. It consists of those critical preliminary engineering provisions of the 1984 policy statement. The remaining provisions of the 1984 statement appear in Appendix A.

As noted in the 1984 policy statement, the preliminary engineering effort will encompass not only the locally preferred alternative but also a transportation system management (TSM) alternative and, in some cases, one or more guideway alternatives found to be cost-effective in the alternatives analysis phase.

H. Section 611.15: Final design phase

Federal funding commitments for project construction are considered at the time a project moves into the final design stage. This section identifies the requirements that must be met before UMTA will commit to funding a project. For new start projects proposed for funding under section 3, UMTA will not approve the initiation of final design until the requirements of section 3(i) have been satisfied. This requires a formal determination by UMTA that the project is cost-effective, is based on the results of alternatives analysis and preliminary engineering, and is supported by an acceptable degree of local financial commitment. (Projects that were in preliminary engineering, final design or construction on January 1, 1987, are not subject to this requirement, as stipulated in section 303 of the STURA Act of 1987.)

The criteria UMTA will use to make its determinations under section 3(i) are amplified in Appendix A. Specifically, Appendix A spells out the mathematical threshold values that must be met before a project will be considered cost-effective. Appendix A also details the factors that UMTA will consider in assessing the degree of local financial commitment.

For new start projects funded under section 9 and/or the formula portion of the Interstate Transfer Program, but not section 3, § 111.15(e) of the proposed rule requires grantees to provide certain certifications as to a project's cost-effectiveness, its safety, and local financial capacity. This requirement has been a part of UMTA's Section 9 Grant Application Instructions (Circular 9030.1A) since 1983, and is included here because of its regulatory nature. The intent is to avoid situations in which a recipient commences a new start project with formula funds and then looks to section 3 funding to complete the project or to fund routine capital needs which were superseded by the new start funding decision. For the cost-effectiveness certification, grantees may apply their own criteria but are expected to show that there is at least a minimum transit benefit associated with the project as demonstrated by an increase in ridership when compared with a transportation system management alternative.

IV. Request for Written Comments

UMTA seeks written comments from all interested parties on this proposed rule. UMTA's final rule will reflect the agency's consideration of all comments received within 60 days of the date of publication in the **Federal Register.**

UMTA welcomes comments on any and all matters related to the proposed rule, but there are a number of specific issues where comments would be particularly helpful. The questions below highlight matters on which UMTA specifically requests comments and supporting data.

A. Specific Issues for Comment

1. UMTA believes that the two indices described in this proposed rule—the "new trip index" and the "user benefit index"—provide a rational basis for identifying those projects that are cost-effective for the purpose of section 3(i) and for grouping cost-effective projects according to their investment worthiness. Of the two indices proposed by UMTA, are there compelling arguments that either one provides the better measure of project merit? Are there reasons to believe that the use of other evaluation techniques, such as cost benefit analysis or net present value analysis, would have significant advantages over the use of the UMTA indices?

2. Does the UMTA approach to cost-effectiveness assessment place unreasonable demands on the technical analysis process, given the state of the art in travel demand forecasting and cost estimation, and given the need to ensure consistency between cities? If so, what specific changes should be considered? To what degree would this rule create a need for additional UMTA-sponsored training and technical guidance?

3. The cost-effectiveness thresholds defined in this proposal are based upon a generous estimate of the operating cost, parking cost, and travel time savings for a typical auto commuter who shifts to a guideway transit mode of travel. The user cost savings thus derived has been doubled to recognize the existence of less quantifiable non-user benefits such as support for economical and desirable urban development and other socio-economic and environmental benefits such as reductions in air pollutant emissions and energy conservation. Commenters are invited to provide current data that could be used to help UMTA estimate the average user costs for urban work trips by automobile. Does the doubling of user costs provide a reasonable proxy for non-user benefits? Are there any other recommended approaches for determining cost-effectiveness thresholds and, if so, what data are available for calculating a threshold value?

4. In this proposed rule, a higher threshold is suggested for entering alternatives analysis than for entering preliminary engineering, recognizing the imprecision of cost and ridership estimates at the end of system planning. However, it also is recognized that system planning cost estimates are usually low and system planning ridership forecasts are usually high. Cost-effectiveness indices computed at this stage often greatly exaggerate a project's cost-effectiveness. To compensate, should the cost-effectiveness threshold for entering alternatives analysis be the same as the threshold for entering preliminary engineering?

5. The cost-effectiveness thresholds proposed by UMTA reflect technical considerations of project merit, not budgetary considerations. Should UMTA instead set the threshold at a budget-driven level, such that the proposed Federal share of all projects meeting the threshold would equal approximately the funds authorized for the new start program? Or should UMTA set an even more generous threshold level, thus allowing a larger number of projects to meet the threshold and compete for the limited supply of Federal new start funds?

6. Should the same cost-effectiveness threshold be used in all cities despite differences in traffic congestion, travel delays, wage rates, parking costs, air quality, and other factors? If not, how might UMTA develop and maintain the data base needed to calcuate different thresholds for different cities?

7. To address the requirements of section 3(i), UMTA proposes to evaluate the degree of local financial commitment by assessing the soundness of the capital financing plan, the region's historical support for transit, and the grantee's projected operating costs and revenues. Are there other financial indicators that UMTA should consider? Should more quantifiable threshold criteria be established for local financial commitment and, if so, what should they be?

8. In Appendix B, UMTA has identified a number of "other factors" that would be used to differentiate, in the ratings process, between projects with similar degrees of cost-effectiveness and local financial commitment. These factors include the level of community support, efforts to obtain the participation of the private sector, and agreements to limit the use of section 9 funds for operating assistance, and the status of local efforts to attain and maintain the National Ambient Air Quality Standards. Are there additional considerations that should be added to the list of "other factors"?

9. Secretary Skinner's incentive program for discretionary grants includes several proposals affecting new starts. In the new starts ratings process, UMTA proposes to give preference to cost-effective projects that are supported by a non-Federal matching share in excess of 25 percent. Participation by the private sector in raising the non-Federal overmatch dollars especially is encouraged. To be considered as bona fide overmatch, non-Federal funds should be in cash, not in-kind contributions. Requests will be considered for relaxation of UMTA's one corridor at a time policy, depending on the level of Federal assistance being sought. For those new start projects whose Federal participation is 30 percent or less, as well as for those projects seeking relatively small sums of new start assistance thanks to substantial local overmatch, expedited UMTA review is promised. Are those

proposals appropriate means for achieving UMTA's goal of rewarding grantees who are ready and willing to increase the percentage of non-Federal participation? What other proposals might be considered for reaching this goal?

B. Procedural steps to comment

To ensure consideration, comments must be received by June 26, 1989. All comments should be addressed to: U.S. Department of Transportation, Urban Mass Transportation Administration, Office of the Chief Counsel, Docket No. 89–A, 400 Seventh Street, SW., Room 9316, Washington, DC 20590.

Any commenter wishing acknowledgement of receipt of the comment should include a self-addressed, stamped postcard with the comment. The Docket Clerk will stamp the card with the date and time the comment is received and mail the card to the commenter.

V. Regulatory Impacts

A. Regulatory Analysis

This action has been reviewed under Executive Order 12291, and UMTA has determined that this is not a major rule. If promulgated, this rule would not result in an annual effect on the economy of $100 million or more, nor would it create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises in domestic or export markets. However, the proposed regulation would be a "significant" rule, as defined by the Department's Policies and Procedures on Improving Governmental Regulations, because it involves important departmental policy and will generate substantial public interest. Accordingly, a draft regulatory evaluation has been prepared and is available for public inspection as part of the docket.

B. Executive Order 12612

This proposed rule has been reviewed under Executive Order 12612 on "Federalism," and UMTA has determined that it does not have implications for principles of Federalism that warrant the preparation of a Federalism Assessment. If promulgated, this rule will not limit the policymaking and administrative discretion of the States, nor will it affect the States' abilities to discharge traditional State governmental functions or otherwise affect any aspects of State sovereignty.

Indeed, consistent with the fundamental principles of Federalism as described in Executive Order 12612, the programs and policies of the Urban Mass Transportation Administration are purposely structured to place primary responsibility on States and local governments for the provision of mass transportation services to their communities, and to encourage States and local governments to achieve their objectives for mass transportation through cooperative effort. As is true for all UMTA programs and policies, this action grants maximum administrative discretion to States and local governments.

C. Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, UMTA certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities within the meaning of the Act.

D. Paperwork Reduction Act

The proposed regulation does not establish any new reporting or recordkeeping requirements.

List of Subjects in 49 CFR Part 611

Government contracts; Grant programs—Transportation; Mass transportation.

Accordingly, for the reasons described in the preamble, 49 CFR Chapter VI is proposed to be amended as follows:

A new Part 611 would be added to read as follows:

PART 611—MAJOR CAPITAL INVESTMENT PROJECTS

Sec.

611.1 Purpose and contents.
611.3 Applicability.
611.5 Definitions.
611.7 Project development process.
611.9 System planning phase.
611.11 Alternatives analysis phase.
611.13 Preliminary engineering phase.
611.15 Final design phase.

Appendix A to Part 611—UMTA Policies and Procedures on the Development of Major Urban Mass Transportation Investments

Appendix B to Part 611—Description of UMTA's New Start Rating System

Authority: 49 U.S.C. 1601 *et seq.*, 1602(i); 23 U.S.C. 103(e)(4); 23 U.S.C. 142; 40 CFR Parts 1500–1508.

§ 611.1 Purpose and contents.

(a) This part defines the process that State and local agencies must follow in developing major urban mass transportation investment projects that are to be considered for capital grants from UMTA. This part also implements section 3(i) of the UMT Act by setting forth the means by which UMTA will evaluate cost-effectiveness, the results of alternatives analysis, and the degree of local financial commitment.

(b) This part is comprised of §§ 611.1 through 611.15 and Appendices A and B to Part 611.

§ 611.3 Applicability.

(a) This part applies to all proposals for discretionary and formula grants authorized by sections 3 and 9 of the UMT Act, 23 U.S.C. section 103(e)(4) (Interstate Transfer Program), and 23 U.S.C. section 142 (Federal Aid Urban System Program).

(b) This part does not apply to, affect, or alter decisions, approvals, authorizations, or other actions made by UMTA before the effective date of this regulation.

§ 611.5 Definitions.

In this part: "Cost-effectiveness evaluation" means the comparison of the estimated capital and operating costs of a project (or alternative) with various measures of goal achievement (i.e., effectiveness). Both costs and effectiveness are computed relative to lower cost alternatives. The results of a cost-effectiveness evaluation are expressed as ratios, such as added cost per new transit trip or added cost per unit of user benefit.

"Fixed guideway" means any public transportation facility which utilizes and occupies a separate right-of-way or rails. This includes, but is not limited to, rapid rail, light rail, commuter rail, automated guideway transit, people movers, and exclusive facilities for buses and other high occupancy vehicles.

"Major urban mass transportation investment" means any project that involves the construction of a new fixed guideway segment or extension of an existing fixed guideway for use by mass transit vehicles. The construction of short guideway facilities for the purpose of localized operational improvements, including improved access to terminals or stations, will not be considered major urban mass transportation investments.

"The UMT Act" means the Urban Mass Transportation Act of 1964, as amended.

"Transportation system management (TSM) alternative" means a package of low to moderate cost improvements designed to make more efficient use of an existing transportation system. TSM alternatives typically include such actions as expanded bus service, high occupancy vehicle lanes that do not require major new construction, fringe parking, paratransit and ridesharing incentives, traffic engineering, and regulatory and pricing strategies to increase ridesharing and transit use.

" UMTA" means the Urban Mass Transportation Administration.

§ 611.7 Project development process.

(a) *Project phases.* The four phases of the process for developing a major urban mass transportation investment before construction are:

(1) The system planning phase;

(2) The alternatives analysis phase;

(3) The preliminary engineering phase; and

(4) The final design phase.

(b) *UMTA approval.* UMTA approval must be obtained before the initiation of alternatives analysis, preliminary engineering, and final design. Appendix A to this part sets forth the criteria UMTA will apply in reviewing a request to proceed to the alternatives analysis phase and preliminary engineering phase. Section 611.15 sets forth the criteria that UMTA will apply in reviewing a request to proceed to the final design phase. Approval to initiate one phase is not a commitment that UMTA will participate in a subsequent phase.

(c) *General requirements.* A proposal for a major urban mass transportation investment must be consistent with the urban area's comprehensive plan which articulates the overall direction for metropolitan development and identifies major transportation corridors.

(d) *Public involvement.* Local officials must provide full opportunities for the involvement of members of the general public, private interest groups, local elected officials, and all levels of government throughout the four phases of project development for a major urban mass transportation investment. Involvement shall be initiated early so that the public has an opportunity to influence the process in a timely and constructive fashion, particularly as to the alternatives and evaluation criteria to be considered, priority actions for implementation, and steps to avoid or minimize adverse environmental effects.

(e) *Project management oversight.* During the course of project development, project management plans must be prepared and implemented in accordance with Part 633 of this title (Project Management Oversight).

§ 611.9 System planning phase.

(a) System planning refers to the continuous, comprehensive, and cooperative transportation planning process that is conducted in each urbanized area under the requirement of 23 CFR Part 450 (Planning Assistance and Standards). System planning results in plans and programs which are consistent with the comprehensively planned development of the area and which support transportation improvements and project development activities.

(b) Where local officials choose to pursue UMTA funding for a major urban mass transportation investment, the system planning phase must result in:

(1) The selection of the corridor(s) to be proposed for advancement into alternatives analysis:

(2) The identification of the corridor's current and future transportation problems;

(3) The identification of a small set of promising alternatives for addressing those problems; and

(4) The assessment of the region's financial capacity to successfully undertake a major urban mass transportation investment while continuing to operate, maintain, and reinvest in the existing transit system.

§ 611.11 Alternatives analysis phase.

(a) To be eligible for UMTA capital funding for a major urban mass transportation investment, local officials must perform a corridor-level analysis of mode and alignment alternatives. At least one alternative must be a TSM alternative.

(b) For each alternative, the analysis must include:

(1) An estimation of capital, operating, and maintenance costs;

(2) An assessment of impacts on highway and transit service levels and transit ridership;

(3) A cost-effectiveness evaluation;

(4) An assessment of funding options, including an assessment of the stability and reliability of funding sources for meeting the costs of the existing transit system and proposed improvements;

(5) An assessment of institutional arrangements, such as the roles and responsibilities of State agencies, local governments, and the private sector in project implementation and operation; and

(6) An assessment of social, economic, and environmental impacts of importance to a decision on mode and alignment.

(c) Once UMTA accepts the technical results of these analyses, the results will be summarized in a draft environmental impact statement or environmental assessment that meets the requirements of 40 CFR Parts 1500 and 1508 (Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act) and 23 CFR Part 771 (Environmental Impact and Related Procedures), if required.

(d) During the circulation period for the draft environmental impact statement, the applicant must hold at least one formal public hearing covering the analysis of alternatives and the environmental document.

(e) Following the environmental impact statement's circulation period or the environmental assessment's availability period, local officials must select a preferred mode and alignment alternative that will be referred to as the locally preferred alternative, and must adopt a plan for financing its capital and operating costs. Local officials must prepare a report documenting these decisions.

§ 611.13 Preliminary engineering phase.

(a) To maintain eligibility for UMTA capital funding for a major urban mass transportation investment, local officials must perform preliminary engineering on the locally preferred alternative and a TSM alternative. Preliminary engineering also may include one or more additional alternatives found to be cost-effective in the alternatives analysis phase.

(b) The preliminary engineering phase must include:

(1) An analysis of design alternatives leading to local decisions on the proposed project's major design features;

(2) A refinement of the capital and operating cost, level of service, ridership, environmental impact, and cost-effectiveness information developed during alternatives analysis;

(3) The implementation of the financial plan including, as appropriate, the negotiation of local agreements on the allocation and timing of existing financial resources, establishment of new revenue sources, and commitments to private financing;

(4) The completion of environmental requirements in accordance with 40 CFR Parts 1500 and 1508 (Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act) and 23 CFR Part 771 and 49 CFR Part 613 (Environmental Impact and Related Procedures); and

(5) Development of an early and systematic approach to promoting the participation of the private sector and, in particular, disadvantaged business enterprises in accordance with Part 23 of this title.

(c) UMTA must be provided early opportunities to review and concur in the methods of these analyses.

(d) If it is required that UMTA issue a final environmental impact statement, UMTA will do so only when UMTA accepts the technical findings and analyses of the statements.

§ 611.15 Final design.

(a) The final design phase for a major urban mass transportation investment will include:

(1) The acquisition of rights of way;

(2) The relocation of utilities;

(3) The preparation of final construction plans, detailed specifications, estimates and bid documents; and

(4) The negotiation of a full funding agreement between UMTA and the recipient of UMTA funds for the major urban mass transportation investment.

(b) Final design activities, property acquisition (with the exception of hardship or protective buying as defined in 23 CFR 712.204(d)), vehicle procurement, and construction may not be undertaken until the requirements of the National Environmental Policy Act have been satisfied.

(c) Where major urban mass transportation investments are proposed for funding under section 3 of the UMT Act or the discretionary authorities of the Interstate Transfer Program, UMTA approval to undertake final design will reflect decisions made under the rating system described in Appendix B.

(d) Major urban mass transportation investments proposed for funding under section 3 of the UMT Act will not be advanced into the final design phase unless:

(1) UMTA approved the initiation of preliminary engineering, final design, or construction before January 1, 1987, or

(2) UMTA determines that the proposed project is based on the results of alternatives analysis and preliminary engineering, is cost-effective, and is supported by an acceptable degree of local financial commitment. For the purpose of this determination a project is:

(i) Based on the results of alternatives analysis and preliminary engineering if alternatives analysis and preliminary engineering were completed as described herein, or the project fully satisfied the UMTA requirements that were in effect when planning and project development occurred;

(ii) Cost-effective if the results of alternatives analysis and preliminary engineering yield a cost-effectiveness index that either does not exceed $6.00 per new daily transit trip or does not exceed $8.00 per hour of user benefit; and

(iii) Supported by an acceptable degree of local financial commitment if sufficient funds are available to construct, operate, and maintain the project and its supporting feeder system while continuing to operate and maintain the existing transit system. The local financial commitment will be evaluated through an assessment of the capital financing committed to the project and the stability and reliability of the applicant's sources of operating revenue, as described in Appendices A and B to this part.

(e) Where major urban mass transportation investments are proposed for funding under section 9 of the UMT Act or the formula portion of the Interstate Transfer Program, the applicant must certify that:

(1) Sufficient funds are available to construct, operate, and maintain the project and its supporting feeder system while continuing to operate and maintain the existing transit system;

(2) The project is cost-effective based on the results of alternatives analysis and preliminary engineering;

(3) The project will meet minimum design criteria to ensure safe system construction and operation; and

(4) The applicant will not seek assistance under section 3 of the UMT Act for routine capital needs.

Appendix A to Part 611—UMTA Policies and Procedures on the Development of Major Urban Mass Transportation Investments

These policies and procedures are applicable to proposals for discretionary grants authorized by section 3 of the Urban Mass Transportation Act of 1964, as amended (UMT Act), and 23 U.S.C. section 103(e)(4) (Interstate Transfer Program). In addition, these policies and procedures apply to grants under the authority of section 9 of the UMT Act, and 23 U.S.C. section 142 (Federal-Aid Urban System Program). The purpose of this Appendix is to amplify the procedures set forth at 49 CFR Part 611, Major Capital Investment Projects.

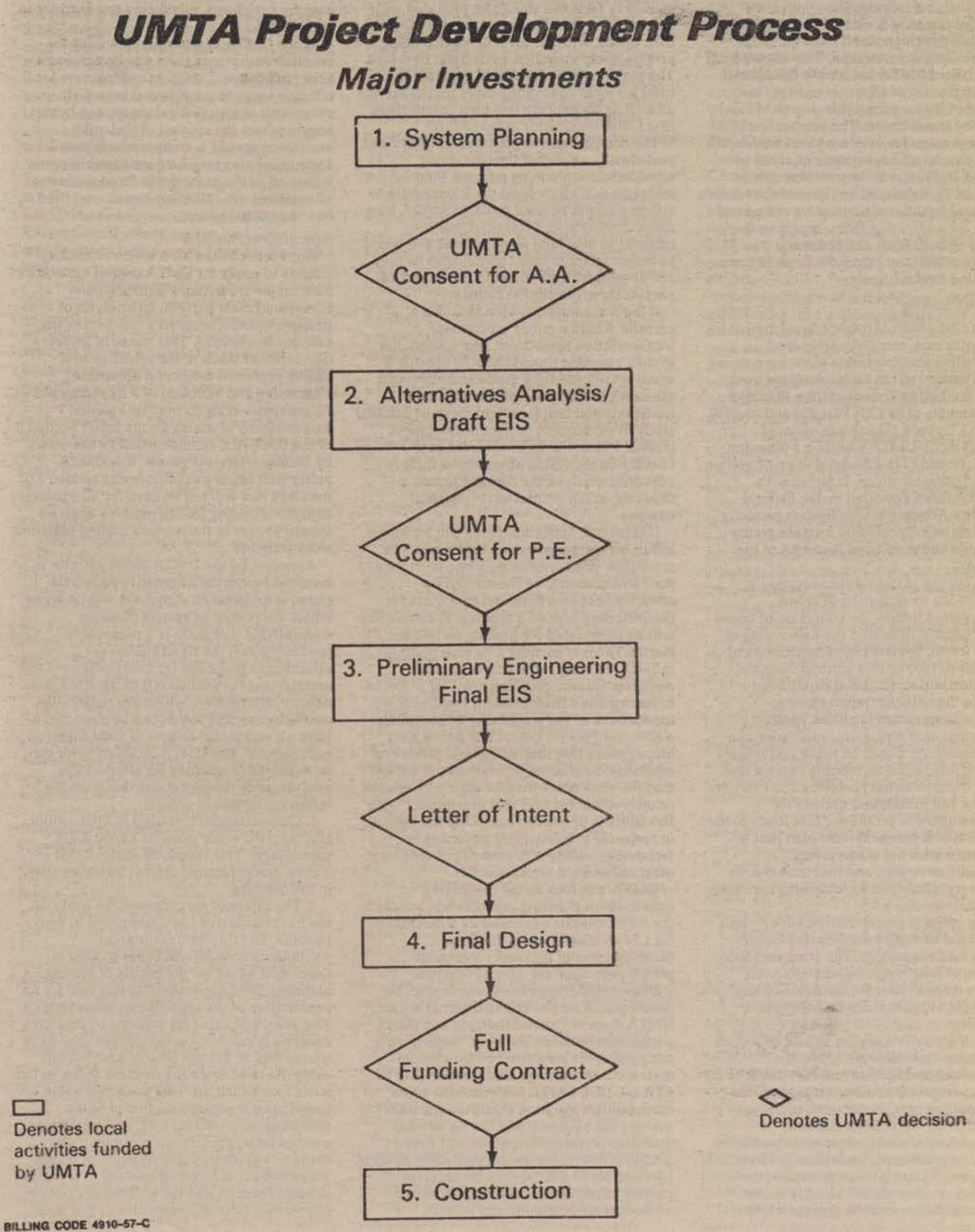
Projects to rehabilitate or modernize existing fixed rail transit lines are outside the scope of this Appendix. However, major elements of modernization programs (e.g., electrification of existing services) may be financed under full funding agreements and be subjected to a similar evaluation approach. This will help ensure that Federal discretionary funds are directed toward projects that are cost-effective and supported by an adequate degree of local financial commitment.

General Description

The process for developing major urban mass transportation investments includes four general phases before actual construction: System planning, alternatives analysis, preliminary engineering, and final design. Approval by the UMTA Administrator is required before initiating the alternatives analysis, preliminary engineering, and final design phases. The planning and project development process is illustrated in Figure 1.

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FIGURE 1



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As proposals are advanced through these phases, estimates of their costs, effects, and impacts (as well as the costs, effects, and impacts of alternative courses of action) are developed and refined. The applicant's financial capacity is established, financing plans are developed, and local financial commitments are obtained. This allows local officials and UMTA to identify the options that are most cost-effective and that are supported by an acceptable degree of local financial commitment. The application of a similar process for over ten years has shown that a careful and systematic analysis of present and future transportation needs, followed by a detailed analysis of the relative costs and benefits of alternative courses of action for addressing them, improves the quality of both local and Federal decisionmaking and thus results in better use of limited Federal funds.

System Planning

This first phase of project development is the continuous, comprehensive, and cooperative transportation planning process that is carried out in each urbanized area under the Urban Transportation Planning requirements of 23 CFR Part 450 and 49 CFR Part 613. System planning is assisted financially by UMTA's section 8 planning grants, issued to the designated metropolitan planning organizations, together with planning funds provided by the Federal Highway Administration. System planning also may be supported by formula grants available under sections 9 and 9A of the UMT Act.

The system planning phase typically includes the examination of urban development trends, the collection of travel and economic data, and the forecasting of future travel. System planning includes an analysis of the region's general financial condition and its financial capability to operate the existing transit system, modernize outdated facilities, replace equipment as it wears out, and undertake new initiatives. Based on these preliminary studies, local officials identify current and future transportation problems and evaluate policies and investment options for addressing these problems. This leads to the adoption of a transportation plan that is consistent with the urban area's comprehensive plan and that includes, as necessary, strategies for obtaining necessary financial resources.

Long range regional transportation plans should not identify specific mass transit modes and alignments. The scale and time horizon of long range regional planning studies do not allow for the detailed analyses needed to support mode and alignment decisions.

The transportation plan should reflect an awareness that different types of transportation facilities and services may be most appropriate in different parts of the metropolitan area. Some parts of the area may be most suitable for highway improvements, while others are suitable for transit or multi-modal solutions to identified problems. To reach these decisions, the planning process should identify major transportation corridors, and each major corridor should be considered individually to determine the facilities and services that will best meet its projected requirements. Corridors which do not require new fixed guideway facilities should be provided with levels and types of transit appropriate to their needs, with the level of service being progressively upgraded as demand develops. The planning process should consider the need for local community-level transit service as well as for express line-haul connections that foster regionwide accessibility.

The comprehensive plan should be revised periodically as part of the continuing transportation planning process. Plan revisions will allow local decisionmakers to reflect changes in local goals, priorities, long-range forecasts, and financial realities; respond to new land development and travel patterns; adapt to new technologies as they are developed; and adjust to the impact of previously implemented actions.

If the transportation plan includes a corridor where a major urban mass transportation investment is proposed, the system planning process should identify a small set of promising mode and alignment alternatives that address the corridor's transportation problems and warrant detailed study in subsequent project development phases. Factors to be considered in identifying promising alternatives include cost-effectiveness, the region's financial capacity, and potential environmental impacts.

If local transportation plans call for major urban mass transportation investments in more than one corridor, only one corridor at a time will normally be considered for advancement as a potential candidate for discretionary section 3 funding. Each corridor will be considered for funding on its own merits. The one corridor at a time policy reflects the reality of a scarce capital resource, and the resulting need for projects to be capable of independent justification irrespective of the probability of obtaining additional Federal funds. The policy also helps ensure that limited Federal funds are equitably distributed throughout the nation; that the most cost-effective segments receive priority attention; and that maximum flexibility is preserved to modify the system in response to subsequent advances in technology, changes in growth patterns, and other unforeseen circumstances.

UMTA will look to the designated metropolitan planning organization to select the corridor to be advanced as a candidate for UMTA discretionary funding. Establishment of regional investment priorities is rightfully a local concern.

In saying that regional systems shall be developed in stages, one corridor at a time, UMTA does not intend to imply any direct connection between the term "region" and the geographic area covered by a single metropolitan planning organization (see 23 CFR 450.106). UMTA is aware that some metropolitan planning organizations (MPO's) oversee the planning process for several Standard Metropolitan Statistical Areas (SMSA). Within the geographic areas covered by these MPO's, there may be separate centers of population and employment, without close economic and social relationships, and there may be separate transit agencies and/or separate sources of local capital and operational funds. In such areas, UMTA is prepared to consider, on a case by case basis, advancing one corridor in each SMSA.

While UMTA is generally unwilling to consider exceptions to its one corridor at a time policy, it will do so in cases where local officials agree to provide a substantial overmatch to any Federal assistance being sought where the amount of Federal assistance sought is comparatively small. Exceptions also may be considered in cases where all of the prospective fixed guideway alternatives are relatively low in cost (that is, less than $100 million).

Alternatives Analysis

Any metropolitan area which ultimately intends to apply for UMTA capital assistance for a major urban mass transportation investment must perform an analysis of transportation alternatives that serves the corridor in question. This phase of project development leads to the selection of a locally preferred mode and alignment alternative and adoption of a financing plan. Alternatives analysis may be assisted financially by planning grants under section 8 of the UMT Act, supplemented as necessary by section 9 formula grants. It is UMTA policy that funds available under section 3 of the UMT Act will not be used for alternatives analysis. Funding for alternatives analysis should appear in the region's unified planning work program.

Approval by the UMTA Administrator is required before the alternatives analysis phase is undertaken. Approval will be given where the results of system planning demonstrate that there is a reasonable possibility that the fixed guideway alternatives proposed for study will meet the requirements of section 3(i) of the UMT Act, namely, alternatives which are potentially cost-effective and which can be expected to have an acceptable degree of local financial commitment. The UMTA Administrator can be expected to approve for alternatives analysis only those projects that meet the following threshold criteria:

1. Current transit ridership in the corridor proposed for study exceeds 15,000 daily transit trips. This threshold ensures that at least a modest transit market already exists in the corridor.

2. The alternatives proposed for study do not have excessive costs compared to their benefits. To address this criterion, preliminary cost-effectiveness indices are developed based on the results of system planning. (See Appendix B to this Part for an explanation of the cost-effectiveness index.) The threshold value for entering alternatives analysis is currently set at $10 per new daily transit trip, or $12 per hour of user benefit, using the total cost-effectiveness index as the basis for evaluation. This threshold value is based upon a generous estimate of the operating cost, parking cost, and travel time savings for a typical auto commuter who shifts to a guideway transit mode of travel. This estimate is factored upward to recognize indirect benefits and the preliminary nature of cost and ridership estimates at this stage.

3. The transit implementing agency is in reasonably sound financial condition. It should have, or have a realistic chance of obtaining, the financial capability to successfully undertake any of the proposed major transit investment alternatives while continuing to operate, maintain, and reinvest in the existing transit system.

If local officials make a commitment not to seek discretionary funds for construction, UMTA may approve the initiation of alternatives analysis even if the threshold tests are not satisfied. The alternatives analysis would then be used to address the environmental and other requirements that apply to projects supported with formula funds. These requirements include the financial, cost-effectiveness, and safety certifications called for in § 611.15(e) of this part.

The alternatives analysis phase considers the promising mode and alignment alternatives identified in system planning. In addition to any high cost options that show promise, the set of alternatives should include both medium- and low-cost options as well as a no-action alternative. Each of the build alternative should include TSM actions to increase the efficiency of the existing transit and highway system. One alternatives should consist solely of such TSM actions in order to provide a baseline that represents the most that can be done to address the corridor's transportation problems without a major investment.

The number of alternatives, as well as the scale of the analysis, should be commensurate with the magnitude of the transportation problem, the cost of the alternatives, and the significance of potential impacts. Early in the alternatives analysis phase, local officials and UMTA will agree on the range of alternatives to be addressed and a work plan for the analysis.

The analysis will assess each alternative's capital, operating, and maintenance costs; anticipated ridership; and impacts on highway and transit level of service. Social, economic and environmental impacts of importance to a decision on mode and alignment will be evaluated along with other factors considered important by the local community. The financial feasibility of each alternative will be assessed in terms of local, State, and private sector funding options and the availability of stable and dependable resources to cover the predicted operating and maintenance costs of the transit system. The analysis also will include an evaluation of the cost-effectiveness of the alternatives, where cost-effectiveness is measured as described in Appendix B to this Part. Local agencies should provide UMTA an early opportunity to review and concur in the methods and results of these analyses; only those methods and results that UMTA accepts will be used in UMTA's determination of cost-effectiveness.

During the alternatives analysis phase, UMTA and the applicant will prepare a draft Environmental Impact Statement (EIS) or Environmental Assessment (EA) in accordance with Council of Environmental Quality regulations (40 CFR Parts 1500 to 1508) and UMTA's environmental regulations (23 CFR Part 771 and 49 CFR Part 613). UMTA is responsible for ensuring that the environmental instrument fulfills Federal requirements and presents a complete and objective basis for mode and alignment decisions. Thus, UMTA will not approve an environmental instrument unless and until UMTA accepts the technical findings and analyses of the study. Following the EIS circulation period (for EA availability period), local officials will complete the alternatives analysis phase by selecting a preferred alternative and adopting a plan for financing its capital and operating costs.

Preliminary Engineering

This phase leads to the selection of the major design and operational features of the preferred alternative, development of a cost estimate with a high confidence level, and implementation of the financial plan. Preliminary engineering may be financed from section 9 formula program funds. Funding for preliminary engineering should appear in the region's transportation improvement program.

Written approval of the UMTA Administrator is required before fixed guideway projects may be advanced into preliminary engineering. Where the financial plan adopted in alternatives analysis shows that capital funding under section 3 of the UMT Act is envisioned, UMTA approval to proceed into preliminary engineering can be expected only if the locally preferred alternative does not have excessive costs compared to its benefits. This determination will be based upon the cost-effectiveness indices developed in alternatives analysis. The threshold value for entering preliminary engineering currently is set at $6 per new daily transit trip, or $8 per hour of user benefit, using the total index as the basis for evaluation.

Approval to enter preliminary engineering also will be predicated on the quality of the proposed financing plan for the locally preferred alternative. This will be measured on the basis of the region's capability to implement, operate, and maintain the project, including ancillary services and facilities such as feeder buses, and to operate and maintain the remainder of the region's transit system over the project's useful life.

In cases where local officials commit, through their financial plan, to construct the locally preferred alternative without section 3 funding, these threshold tests will not apply. However, there must be a minimun transit benefit associated with the project as indicated by an increase in ridership or user benefits compared with the TSM alternative. In addition, the applicant should be cognizant of the certifications required by § 6112.15(e) of this part.

During the preliminary engineering (PE), phase, local project sponsors refine the design of the proposal, taking into consideration all reasonable design alternatives. In addition, environmental requirements are completed. This will typically involve preparation of a final EIS (and in some cases, a supplemental draft EIS). UMTA is responsible for ensuring that the EIS fulfills Federal requirements and provides a complete and objective basis for decisions on the design, operations, and mitigation measures for the guideway facility. UMTA will review and concur in the technical environmental and design work performed by local agencies and participate in the preparation of the EIS consistent with UMTA's responsibilities under the National Environmental Policy Act of 1969.

It is UMTA policy to encourage the application of value engineering techniques to all construction projects, and to require its use on major capital projects (see UMTA Order 9004.1, "Use of Value Engineering on Urban Mass Transportation Projects"). Generally, value engineering is performed toward the end of the PE phase by an independent consultant team. UMTA also encourages peer reviews.

The PE process results in estimates of project costs and impacts which have a high confidence level. Project management concepts also are finalized during preliminary engineering. The project management concepts define the scope of project implementation during the final design, construction, and start-up operation stages, including the establishment of policies for activities such as quality assurance, quality control, and safety.

The financial plan adopted at the end of alternatives analysis is implemented during PE. Agreements are reached on the allocation of existing financial resources, any required new revenue sources are put in place, and specific private financing commitments are obtained. By the conclusion of PE, all necessary State, local, and private revenues should be committed or dedicated to the project, subject in no case to legislative action or popular referendum.

Preliminary engineering encompasses not only the locally preferred and the TSM alternatives, but may also include one or more lower cost alternatives found to be cost-effective in the alternatives anlaysis phase. As necessary, estimates of the capital cost of each cost-effective alternative will be refined, together with forecasts of transit ridership and travel time. Estimates of future operating and maintenance expenses of cost-effective alternatives will also be updated.

Localities also are encouraged to incorporate into their planning at this stage, and to implement, a program of local supportive policies and actions designed to enhance the proposed project's cost-effectiveness and the degree of local finanical commitment. These might include:

1. Land use plans, zoning policies, and development incentives that support high density development, particularly joint development, around transit stations.

2. Coordinated bus and/or paratransit feeder services to the guideway system.

3. Pricing, regulatory, or traffic control measures aimed at reducing the peak-period use of automobiles within transit guideway corridor (e.g., traffic metering and tolls, parking management strategies, employer subsidized transit fares).

4. Financing mechanisms which make use of taxes and/or fees paid by developers and property owners benefiting from the transit investment.

Localities seeking Federal assistance for a major urban mass transportation investment

will, in the course of preliminary engineering, be expected to develop an early and systematic approach to promoting the participation of small, disadvantaged, and women's business enterprises (DBEs and WBEs). In addition to addressing the requirements of UMTA's DBE regulations (49 CFR Part 23), they should revise their existing DBE and WBE plans in accordance with the nature of the proposed project, establishing specific policies and procedures designed to maximize the opportunities for DBEs and WBEs in the entire range of transit activities, from planning to final design, construction, and operations. Intensive outreach and technical assistance programs, contract specifications for DBE and WBE awards, and professional staffing to identify opportunities for DBE and WBE participation and qualified firms are some of the strategies that should be considered.

Federal funding commitments are ultimately considered at the conclusion of the PE phase. These decisions are based on the decision criteria outlined in the "Final Design" section below and, for projects proposed for funding with discretionary resources, the rating system described in Appendix B to this part. Commitments will be considered only for operable segments that can be completed within UMTA's available program authorization.

Final Design

This is the last phase of project development before construction and typically is financed with section 3 or Interstate Transfer funds. The final design phase includes the acquisition of right-of-way; utility relocation; and the preparation of final construction plans including construction management plans, detailed specifications, estimates and bid documents. Section 611.15 of this part sets forth the requirements that must be met before approval will be given to initiate the final design phase.

Where projects are proposed for funding under section 3, the initiation of final design will reflect decisions made under the new start rating system described in Appendix B to this part. Additional requirements apply to section 3 funded projects that were not in preliminary engineering, final design, or construction on January 1, 1987. In accordance with section 3(i) of the UMT Act, these projects will be advanced into final design only if UMTA determines that they are based on the results of alternatives analysis and preliminary engineering, are cost-effective, and are supported by an acceptable degree of local financial commitment.

UMTA's determination on cost-effectiveness will be based upon the threshold criteria for entry into preliminary engineering. As noted above, the threshold currently is set at $6 per new transit trip and $8 per hour of user benefit, using the total index as the basis for evaluation.

To determine whether a project is supported by an acceptable degree of local financial commitment, UMTA will evaluate both the capital financing committed to the project and the stability and reliability of the applicant's operating revenue. Three factors will be considered:

1. Adequacy of the capital financing commitment. To satisfy this criterion, the applicant will need to provide a capital finance plan that fully covers the projected non-Federal share of the capital costs, including provision for contingent cost overruns.

2. History of adequate financial support for transit. Dedicated funding sources should be in place, or there should be a clear pattern of general appropriations from State and local governments that demonstrates a consistent support for mass transit. In this regard, UMTA will consider how well existing facilities have been maintained, and will look with disfavor on applicants that have reduced service over the most recent three year period because of financial constraints.

3. Projected operating costs and revenues. Financial projections should show that, in all likelihood, the applicant will have sufficient financial resources to operate and maintain the proposed project and to operate, maintain, and reinvest in its existing transit system without new sources of revenue.

When a project has been selected for funding with section 3 funds, UMTA normally will approve funding for final design and may at that time issue a Letter of Intent. The Letter of Intent is a formal pledge which documents UMTA's intention to obligate funds for a particular project, but is not a Federal obligation or administrative commitment. The total amount of potential Federal obligations covered by all outstanding Letters of Intent cannot exceed the amount allocated for new starts under section 3, less an amount necessary for other grants not covered by Letters of Intent.

Once the final design phase has been initiated, regardless of the source of Federal funding to be used, UMTA and the grantee will negotiate a construction grant contract (i.e., a full funding agreement) with a fixed ceiling on the Federal contribution, subject to a defined method of adjustment for inflation. Localities will be required to complete construction of the project, as defined to the point of initiation of revenue operations, and to absorb any additional costs incurred, except under certain specified extraordinary circumstances. The full funding agreement also will include a mutually agreeable schedule for anticipated Federal contributions during the construction period. Specific annual contributions under the Letter of Intent and full funding agreement will be subject to the availability of Federal funds and the ability of the grant recipient to use the funds effectively.

The full funding agreement will incorporate any local commitments to fund the non-Federal capital match (including the overmatch used to rate the project), to dedicate resources to finance projected operating deficits, and to forego the use of section 9 for operating assistance. The full funding agreement will also provide for the implementation of supporting feeder bus systems and will document local commitments to supportive policies and actions.

Appendix B to Part 611.—Description of UMTA's New Start Rating System

Fixed guideway projects are developed in four phases before actual construction: system planning, alternatives analysis, preliminary engineering, and final design. This process is described fully in the foregoing regulation and in Appendix A to this part, "Policies and Procedures for the Development of Major Urban Mass Transportation Investments." This Appendix B describes the rating process UMTA will use to evaluate major urban mass transportation investments and identify those most worthy of Federal capital assistance.

This rating system applies to proposals for discretionary grants authorized by section 3 of the Urban Mass Transportation Act of 1964, as amended (UMT Act). In addition, it applies to grants under the authority of section 9 of the UMT Act, 23 U.S.C. 142 (Federal-Aid Urban System Program), and 23 U.S.C. 103(e)(4) (Interstate Transfer Program) if they supplement discretionary grants.

The rating system complements the UMTA determinations mandated by section 3(i) of the UMT Act, enacted as part of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Under UMT Act section 3(i), new start funds can be used for only those projects that are based on the results of alternatives analysis and preliminary engineering, that are cost-effective, and that are supported by an acceptable degree of local financial commitment. The rating system is used to compare those projects that meet the requirements of section 3(i). It identifies those projects most deserving of Federal discretionary assistance from among those projects that meet the minimum acceptable levels of cost-effectiveness and local financial commitment.

The rating system will be applied annually during preparation of the report mandated by section 3(j) of the UMT Act. This report is compiled in the first quarter of each fiscal year to guide decisions for the succeeding fiscal year. This report will provide the Congress, the Secretary of Transportation, the Office of Management and Budget, and the public with information on projects that have completed alternatives analysis, and projects that have completed preliminary engineering, and their respective ratings. An explanatory narrative will accompany the ratings.

Statutory Objectives and the Federal Interest

UMTA's new starts rating system is founded on UMT Act statutory objectives. Two fundamental objectives, set by section 2 of the Urban Mass Transportation Act, are "to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development," and "to provide assistance to State and local governments and their instruments in financing such systems, to be operated by public or private mass transportation companies as determined by local needs."

Consistent with these fundamental objectives, the Federal interest underlying

UMTA's new starts rating system is the provision of an essential level of urban mobility for the public by financially assisting the development of efficient urban mass transportation networks. The Federal government is not necessarily interested in networks which may provide maximum comfort, convenience, amenities, and other like benefits. This rating system does not preclude local authorities from proposing projects which tend to maximize such benefits, but it identifies the extra costs and accounts for them in the rating process. It should also be understood that, while the rating system recognizes a Federal interest in mass transit, the primary responsibility for mass transit rests with State and local governments.

Rating Criteria

UMTA's new starts rating system is driven by the two primary criteria mandated by UMT Act section 3(i): Cost-effectiveness and local financial commitment. Implicit in the consideration of these criteria is consideration of the results of alternatives analysis and preliminary engineering, also mandated by UMT Act section 3(i). UMTA is mindful, also, of the legislative history of STURAA in which the Congress expressed concerns regarding community support and disadvantaged business enterprise participation in UMTA-funded new starts. Thus, the rating system provides for consideration of these factors when projects rate similarly in terms of cost-effectiveness and local financial commitment.

Because the two primary criteria, cost-effectiveness and local financial commitment, are quantifiable, it is possible to formulate numerical indices of Federal investment worthiness as a primary guide to ratings. These two criteria and their use in such indices are given further definition as follows.

Cost-Effectiveness

The cost-effectiveness evaluation assesses the investment worthiness of a fixed guideway alternative by comparing its costs and benefits with the costs and benefits of a transportation system management (TSM) alternative. TSM alternatives typically include such actions as expanded bus service, high occupancy vehicle lanes that do not require major new construction, fringe parking, paratransit and ridesharing incentives, traffic engineering, and regulatory and pricing strategies to discourage single-occupant auto use. The costs of the fixed guideway and TSM alternatives are annualized to account for the different time streams of capital and operating expenditures as well as the different expected lifetimes of each alternative. The annualized costs and benefits of the TSM alternative are then subtracted from the annualized costs and benefits of the fixed guideway alternative, so that the added costs of the fixed guideway can be compared with its added benefits. Two cost-effectiveness indices are used to provided a quantitative measure of cost-effectiveness: the new trip index and the user benefit index.

The new trip index was introduced in UMTA's 1984 Major Capital Investment Policy (49 FR 98, May 18, 1984). The index recognizes two measures of benefit for fixed guideway projects: changes in transit ridership and travel time savings for existing riders. The index is computed as a ratio in which annualized capital and operating costs comprise the numerator, and ridership changes constitute the denominator. Travel time savings are converted to their monetary equivalent using an average value of time, and are incorporated in the index as an offset to costs. The index takes the form of incremental cost (annualized capital and operating, less travel time offsets) per new transit trip.

The two measures of benefit included in the new trip index have proved to be good indicators of the benefits of primary Federal interest as well as general proxies for a wide range of other benefits associated with major investment projects. Additional ridership is a measure of how well a transit facility improves transit service, and also reflects many of transit's potential secondary benefits such as the structuring of urban development patterns and reductions in congestion, pollutant emissions, and energy consumption. The travel time savings for existing riders measure accounts for improved travel conditions for those already using transit, and is a good indicator of improved mobility for the transit dependent.

The user benefit index has been developed in responses to comments on the 1984 policy statement. This new measure combines ridership increases with travel times savings into a single measure of user benefits, and takes the form of cost (annualized capital and operating) per hour of user benefit. In theory, the user benefit measure should provide a more valid basis for project evaluation, but it has not been tested in practice, and many local studies have not yet produced the data needed to compute user benefits. UMTA is requesting local agencies currently engaged in major investment project planning to prepare information that can be used to compute the user benefit measure. Meanwhile, UMTA intends to use both the old measures of benefit (ridership increases and travel time savings) and the new user benefit measure in applying the rating system.

The new trip index and the user benefit index are calculated two ways. The "total index" is computed on the basis of total captial costs and reflects project merit irrespective of the source of funding. The "Federal index" reflects transportation benefits and operating cost savings noted above, and focuses on the capital costs of specific interest to the Federal Government: namely, the requested Federal contribution to capital costs.

In computing the indices of project merit, UMTA will consider the extent to which the alternatives analysis has indicated that another guideway alternative in the corridor would be more cost-effective than the locally preferred project. Where there is a more cost-effective guideway alternative, the rating of the locally preferred project will be reduced. Furthermore, where there is a lower cost guideway alternative which produces more benefits than the locally preferred project, a larger local capital contribution will be required for an applicant to be able to construct the locally preferred project.

Local Financial Commitment

The degree of local financial commitment is a particularly important criterion because it encourages communities to provide a larger capital match, and to develop stable and reliable sources for operating, maintenance, and capital replacement expenses. Thus, this criterion both leverages and protects limited Federal resources. A large local capital match will stretch scarce Federal dollars and permit Federal support for a larger number of worthy projects. The development of stable and reliable revenue sources reduces the risk that, after making a very large Federal capital investment, the grantee will not be able to adequately maintain and operate the project and other elements of its transit system. Private sector urban development also is taken into account to the extent that the private sector is committed to supporting transit capital or operating costs. Such commitments show that the private sector sees merit in the project, and are thus an indicator of investment worthiness.

The rating system uses the local financial commitment criterion to differentiate between projects that exhibit similar degrees of cost-effectiveness. Four factors are taken into account in this evaluation: the amount of capital overmatch as a percentage of the project's capital costs, the strength of the local plan of capital financing, the source of the local capital overmatch, and the stability and reliability of the financial resources to operate and maintain the applicant's transit system. Among projects which rate similarly in terms of cost-effectiveness, preference will be given to projects where:

1. The applicant agrees to provide substantially more than the statutory minimum capital match.

2. The applicant's capital finance plan is considered to be unusually sound in terms of its coverage of projected non-Federal capital costs and allowances for cost overruns.

3. The private sector participates in the raising of the non-Federal overmatch dollars. (Other things being equal, a privately raised overmatch will rank an application higher than a publicly raised one. Special priority will also be given to applications which contain innovative funding techniques which maximize local efforts to leverage and encourage private sector funding contributions in a manner that will reduce the net public cost of the system.)

4. Financial projections clearly show that the applicant has more than adequate financial capacity to operate the proposed project, to undertake other programmed improvements, and to operate, maintain, and reinvest in its existing transit system with a margin of safety for cost overruns and funding shortfalls.

With respect to the source of funds to provide the local share of net project cost, applicants utilizing a cash rather than an in-kind source would be judged to be making the greater local fiscal effort. In any case, in-kind local share would not qualify for overmatch credit.

Other Factors

Additional evaluation factors may be taken into account in order to distinguish between projects that rate similarly in terms of cost-effectiveness and local financial commitment. Such factors could include:

1. Level of community support, as demonstrated by local commitments to supportive land use and transportation policies;
2. Efforts to obtain the participation of disadvantaged businesses;
3. The status of local efforts to attain and maintain the National Ambient Air Quality Standards; and
4. Any preferred agreements to limit the long term use of section 9 funds for operating assistance. Such commitments and agreements will ultimately be included in the terms and conditions of the full funding agreement.

Development of the Ratings

Early in the first quarter of each fiscal year, UMTA intends to rate the projects that are candidates for funding in the following fiscal year. The ratings would be used in preparing a report to Congress, as called for by UMT Act section 3(j), containing the Department's proposal as to the amount of Section 3 discretionary funding that should be made available for new start projects, rail modernization, and bus improvements in the coming fiscal year.

The report also would contain a recommended allocation of the section 3 new start funds, reflecting existing funding commitments and the ratings of proposed new projects.

The ratings will focus on those projects that have completed or are completing the preliminary engineering phase, since these are the most likely candidates for capital funding in the following fiscal year. Projects that are in the early stages of preliminary engineering or which are completing alternatives analysis may also be rated for information purposes, so as to indicate potential out-year funding requests. Ratings will be updated for projects completing preliminary engineering after the first quarter. The allocation of uncommitted funds will be re-evaluated, if feasible, at subsequent points in the Federal budget cycle.

As a set of projects is selected for possible Federal support, consideration will be given to the amount of uncommitted funds in the UMTA budget authorization allocated for fixed guideway projects. A Letter of Intent or a full funding agreement will not be executed for a single project which would consume all, or substantially all, of UMTA's unobligated budget authority. In addition, by law, the sum of all the Letters of Intent and full funding agreements cannot exceed the unobligated budget authority.

Summary

UMTA's new start ratings system relies upon cost-effectiveness indices to identify those projects which are clearly superior, those with some merit, and those which are obviously least worthy. Those which rate most highly in terms of cost-effectiveness are placed in the top group, and projects which rate less well are placed in a separate group or groups. (Projects that fail to meet the cost-effectiveness thresholds and are not supported by an acceptable degree of local financial commitment are eliminated from consideration, consistent with section 3(i) of the UMT Act.) The final position of projects within each group is then determined by applying several measures of local financial commitment and possibly other factors. It is expected that the project ratings would provide the technical basis for UMTA's annual funding recommendations to the Congress.

The rating system extracts objective indices of project merit from the technical information developed in the local planning and project development process. The system recognizes the margin of error implicit in any forecast and avoids an automatic, discrete ranking of projects on the basis of a single, composite criterion. By avoiding a mechanical reliance on forecast data, it permits the application of informed judgment and emphasis on selected policy objectives. This approach to rating potential investments is similar to that used by private financial institutions to evaluate or grade investment options and assess risk and uncertainty. Private institutions typically use a set of objective criteria to place investment options into broad groups with similar worthiness and then, if necessary, apply judgmental criteria to determine the final positioning of projects within the groups. In the UMTA rating system, the cost-effectiveness indices are the objective measures of project merit or investment worthiness, and the degree of local financial commitment is the most important judgmental criterion.

Issued on: April 18, 1989.

Alfred A. DelliBovi,

Administrator.

[FR Doc. 89-9708 Filed 4-24-89; 8:45 am]

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federal register

Tuesday
April 25, 1989

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 14 and 15
Federal Acquisition Regulation (FAR); Additional Awards; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 14 and 15

Federal Acquisition Regulation (FAR); Additional Awards

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to 14.407–1(c)(4) and 15.1002 to require that, when an award is made to an offeror for less than all of the items that may be awarded to that offeror, and additional items are being withheld for subsequent award, the award notice shall state that the Government may make subsequent awards on those additional items within the offer acceptance period, and to clarify that notice of potential subsequent award must be provided with each award that may be followed by a subsequent award. The current language requires notice only with the first award.

DATE: Comment should be submitted to the FAR Secretariat at the address shown below on or before June 26, 1989 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th and F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89–20 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities and analysis of the proposed revision indicates that it is not a "significant revision" within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 3501, *et seq.* because it does not have a significant effort beyond the internal operating procedures of individual contracting offices.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recodkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 14 and 15

Government procurement.

Dated: April 14, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Parts 14 and 15 are amended as set forth below:

1. The authority citation for 48 CFR Parts 14 and 15 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 14—SEALED BIDDING

2. Section 14.407–1 is amended by revising paragraph (c)(4) to read as follows:

14.407–1 General.

* * * * *

(c) * * *

(4) When an award is made to a bidder for less than all of the items that may be awarded to that bidder and additional items are being withheld for subsequent award, the award shall state that the Government may make subsequent awards on those additional items within the bid acceptance period.

* * * * *

PART 15—[AMENDED]

3. Section 15.1002 is amended by adding a second sentence to read as follows:

15.1002 Notification to successful offeror.

* * * When an award is made to an offeror for less than all of the items that may be awarded to that offeror and additional items are being withheld for subsequent award, each notice shall state that the Government may make subsequent awards on those additional items within the offer acceptance period.

[FR Doc. 89–9746 Filed 4–24–89; 8:45 am]

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federal register

Tuesday
April 25, 1989

Part VII

Department of Education

National Institute on Disability and Rehabilitation Research; Funding Priorities for Research Activities and Invitation of Applications for New Awards Under Certain Programs for Fiscal Year 1989; Notices

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Funding Priorities for Research Activities

AGENCY: Department of Education.

ACTION: Notice of Final Funding Priorities for Fiscal Years 1989–1990.

SUMMARY: The Secretary of Education announces final funding priorities for some of the research activities to be supported under the Rehabilitation Research and Training Center (RRTC), Rehabilitation Engineering Center (REC), Research and Demonstration (R & D), and Knowledge Dissemination and Utilization (D & U) programs of the National Institute on Disability and Rehabilitation Research (NIDRR) in fiscal years 1989 and 1990. NIDRR intends to provide funding support for some of these priorities in fiscal year 1989. Information concerning priorities to be supported in fiscal 1989 is contained in a separate consolidated application package published elsewhere in this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, National Institute on Disability and Rehabilitation Research, Department of Education, 400 Maryland Avenue SW., Room 3070, Switzer Building, Washington, DC 20202–2601.

EFFECTIVE DATE: These priorities take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

SUPPLEMENTARY INFORMATION: On November 15, 1988, NIDRR published proposed funding priorities for two fiscal years under several NIDRR programs in the **Federal Register** at 53 FR 46062. NIDRR's regulations authorize the Secretary to establish research priorities by reserving funds to support particular research activities (see 34 CFR 352.32). The publication of final funding priorities does not bind the Federal Government to fund projects in any of these areas, except as otherwise directed by statute. Funding of particular projects depends on the availability of funds and on the quality of the applications that are received. The following priorities represent areas of research derived from "state-of-the-art" meetings, planning conferences, and other participatory activities. This notice presents each program separately, with a description of the program followed by the final funding priorities for that program.

Analysis of Comments and Changes

NIDRR received a substantial number of comments on many of the proposed priorities. A synopsis and an analysis of comments received on these priorities and the Secretary's responses to them follow.

Rehabilitation Research and Training Centers (RRTCs) Rehabilitation for Persons With Long-Term Mental Illness

Comment: One commenter suggested that the research on families be broadened to include peers and other members of a client's support system. The commenter made two additional suggestions: (1) that a study of the impact of consumer management on vocational outcomes be added to the priority and (2) that studies of coping strategies and stress interventions successfully employed by ex-patients merit inclusion. Another commenter recommended that there be a study of the use of computers in rehabilitation of persons with long-term mental illness.

Discussion: The Secretary agrees that these are important concerns. However, most of these suggestions can be incorporated by an applicant in response to the present priority. NIDRR prefers to limit the required elements of a priority, and not to specify the approach to be used. An applicant may include peers and ex-patients as well as families in its studies of support mechanisms. Similarly, an applicant may develop model vocational rehabilitation interventions that include either consumer management or computer applications, or both. However, NIDRR will not require that all applicants test these specific interventions.

Changes: None.

Research and Training Center in Independent Living (IL)

Comment: Many commenters responded to this priority by objecting to the publication of proposed priorities for two years, without any indication of which priorities are proposed for funding in which fiscal year. Many commenters also objected to the lack of systematic involvement of representatives of the independent living field in the development of the priority. They further urged that funding levels should be included in notices of proposed priorities, to permit the public to judge the feasibility of implementing the priorities within program and funding constraints.

Most of these commenters contended that the scope and magnitude of the proposed priority are too extensive to be accomplished by one Center. Many commenters recommended that two RRTC's should be funded: one focusing on social policy issues related to achieving the goals of independent living, and another focusing on issues related to the management and improvement of Independent Living Center operations.

The general thrust of a large number of comments was that the priorities for the RRTC on Independent Living should focus on policy issues affecting independent living, with an emphasis on consumer involvement, consumer accessibility, and consumer control. The commenters further recommended that an emphasis be added to the priority on the identification and reduction of barriers to independent living, accessibility, and equal opportunity.

A group of commenters recommended that NIDRR delete or modify priority statements referring to long-term-care institutions and to specialized Independent Living Centers (ILCs) as those institutions are innately antithetical to the Independent Living concept. Commenters also recommended deleting priority statements relating to the study of patterns of funding and the study comparing specialized and generic ILCs. They believed that the study of funding patterns would be duplicative of another study already in progress.

Discussion: The Secretary has proposed priorities for two years at a time in order to simplify the processing and publication of notices, to give the field early notice of some of the pending priorities, and to give the agency greater flexibility in selecting priorities for funding in either or both years. The Department is required to publish priorities for public comment because priorities impose restrictions on applicants beyond those imposed by the statute, and thus they are considered to be regulatory. The Department is required by law to provide a period of public comment on regulatory actions. However, funding levels are not proposed for public comment since they are not regulatory in nature.

NIDRR regrets that the need to afford the field early notice of fiscal year 1990 priorities precluded the participatory planning meeting on the independent living priority that was to be held in 1989. However, the agency did consult with the staff of the Independent Living Program Division in the Rehabilitation Services Administration, and there is an ongoing channel of communication between the current RRTCs in Independent Living and their NIDRR Project Officer. Also, the Notice of Proposed Rulemaking process does

provide an opportunity for the field to make suggestions regarding the content of NIDRR priorities. The Department will consider alternative approaches for future fiscal years.

NIDRR agrees that the scope of activities identified in the proposed priority for an RRTC in independent living is too broad and diffuse for one Center. Therefore, NIDRR has modified the priorities to comprise two separate Centers.

With respect to the first activity in the proposed priority, NIDRR agrees with the commenters that the development of model approaches to improving consumer accessibility is important. With respect to the second activity, NIDRR believes that it is important to investigate the potential relevance of independent living concepts and programs in preparing individuals in a variety of long-term care settings to develop independent living skills and attitudes to facilitate their transition from institutions to living in the community. NIDRR agrees that a redundant study of funding patterns should not be undertaken.

NIDRR also agrees that, although some types of specialized IL Centers do exist, there is no pressing research objective to be met by comparing generic and specialized Centers.

Changes: NIDRR has divided the priority to create core areas for two RRTCs in Independent Living research, one in management and one in policy. One Center will include primarily those elements related to improving the operation of Independent Living Centers and services. The other RRTC will investigate policy issues related to independent living. NIDRR also has consolidated specific references to projects on long-term care settings, and eliminated references to studies of specialized ILCs and funding patterns. NIDRR has amended the priority to include a requirement to ". . . develop and test models to improve the accessibility of general community services to people with disabilities and integrate those services with Independent Living services," as requested by a large number of commenters.

A further change has been added to the priority to "develop and disseminate model strategies for ILCs to promote community accessibility in such areas as removal of architectural barriers, communications, employment, housing, and transportation." NIDRR also has eliminated the requirement for a study of funding patterns.

Community Integration for Persons With Mental Retardation

Comment: A number of commenters emphasized the need for more technical assistance to States and communities. Some of these commenters questioned the need for further research on community integration, arguing that dissemination of best practices was more important at this time. One commenter suggested that the target group should be expanded to include other developmental disabilities. Several commenters recommended that NIDRP place additional requirements in the priority, such as a requirement for state-of-the-art conferences for dissemination and for dissemination to a broad range of specific audiences, including generic service providers, policymakers, administrators, and parents.

Discussion: Although RRTCs do have a mandate for training and related activities, generally interpreted to include information dissemination and some technical assistance, NIDRR notes that its mandate and resources for in-depth technical assistance are limited. Most RRTCs provide technical assistance through their information services or through training. Alternatively, an RRTC may develop models for States and communities to acquire technical assistance with other resources. However, it will not be a major component of this RRTC. Similarly, the authority for RRTCs stipulates that they be research Centers. NIDRR believes that there is a need for new knowledge on many issues of community integration for persons with mental retardation, and thus is announcing a priority for an RRTC to conduct research and related activities in this area.

NIDRR believes there is a need for further research and, therefore, that the focus of the priority should be community integration of individuals with mental retardation. However, because individuals with other developmental disabilities are often in the same institutional populations or subject to similar segregation, NIDRR would not constrain the Center from including individuals with other developmental disabilities in its scope of work.

Finally, NIDRR prefers not to add requirements and restrictions to the priority. Applicants are free to propose whatever approaches to the stated problems they believe will be effective.

Changes: None.

Rehabilitation Engineering Centers (RECs) the Application of Computer-Assisted Design and Computer-Assisted Manufacture Methods to Prosthetics and Orthotics

Comment: A number of commenters stated that the proposed priority would be duplicative of substantial work now being done in computer-assisted design and computer-assisted manufacture (CAD–CAM) at various establishments, including the Rehabilitation Engineering Center at Northwestern University. They also noted that there is a capacity to support these endeavors in the private sector; the prosthetics and orthotics industry is a mature one that routinely uses CAD–CAM. One respondent stated that it would be inappropriate for NIDRR to devote an REC to the refinement of one tool—CAD–CAM—rather than to focus on solving problems of individuals with disabilities. Several commenters also stressed that innovations in prosthetics and orthotics are likely to come through small projects generated by the numerous practitioners and small businesses in the field.

Discussion: NIDRR proposed the priority with the goal of ensuring that state-of-the-art technological approaches would be applied to developing devices to benefit individuals with disabilities. The consensus of the commenters was that the potential use of CAD–CAM is already being widely tested and the priority would be unlikely to advance knowledge in that area.

NIDRR agrees that additional field-initiated research is likely to be a productive approach to developing improved prostheses and orthoses.

Therefore, NIDRR will withdraw the proposed priority for further consideration, while encouraging researchers to submit applications in the investigator-initiated programs—Innovation Grants and Field-Initiated Research.

Changes: The proposed priority has been withdrawn.

Applications of Technology to the Rehabilitation of Children With Orthopedic Disabilities

Comments: NIDRR received several comments that suggested the scope of the priority was too narrow, as it appeared to focus on prostheses for amputees. They recommended a more inclusive target group and a range of broader goals and objectives for the Center. Commenters urged that the Center focus on the special developmental needs of children.

Discussion: NIDRR intended for the REC to have a broad scope, focusing on children with all types of neuromuscular and musculoskeletal disabilities. NIDRR believes that the Center should be concerned with: (1) A wide range of prosthetic and orthotic systems, devices, controls, materials, fabrication and techniques; (2) increasing the utility of devices by making them more cosmetically acceptable; and (3) developing techniques to assist children and their families to identify, acquire, finance, and use appropriate devices. The development of these systems and devices should be done with an awareness of the special needs of children in various developmental phases.

Changes: The priority has been revised to include neuromuscular as well as musculoskeletal impairments, to incorporate an emphasis on sensitivity to the developing needs of the child, and to clarify the scope of work as discussed above.

Personal Licensed Transportation Systems for Disabled Persons

Comment: One commenter urged that there be more emphasis on driver assessment, technology for matching drivers to adaptive equipment, and development of standards for licensing drivers with disabilities. Some commenters suggested that there should be a separate REC to focus on driver assessments. Several commenters urged that the successful applicant would have to be associated with a service delivery system, since there would be insufficient time or resources to establish a service system within the framework of the grant award.

Discussion: NIDRR agrees that the REC should develop and evaluate equipment that could be used to match driver capacity with adaptive equipment. However, because NIDRR believes this REC should focus on adaptive equipment, the development of standards (whether for drivers or for automotive equipment), should not be part of this priority. NIDRR prefers that driver training programs be supported through other sources. If research on driver training or driver assessment is needed, potential investigators are urged to consider the Field-Initiated and Innovation grants programs. NIDRR agrees that it would not be realistic or an effective use of grant monies for the grantee to establish a service system.

Changes: The priority has been modified to include the development and testing of equipment to properly match disabled individuals with adaptive equipment. The phrase, "establish * * * a service delivery system * * *" has been deleted.

Blindness and Low Vision Sensory Aids

Comment: NIDRR received a number of substantive suggestions from two major organizations. Both commenters urged that the Center should study the issues surrounding diagnosis of vision disorders in infants and young children. One commenter suggested that the private sector could better develop improved access to bank teller machines. Commenters also suggested that the evaluation of human factors could lead to a more satisfactory explanation of the underutilization of reading machines.

Discussion: NIDRR agrees that it is important to investigate methods for early diagnosis of visual impairment in infants and young children. NIDRR also agrees that there is a need to assess the impact of human factors, such as ability to read, upon the use of reading machines. While access to automated bank tellers was cited only as an example in the proposed priority, NIDRR agrees that the use of the example may have been misleading.

Changes: The reference to bank teller machines has been deleted. A statement has been added that the Center shall "Develop and Disseminate enhanced technology and methods for neonatal and early infancy detection and monitoring of developing visual impairments." The priority has also been expanded to include the evaluation of human factors in the use of reading machines as well as the technology of reading machines.

Research and Demonstration Program

Chronic Low Back Pain

Comment: A few commenters stated that the scope of activities under the proposed priority is too extensive for a project of the customary size, and would require a substantial Center or several smaller projects. The commenters also stated that the vocational objectives and general rehabilitation studies were the most important components of the project.

Discussion: The Secretary agrees that the proposed priority prescribed a scope of activities that is too extensive and varied for a single discrete project. NIDRR believes that the component activities can be divided logically between those that relate to general rehabilitation for persons with low back pain and those that focus on vocational implications of low back pain. NIDRR further agrees that the activities requiring collaborative prospective studies are too extensive for the scope of these projects.

Changes: The Secratary is announcing two different final priorities. One will focus on the vocational aspects of rehabilitation of low back pain and one will focus on general rehabilitation issues. One priority will be funded in fiscal year 1989. Two of the specific project activities requiring collaborative prospective studies have been eliminated from the priority.

Knowledge Dissemination and Utilization Program Networking With Independent Living Centers (ILCs) and Independent Living Service Providers (ILSPs)

Comment: A number of commenters urged that this priority be retained and expanded to include access to the network by all Independent Living Centers. They also noted that many nonparticipating ILCs and ILSPs need more implementation assistance if they are to take advantage of the network programs.

Discussion: NIDRR agrees that a national network is the desired objective.

At the same time that a national network using the best available technology is created, it is important to include in the project a component of knowledge about and responsiveness to the needs and capacities of the ILCs and ILSPs. NIDRR is convinced that the earlier demonstration projects have indicated that a national network, using commonly available personal computer technology and telecommunications, is now feasible as well as desirable. While there should be a single national network, there should also be regionalized satellites to provide implementation assistance to ILCs as well as information brokerage.

Changes: NIDRR has revised the priority to call for one national network, with regional satellites to provide implementation assistance, information brokerage, and training on the use of the system.

General Comments

Comment: One commenter recommended that there be priorities directed to the rehabilitation of individuals after traumatic brain injury (TBI). The commenter also suggested that individuals with TBI should be included specifically as target populations in many of the existing priorities.

Discussion: NIDRR agrees that TBI is a very important problem for rehabilitation research. In the past year, NIDRR has funded four RRTCs devoted

to research and training on TBI, as well as 13 discrete research projects, and five comprehensive care model demonstrations. The funds devoted to research and related activities exclusively in TBI amount to over five million dollars, or approximately one-tenth of the NIDRR budget. In addition, NIDRR supports programs to train researchers in the area of TBI, and TBI is included in the research populations and beneficiaries of numerous other activities, including recreation, attendant care, and vocational research projects. NIDRR believes it is important to have the findings from some of this ongoing research before planning future research priorities in TBI.

In those priorities in which a target population is not specified, applicants are free to propose research relating to any disability group that they consider a suitable population that could benefit from the proposed research. NIDRR prefers not to restrict applicants under these priorities to any particular disability groups. To do so could exclude researchers who do not have access to certain target populations in all of the relevant generic priorities, such as rural programs, stress, supported employment, and the vocational rehabilitation projects.

Changes: None.

Background

Authority for the Rehabilitation Research and Training Centers (RRTC) program of NIDRR is contained in section 204(b)(1) of the Rehabilitation Act of 1973, as amended. Under the RRTC program, awards are made to institutions of higher education, or to public and private organizations, including Indian tribes and tribal organizations, that are affiliated with institutions of higher education. RRTCs conduct programmatic, multidisciplinary, and synergistic research, training, and information dissemination in designated areas of high priority.

A program of RRTCs has been established to conduct coordinated and advanced programs of rehabilitation research and to provide training to rehabilitation personnel engaged in research or the provision of services. RRTCs must be operated in collaboration with institutions of higher education and must be associated with rehabilitation service programs. Each Center conducts a synergistic program of research, evaluation, and training activities focused on a particular rehabilitation problem area. Each Center is encouraged to develop practical applications for all of its research findings. Centers generally disseminate and encourage the utilization of new rehabilitation knowledge through such means as writing and publishing undergraduate and graduate texts and curricula and publishing findings in professional journals. All materials that the Centers develop for dissemination and training must be accessible to individuals with a range of handicapping conditions. RRTCs also conduct programs of in-service training for rehabilitation practitioners, education at the pre-doctoral and post-doctoral levels, and continuing education. Each RRTC must conduct an interdisciplinary program of training in rehabilitation research, including training in research methodology and applied research experience, that will contribute to the number of qualified researchers working in the area of rehabilitation research. Centers must also conduct state-of-the-art studies in relevant aspects of their priority areas. Each RRTC must also provide training to individuals with disabilities and their families in managing and coping with disabilities.

Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. Continued funding of a Center depends at all times on satisfactory performance and accomplishment, in accordance with the provisions of 34 CFR 75.253(a).

Final Funding Priorities for RRTCs (3)

Rehabilitation for Persons With Long-Term Mental Illness (LTMI)

There are over two million persons with long-term, severe mental illness. Improved rehabilitation interventions and service delivery models are needed to afford better opportunities for this population to remain out of institutions and to attain satisfactory lives in their communities. The population of adults with severe psychiatric disabilities spans all ages.

Results of research and practice indicate that specialized rehabilitative interventions can increase the likelihood of community adjustment for persons with long-term mental illness. It is important to continue to develop and test more effective rehabilitative interventions, including especially those that contribute to improvements in education, vocational status, and general health care.

NIDRR, with the cooperation of the National Institute of Mental Health, intends to fund an RRTC to address these issues. Any Center to be funded under this priority must involve persons with long-term mental illness and their family members in the planning, conduct, and evaluation of the research and training activities.

An absolute priority is announced for an RRTC to:

- Analyze employment patterns, obstacles to employment, and employment options for individuals with long-term, severe mental illness;
- Develop and test model rehabilitative program interventions to improve employment outcomes, and assess the cost-effectiveness of these options;
- Analyze the role of rehabilitative interventions in the management of crisis episodes, study the relationship between crisis assistance programs and rehabilitation, and develop and test models for appropriate management of crises in rehabilitation;
- Analyze the relationship between psychiatric and mental health treatment regimens and rehabilitation interventions, and develop and test model programs for integrating mental health treatment with rehabilitation;
- Identify the most effective techniques to assist families with individuals with long-term severe mental illness both to maintain family functioning and to maximize the effective contribution of family members to the rehabilitation process;
- Develop and test new rehabilitation intervention techniques and systems of rehabilitative care, examining methods to integrate effectively a range of discrete community or hospital-based services in planning, implementing, financing, and evaluating client rehabilitation;
- Conduct at least one study of the state-of-the-art in one of the above areas; and
- Provide training to relevant parties, including vocational rehabilitation counselors, family members, and other service providers, and disseminate all findings to appropriate audiences.

Research and Training Center in Independent Living

The concept of Independent Living (IL) has emerged as an important service program as well as an important principle for individuals with disabilities. This concept embraces such goals as self-determination, self-help, deinstitutionalization, and barrier-free access to services and opportunities previously unavailable to persons with disabilities. The Congress acknowledged the importance of this theme in the passage of Title VII of the Rehabilitation Amendments of 1978, establishing a separate authority for Independent Living service programs.

The 1984 amendments to the 1978 Act appropriated funds to implement Part A of Title VII by State agencies to implement statewide IL delivery systems. The Rehabilitation Act Amendments of 1986 mandated the development of program standards and performance indicators to assess the performance of the federally-funded Independent Living programs.

Implementation of the Independent Living programs of the Act requires an understanding of the boundaries of the program (e.g., eligibility, types of services), high quality program management, and the goals, philosophy, and social policy implications of Independent Living. Continuing research is needed to support the development and refinement of the independent living concept and to enhance the quality of services and the success of the programs.

NIDRR is announcing final funding priorities for two RRTCs in independent living: one Center to focus on improving the effectiveness of ILCs and ILSPs, and the other Center to focus on the refinement and extension of independent living concepts and services.

Improving Management Effectiveness in Independent Living Centers

An absolute priority is announced for an RRTC to:

- Develop research-based management models and management training programs and provide training and technical assistance to independent living program staff to enhance management performance;
- Develop and test models for independent living programs to assist in the transition of individuals from both long- and short-term rehabilitation care facilities into independent living in the community;
- Develop, on the basis of assessments and analyses, and test models whereby IL programs can be involved most effectively in the effort to improve the delivery of rehabilitation engineering services and technological aids and devices to persons with disabilities;
- Assess the potential of ILCs to provide services to previously underserved populations, such as those with cognitive impairments and emotional disorders, those with low-incidence disabilities, and minority populations;
- Develop and test research-based models to coordinate IL with vocational rehabilitation programs and with supported employment programs in order to enhance the effectiveness of all three types of programs and improve outcomes for individuals with disabilities; and
- Develop and test research-based training programs and provide training to relevant staff of IL programs at the State and Center levels on the findings of the research and disseminate findings widely throughout the IL and rehabilitation fields.

Research in Policy Issues in Independent Living

An absolute priority is announced for an RRTC to:

- Study and test strategies to support and enhance the effectiveness of individuals with disabilities in setting policies for independent living programs and in achieving personal independent living objectives;
- Assess the quality of community services available to individuals with disabilities, evaluate the impact of those services on independent living, and develop and test models to improve the accessibility of general community services to people with disabilities and integrate general community services with IL services to enhance the ability of persons with disabilities to live independently;
- Develop and disseminate model strategies for ILCs to promote community accessibility in such areas as removal of architectural barriers, communications, employment, housing, and transportation;
- Identify two significant policy issues affecting the achievement of independent living objectives and conduct one study of the state-of-the-art in research and best practices in each of these two areas over the course of the project period; and
- Develop and test training programs and provide training to relevant staff of independent living programs at the State and Center levels on the findings of the research and disseminate findings widely throughout the independent living and rehabilitation fields.

Community Integration for Persons With Mental Retardation

Professionals and policymakers are realizing that children and adults with mental retardation fare best in natural community environments. It is no longer a matter of whether people with the most severe disabilities can be served in their communities. It is a question of how to best support people with severe mental retardation to enable them to remain and thrive in their communities. However, it is not good enough to be "in" the community; people with severe mental retardation must be part of their communities. The objective of this Center is to develop and disseminate state-of-the-art technologies for achieving this goal.

Families and communities must have current information regarding best practices and creative funding mechanisms for developing and staffing family-scale living arrangements for people with mental retardation. One of the major problems facing the field is that of staff burn-out and excessive turnover. Effective strategies are needed to recruit, train, and retain direct care staff so that turnover rates, which now exceed twenty percent annually, can be reduced. Families need information that will help them identify the characteristics of high quality living environments and community-based vocational and recreational programs. States and communities need information that will enable them to modify service delivery systems and community-based programs in order to meet the individual needs of persons with mental retardation who are leaving large public and private institutions. They need to know how to identify and replicate existing programs and how to design new programs that will maximize the independence, productivity, and social integration of persons with mental retardation. In addition, social agencies need information to develop better methods to coordinate the delivery of social, educational, transportation, and vocational services and to reduce the existing fragmentation of services.

Generic community-based services and programs offer ideal settings for the enhancement of social networks for people with mental retardation. Community-based service providers need to learn how to identify generic programs that can be helpful to persons with mental retardation and help them to integrate the target group into general community social programs.

The Center is to conduct a program of coordinated research and training activities and to disseminate rehabilitation approaches that will assist States, communities, and families to develop strategies for ensuring the full participation of people with mental retardation in their communities.

Any Center to be supported in response to this priority should involve persons with mental retardation and their families in the design, implementation, and evaluation of Center activities.

An absolute priority is announced for an RRTC to:

- Identify best practices and creative funding mechanisms that will allow for the development of family-scale living arrangements and develop and

disseminate strategies that will promote the adoption of these best practices;

• Develop and test research-based models for recruiting, training, and retaining direct care personnel in agencies providing services to individuals with mental retardation;

• Identify, develop, and evaluate strategies that will enable States and communities to facilitate successful integration into the community of persons with mental retardation who are leaving institutions;

• Conduct a study to identify and analyze Federal, State, and local funding available for the rehabilitation of persons with mental retardation and suggest ways to improve the coordination of funding mechanisms;

• Identify best practices and the characteristics of natural environments that are successful in enhancing the independence, productivity, and social integration of persons with mental retardation and develop materials that will help families and service providers design new and evaluate existing community-based programs;

• Develop and test research-based models for the integration of persons with mental retardation into generic social service programs;

• Develop a database on community integration information and serve as a national resource for information in this area; and

• Conduct at least two studies of the state-of-the-art on community integration of persons with mental retardation and disseminate the research findings.

Rehabilitation Engineering Centers (RECs)

Authority for the Rehabilitation Engineering Center program of NIDRR is contained in section 204(b)(2) of the Rehabilitation Act of 1973, as amended. Under this program, awards are made to public and private agencies and organizations including institutions of higher education, Indian tribes, and tribal organizations.

NIDRR supports a program of Rehabili ation Engineering Centers (RECs) that conduct coordinated programs of advanced research of an engineering or technological nature. RECs work to develop systems for the exchange of technical and engineering information and to improve the distribution of technological devices and equipment to individuals with handicaps. Each REC must be located in a clinical rehabilitation setting and is encouraged to collaborate with institutions of higher education. Each REC conducts a program of research, scientific evaluation, and training that advances the state-of-the-art in technology or its application; contributes substantially to the solution of rehabilitation problems; and becomes an acknowledged center of excellence in a given subject area. RECs are encouraged to develop practical applications for their research through scientific evaluation activities that validate their findings as well as related findings of other centers. RECs generally conduct training programs to disseminate and encourage utilization of new rehabilitation engineering knowledge through such means as development of or contribution to undergraduate and graduate texts and curricula, in-service training, continuing education, and the distribution of information and appropriate technology. Each REC must ensure that all training and information materials developed by the Center are presented in several formats that will be accessible to individuals with various types of sensory and mobility impairments.

NIDRR will conduct, not later than three years after the establishment of any REC, one or more reviews of the activities and achievements of the Center, to include review by peers. Continued funding depends at all times on satisfactory performance and accomplishment in accordance with the provisions of 34 CFR 75.253(a).

Final Funding Priorities for RECs (3)

Personal Licensed Transportation Systems for Disabled Persons

The ability to move from place to place rapidly, conveniently, safely, and economically is a prerequisite to full participation in American society. Although both private and public transportation systems exist, private transportation in a personal vehicle is frequently the only means of transportation available for the handicapped person. There are, however, no commonly accepted standards for the adaptation of personal vehicles to accommodate disabled individuals as drivers or passengers. Adaptations may compromise the structural stability and safety of the vehicle, may not provide easy boarding or safe and rapid exit from the vehicle, and may include unsafe or ineffective control devices. Seating systems and systems for securing wheelchairs in the vehicles are often unsafe and ineffective.

Any Center to be funded in response to this priority should include persons with disabilities, their families and the community rehabilitation service providers in the planning, implementation and assessment of Center activities, especially in the assessment of needs, the identification of devices and systems to be tested, and the dissemination of information.

The Center shall be associated with a service delivery system that provides means of personal automotive transportation for persons with disabilities, and shall serve as a national model for the evaluation, testing, and collection of information regarding real-world performance of adapted vehicles as a mechanism for increasing the flow of information and communication between the researchers, consumers, service providers, and the automotive industry.

The Center shall establish and maintain mechanisms for collaborating and cooperating with: agencies and organizations responsible for the development and maintenance of any standards for adaptive motor vehicles; with the private sector to promote the manufacture, distribution, and testing of new devices and systems; with the REC in wheelchair modifications for technology sharing in wheelchair designs, and with the rehabilitation service delivery system to ensure the transfer of information to service providers.

The Center shall serve as a national resource for information on personal vehicle designs and adaptations for disabled persons and maintain a database on national and international research and development activities in this area for reference and dissemination.

An absolute priority is announced for an REC to:

• Evaluate existing vehicle modification devices and equipment and develop and test new devices and systems that include personal vehicle safety systems such as wheelchair tie-downs, occupant restraints, emergency exit systems, alerting devices for hearing impaired drivers, and primary and secondary control systems that do not compromise the vehicle's compliance with standards set by the Society of Automotive Engineers and the United States Department of Transportation;

• Evaluate, and develop if necessary, equipment to be used in assessing disabled individuals' needs for adaptive equipment and matching individuals and equipment;

• Develop and evaluate access and exit systems including ramps, lifts, and wheelchair loading devices that provide access to personal vehicles while maintaining the structural integrity of the vehicle;

• Develop materials for national dissemination of information on the

adaptive vehicle devices and provide training to engineers, disabled drivers, personal attendants, and rehabilitation counselors in the proper use of these devices;

• Disseminate materials to automobile manufacturers and educate them on the benefits of producing and marketing such devices; and

• Conduct at least one comprehensive study of the state-of-the-art in personal vehicle transportation systems for disabled persons to increase the knowledge base and to provide recommendations for future research in the area.

Applications of Technology to the Rehabilitation of Children with Orthopedic Disabilities

Orthopedic impairments sufficient to cause disability account for one-third of all disabilities in children. The prevalence of orthopedic impairments, neuromuscular impairments, and musculoskeletal anomalies for children from birth to age 17 presents serious problems for the development of these children and for the quality of their lives.

Although technology is now available for restoring some lost functions, there continues to be a marked delay in the acquisition of devices needed to restore function and prevent further limitation in children. There is a lack of available professionally-trained clinicians to attend to the needs of disabled children for advanced technology as well as for maintenance and repair at local levels.

A Center to be established in response to this priority must undertake all activities with a concern for the effects of functional restoration and adaptive devices on the development of children. They must be aware of the changing developmental needs of children and be responsive to those concerns.

An absolute priority is announced for an REC to:

• Develop and evaluate prosthetic and orthotic systems and related adaptive devices to meet the needs of children with neuromuscular or musculoskeletal impairments;

• Identify and assess the suitability of appropriate materials for use in these devices, including considerations of weight, utility, and cosmetic acceptability;

• Develop improved methods for fabricating assistive devices for children;

• Develop and evaluate improved body-powered and externally-powered terminal devices for enhancing strength of grasp, externally-powered elbows and shoulders, and adjustable sockets for children;

• Develop and evaluate new control systems to enable children to operate externally-powered components more effectively;

• Develop innovative strategies to enable children and their families to learn about, finance, and use the new technology; and

• Develop and demonstrate dissemination centers that enable children and families, as well as clinicians, to see and test available equipment.

Blindness and Low Vision Sensory Aids

Blindness and visual impairment lead to severe handicaps in education, employment, recreation and daily living. The National Center for Health Statistics and other authorities variously estimate the number of legally blind persons in the United States at 400,000 to 600,000, with another 1.4 million who are severely visually impaired. More than 10 million others have significant visual impairment which cannot be further improved with corrective lenses. Aside from those with reduced visual acuity and fields, there are also large and rapidly increasing numbers of older individuals with impairments in contrast, binocularity, and adaptation which handicap their performance in a wide variety of everyday tasks.

Other increasingly complicating factors are the ever-greater numbers of persons with other (often auditory) impairments combined with visual disability, and the growing incidence of premature infants at risk for visual handicap.

Technological innovations arising from the development of new scientific and medical knowledge can have a positive impact on these problems. Progress has already been made in this field, including advances in communication, computer access, educational and vocational aids, and optical amplifiers for low vision, orientation and mobility aids, and improved functional vision assessment. However, in addition to further improvements in these areas, there are emerging areas of technology to be explored. Some of these new areas are related to the changing demographics of the visually impaired population, particularly the increasing need for rehabilitation of those whose visual impairments are due to progressive diseases. Other emerging challenges are due to the rapid advance in computer applications (including computer graphics), communications, and other technologies which must be made accessible to the blind individual for the future.

An absolute priority is announced for an REC to:

• Develop a range of electronic education aids to assist the teaching of perceptual, manipulative, and cognitive skills to the child with visual or multiple handicaps;

• Develop and disseminate enhanced technology and methods for neonatal and early infancy detection and monitoring of developing visual impairments;

• Develop improved characterizations of the disease processes underlying such progressive visual disorders as age-related maculopathy (ARM), in order to adapt to the changing rehabilitation needs, including the relation of ARM to other diseases of the geriatric population;

• Develop a collaborative team approach incorporating clinicians in vision and audition, pediatricians, neurologists, and researchers, to develop innovative methods to refine diagnosis, prognosticate developmental anomalies, and devise optimal rehabilitative strategies for multifaceted problems such as vision/hearing multihandicaps and cortical blindness;

• Apply new scientific and medical knowledge to the design and selection of improved low vision aids for filtering, magnification, and illumination, with improved matching between the device, environmental modifications, and the underlying disease characteristics;

• Develop population data to better define the potential markets for various classes of sensory aid technology;

• Develop new technology and methods for improving access by blind and visually impaired persons to computers, including better approaches for obtaining overviews of screen and file contents and access to the increasingly graphics-oriented computer hardware and software coming into general use;

• Explore technology to promote easier access by blind persons to other computerized equipment and information such as music synthesizers, bar code readers, electronic databases and communication systems, and to enable them to benefit from computer-assisted instruction;

• Evaluate reading machine technology and the human factors involved in the use of reading machines to address the reasons for the present apparent underutilization of these systems;

• Develop and test specialized job-site modifications, using the latest available technology, to enhance

employment opportunities for blind individuals;

• Develop and test new and responsive technology for communication, employment, and daily living to meet the needs of deaf-blind persons;

• Provide information on sensory aids to consumers and professionals, and develop a method to obtain feedback on needs and satisfaction; and

• Design and conduct appropriate training activities for rehabilitative personnel, clinicians, and consumers to disseminate and encourage utilization of new rehabilitation engineering knowledge.

Research and Demonstration Program (R&D)

Research and Demonstration Projects (R&D) support research and demonstrations in single project areas on problems encountered by individuals with handicaps in their daily activities. These projects may conduct research on rehabilitation techniques and services, including analysis of medical, industrial, vocational, social, psychiatric, psychological, recreational, economic, and other factors to improve the rehabilitation of individuals with disabilities. The authority for this program is contained in Section 204(a) of the Rehabilitation Act of 1973, as amended.

Final Funding Priorities for R&D (10)

Supported Employment Programs for Persons With Long-Term Mental Illness

The Advisory Group on Psychiatric Disability and Supported Employment of the Rehabilitation Services Administration (RSA) has considered service and research needs for persons with long-term mental illness. Recent developments, including the Rehabilitation Act Amendments of 1986 and the supported employment "State-Change" demonstration projects, have greatly expanded the number of supported employment activities for persons with long-term mental illness. There has been a growing number of requests to the University of Oregon Supported Employment Technical Assistance project for assistance in organizing supported employment activities and in identification of project components for individuals with mental illness. State agencies and mental health organizations will benefit from research results at this time. Results are also needed to report to the Congress on program developments. Project materials will be used to implement and improve local and state-supported employment activities for persons with long-term mental illness.

An absolute priority is announced for a project to:

• Examine the organizational configuration, staff training and characteristics, service population, service and caseload mix, caseload size, and funding approaches for supported employment programs for this target population;

• Identify organizational interrelationships of mental health, vocational rehabilitation, and psychosocial rehabilitation programs and test models for optimum services; and

• Identify effective program features and client outcomes, including types of employment, methods of long term support, service strategies, and funding patterns.

Chronic Low Back Pain

A major goal of the treatment of patients with chronic low back pain should be to increase functional capacity, probably the most important factor in preventing recurrence of low back injury. More directly, improved functional capacity allows the patient with chronic back pain to enter a more active and productive life, minimizing associated disability. Current information on functional capacity is based primarily on data acquired on injured athletes, and the database should be expanded. There is a need for more information on the cost/benefit characteristics of various physical training programs as they relate to all patients with chronic back pain. There is little information available, as well, on the relative importance of specific muscle group and regional flexibility training compared to whole body work-hardening programs, which include more eccentric loading and coordination demands. Two priorities are announced—one to focus on the vocational aspects of the rehabilitation of individuals with low back pain and one to focus on general rehabilitation issues.

Studies in the Rehabilitation of Individuals With Low Back Pain

An absolute priority is announced for a project to:

• Determine the relative importance of physical, psychological, and occupational components of the multidisciplinary programmatic approach to treatment of patients with chronic low back pain;

• Study the importance of patient independence and self care on rehabilitation of low back pain and prevention of recurrence; and

• Evaluate successful rehabilitation programs to determine their cost/effectiveness.

Studies on the Vocational Aspects of Low Back Pain Rehabilitation

An absolute priority is announced for a project to:

• Develop a generic test battery to determine capability for return to work and activities of daily living without recurrence of low back pain, including minimal clinical evaluation, psychological evaluation, and physical (whole body), mechanical, and physiological tests;

• Determine minimum outcome criteria for grading pain versus disability, to include: pain relief, level of function, return to work, medication, utilization of health care system, quality of life, litigation, recurrence, and profiles of health care providers; and

• Develop and test methods of early identification of those who will not return to work.

Research in Adventitious Hearing Impairment

Most research on adult onset hearing loss has focused on diagnostic and amplification technologies and on neurological, anatomical and physiological changes in the cochlea, august nerve, brain stem, and cortex. Aural rehabilitation models have been published. However, despite the prevalence of hearing loss, and despite abundant anecdotal accounts of its human and economic costs, there has been surprisingly little research to examine the psychosocial effects of hearing loss in adulthood.

In 1986, NIDRR convened a conference on aging and rehabilitation; in one segment of that conference, a number of research scientists, health care professionals, and persons from service-delivery agencies met to discuss priorities for collaborative research on adult onset hearing loss. This priority is based on research needs identified at that conference. NIDRR announced this priority for competition in fiscal year 1988, but none of the applicants was deemed suitable for funding. Therefore, a new competition will be held.

An absolute priority is announced for a project to:

• Analyze characteristics of adults who have adjusted successfully to hearing impairment, including such variables as personality factors, nature and severity of the hearing loss, communication styles, support networks, and interventions with professionals;

• Identify successful rehabilitation strategies, emphasizing professional attitudes toward persons with hearing loss and behaviors that may impede or facilitate adjustment;

• Investigate interactions between biological and psychosocial phenomena, with an emphasis on assessing the extent to which these interactions exacerbate disability caused by hearing loss in middle and later life; and

• Evaluate existing databases on health status, psychological characteristics, and behavioral patterns to determine the impact of adventitious hearing impairment.

Rural Job Development and Job Placement

Small businesses are the primary sources of employment in rural areas. With the decline in the number of active farms, small businesses that depend on farms are also in economic jeopardy. Farmers who are disabled in farm accidents (200,000 disabling injuries occur in the agriculture industry each year, amounting to 58 per 1,000 active farmers) may not be able to return to farming. Alternative employment placements will have to be developed and retraining provided for primary employment or for secondary employment to supplement low farm prices for those who do go back to farming.

An absolute priority is announced for a project to:

• Analyze employment patterns and the hiring practices of various categories of employers in rural areas and project future employment opportunities in various industry sectors and occupational classifications; and

• Develop and test research-based strategies for use by rehabilitation agencies and community-based organizations in developing new placement opportunities and providing training for those new opportunities.

Community-Based Rural Projects

There are fledgling community-based independent living and service delivery programs in rural areas that need technical assistance in order to develop or continue. Some have received RSA Independent Living or other Federal or State support in the start-up process; others are entirely community-level efforts.

Programs in rural areas encounter unique difficulties. For example, the lack of transportation and the high cost of communication and travel barriers are burdens to programs in rural communities. Rural independent living programs need assistance to develop mutual supports, combine resources, keep abreast of information resources, and implement new ideas into practice. It is important that such programs be "owned" by the communities and, therefore, continue when Federal funding has expired.

An absolute priority is announced for a project to:

• Identify exemplary rural independent living programs that have successfully assembled unique resources to increase the potential of persons with disabilities for living independently in rural areas;

• Verify the effectiveness of these programs and develop strategies to replicate these practices in other areas for similar groups, including an assessment of a variety of factors unique to rural areas such as cultural and historical patterns, unique employment settings, exceptional terrain or climatic conditions, and extremely depressed economic conditions; and

• Share information from this nationwide project with the Research and Training Center on Rural Rehabilitation Services at the University of Montana for further refinement and dissemination.

Effective Client-Counselor Interactions in Vocational Rehabilitation

Basic principles of rehabilitation formed in law and in professional training emphasize that the consumer of services must play an active, expressive role in reaching his or her objectives. All individuals served through the State-Federal vocational rehabilitation program must have an Individualized Written Rehabilitation Program (IWRP) that reflects their substantial involvement. The psychosocial rehabilitation approach that was designed to foster the independence and development of people with emotional disabilities has been described, in part, as directed to the development of full human capacity, self-determination and normalization through a deprofessionalized, non-medical model, environmentally sensitive work-centered process. Similar principles are incorporated in the ideals of supported employment. However, these idealistic models of active consumer self-determination often are not verified in empirical studies of client satisfaction and case management. Continuous identification and verification of these factors is essential to effective counseling.

An absolute priority is announced for a project to:

• Identify specific techniques, attributes, skills, characteristics, features, and related factors of client-counselor interaction that increase the participation of individuals, particularly severely disabled people, in making decisions regarding their rehabilitation; and

• Develop models and recommendations for ongoing processes and information-sharing or training programs to promote effective client-counselor interaction and to reach the audiences concerned with enhanced individual client self-advocacy in rehabilitation.

Developing Vocational Rehabilitation Programming for Low-Incidence Geographically Dispersed Disabled Populations

Statistical compilations on the prevalence of need for assistance in activities of daily living (ADL) among disabled adults, the incidence of selected congenital malformations per 10,000 total births, and of handicapping conditions of persons enrolled in various education and rehabilitation programs reveal a pattern of numerous conditions for which there are not precise or reliable estimates of prevalence. Some examples of these low-incidence or low-prevalence conditions from National Health Interview Surveys, 1983–1985, include Spina Bifida, absence of arms or hands, skin cancer, bone cancer, leukemia, absence of fingers-toes-feet, and certain anemias.

State vocational rehabilitation agencies, special education programs, medical rehabilitation facilities, disability income benefits programs, and disability researchers have identified the need for improved knowledge of the rehabilitation needs of, and effective programming for, such populations. There is particular need for collaborative planning models for human service provider organizations to use in developing and exchanging information, making individual referrals, supporting family members of low-incidence groups, and collaborating with self-help and advocacy organizations.

An absolute priority is announced for a project to:

• Conduct an extensive literature review and programmatic survey to identify, classify, and prioritize for project investigation major problem areas in the rehabilitation of low-incidence disabled populations

• Develop and demonstrate improved methods of programming for low-incidence, geographically dispersed disabled populations, including information exchanges, referral networks, advocacy group involvement, and identification of "best practices" and

• Convene a National State-of-the-Art Conference and implement a national dissemination and utilization plan to highlight findings of the project.

Issues in the Expansion of Private-Sector Rehabilitation Services

A recent report, *Private Sector Rehabilitation: Lessons and Options for Public Policy*, prepared for the U.S. Department of Education under contract No. 300–85–D141, identified a variety of innovative patterns of collaboration between proprietary rehabilitation providers and public rehabilitation agencies. In particular, "fee-for-service" units staffed by salaried State employees and operated with State funding appear to offer a viable, "Fair Competition" public sector alternative to private providers in areas such as rehabilitation of injured workers. Also, State use of private vendors to deliver case management in providing services to traditional State vocational rehabilitation agency clients was determined to be a possible option in an Arizona study. However, existing data are inadequate for determining long-term benefit-cost implications for these and related alternatives in public-private rehabilitation collaboration.

An absolute priority is announced for a project to:

• Analyze variables associated with use of "fee-for-service" and "vendor service" arrangements in the delivery of rehabilitation services to workers' compensation claimants, with special emphasis on the effects of litigation, settlements, re-entry to public rehabilitation services systems, availability of public versus private services, and eligibility questions;

• Analyze the extent to which disabled persons are served outside of the State vocational rehabilitation system, and determine the characteristics of the clients, the nature and costs of services, and outcomes; and

• Develop and assess research-based management strategies to assist public rehabilitation managers to operate services in collaboration with or parallel to those of private service providers.

Supported Employment and Enhanced Maximizing Human Potential

A number of research studies have identified the need to address the impact of supported employment on the "quality of life" of supported employees and their families. Although many studies have addressed the remunerative outcomes of supported employment, published reports have not yet fully explored "intangible benefits" or qualitative factors in individuals' lives that change as a result of supported employment. Suggested areas for study include those related to individual behavior and skills, physical health, community participation, mental health and self-concept, and family satisfaction of supported employees. Research on this topic has been impeded by the lack of accepted definitions of "quality of life," inadequate qualitative measures, and analytical problems such as unintrusive access to personal and job information and limitations in structuring comparison groups of individuals in supported employment versus comparable non-vocational or non-supported employment settings.

An absolute priority is announced for a project to:

• Conduct an empirical investigation of one or more supported employment disability populations, such as developmentally disabled individuals, physically disabled individuals, persons who have traumatic brain injury or long-term mental illness, to determine the qualitative impact of supported employment in terms of behavior, physical and mental health, community integration, family satisfaction, and such additional areas as the investigator deems significant; and

• Report the results of the study in a national conference with substantial participation of consumers, providers, family members, employers, researchers, and public officials.

Stress and Disability Management

Stress has been described as a feeling of being under pressure, of not being able to cope, of feeling irritable, anxious, and as if things are out of control (Department of Health and Human Services Employee Assistance Service). Stress affects individuals in different ways; some manifestations of stress include decreased job productivity, increased absenteeism, increased worker dissatisfaction, deteriorating health, problems in interpersonal relationships, and increased use of alcohol and drugs. Many of these same factors have been associated with the onset of disability in employed persons, whether due to accident on or off the job, a chronic health problem, or the sudden appearance of a health problem. The combination of loss of control, emotional distress, and disability often becomes a constraint to communication and redress of difficulties for disabled workers. Disabled workers, due to the stress they may be experiencing, are often unwilling or unable to seek the help of disability management resources such as trained supervisors, employee assistance programs, or rehabilitation referrals. Moreover, cooperation of the disabled worker is necessary for active employee participation in achieving the optimum person-environment fit on the job based on individual and organizational characteristics.

An absolute priority is announced for a project to:

• Analyze the relationship between stress factors and disability management components to identify barriers and incentives which, when addressed in employment settings, will improve on-the-job assistance to disabled workers in such areas as coping strategies, redesigning jobs, person-environment fit, relaxation training, and health risk awareness; and

• Conduct controlled demonstrations of the use of disability management techniques with "at risk" high stress groups (medical texts associate cardiovascular disease, gastro-intestinal disorders, musculoskeletal problems, and deficient immune systems with stress), providing appropriate measurement of results in productivity, absenteeism, employee satisfaction, employer satisfaction, benefits use, interpersonal communications between worker and supervisor, and related variables.

Knowledge Dissemination and Utilization Program (D&U)

Knowledge Dissemination and Utilization Projects (D&U) ensure that rehabilitation knowledge generated from projects and centers funded by NIDRR and others is utilized fully to improve the lives of handicapped persons. The authority for this program is contained in Sections 202 and 204 (a) and (b)(5) of the Rehabilitation Act of 1973, as amended.

Final Funding Priorities for D & U (5)

Regional Information Exchanges

There is a need to promote the widespread use of new, validated rehabilitation practices and exemplary rehabilitation programs in selected priority areas in order to improve the service delivery system for disabled individuals. NIDRR proposes to address this need by establishing one or more regional information exchanges similar to the regional diffusion networks that are now operating. NIDRR believes that these exchanges will be most effective if they focus on facilitating the adoption of program models developed locally or within the same region. Also, NIDRR believes that this information exchange will be strengthened by the inclusion of expert consultants available to provide

specific technical assistance aimed at rehabilitation agencies.

Priority areas for diffusion efforts during the period of this priority will include the use of rehabilitation technology in vocational rehabilitation, barrier-free environments, and transitional employment programs, and other topic areas that are of concern to the specific region or that are agreed upon by NIDRR and the recipient of the award.

An absolute priority is announced for one or more projects to:

- Develop criteria for identifying exemplary rehabilitation programs, and develop information collection instruments which include measurements related to the identified criteria;
- Solicit nominations of exemplary programs in the priority area from program operators, consumer organizations, and other relevant parties in the selected region, giving consideration to inclusion of special demonstration projects funded by the Rehabilitation Services Administration or other Federal agencies;
- Develop and implement a procedure to select the most promising programs for further consideration and arrange independent peer reviews of those programs to determine exemplary programs for diffusion purposes;
- Develop public relations and marketing approaches to make the wide audience of rehabilitation service providers and special educators aware of the exemplary programs and stimulate their interest in adopting or adapting similar models, assisted by the diffusion network;
- Facilitate the exchange of technical assistance between the exemplary program and the requesting adopter program through onsite demonstrations, training materials, and direct consultation;
- Develop and maintain a referral system of expert consultants in these priority areas of the project to facilitate the linkage of service providers and disabled consumers to knowledgeable resources; and
- Maintain appropriate data on the diffusion network to support an evaluation of its effectiveness.

Networking with Centers for Independent Living and Independent Living Service Providers

There are approximately 360 independent living centers (ILCs) and independent living service providers (ILSPs) providing services on the local level throughout the United States. Over one-half of those receive funding from the Rehabilitation Services Administration.

For the past two years NIDRR has funded three projects to develop, demonstrate and evaluate the effectiveness and utilization of computer networking among ILCs and ILSPs. The projects surveyed ILCs and ILSPs regarding computer capacity, communication and information needs. The projects developed and provided information databases on management techniques and simplified software, resources, policy and program developments. The projects also created bulletin boards for communication and information sharing among centers and established access to a national database.

These projects demonstrated the interest and capability of ILCs and ILSPs to utilize networks and databases effectively, share techniques and data among centers, and serve as local information and referral sources for information compiled on the national level (e.g., the ABLEDATA and REHABDATA information bases). The projects also demonstrated a need for aggregating local and regional databases for use at the national level. Competent information brokers are needed to provide training and technical assistance and facilitate access to national databases and information.

Any project to be funded under this priority must directly involve disabled persons, including those who have experience with independent living service provision, in the planning, development and conduct of the project activities;

An absolute priority is announced for a project to:

- Establish and maintain, with adequate staff and hardware and software support, a national computer information network in IL using a toll-free telecommunications system;
- Establish three to five multiregional network support satellites adequate to provide support to a nationwide network, to provide assistance, training, and information brokerage services to ILCs and ILSPs to facilitate their roles as brokers of information within their communities;
- Provide, through the multiregional satellites, technical assistance and training to promote use of the system by ILCs and ILSPs;
- Develop computer databases on available resources and information including management, planning and evaluation materials and software, employment opportunities, conferences and educational opportunities, funding opportunities, housing, IL services and resources, policy issues, and related resources important to independent living
- Develop computer conferencing capability to enable network members to communicate among ILCs and ILSPs on issues and problems of concern and participate in group educational sessions;
- Facilitate access to national databases, including REHABDATA and ABLEDATA, and designate a knowledgeable and trained staff person to serve as the Project Information Broker to provide information, training and technical assistance on the databases to the IL-based information broker;
- Provide on-line access to databases created by NIDRR-funded projects and others, including the databases compiled by this project;
- Develop a database system to collect and compile "experiential" data for systemwide information and referral, using consistent terminology and indexing for data input at the State and local levels;
- Facilitate creation of such experiential databases among local ILCs and aggregate them on a multiregional basis; and
- Conduct annual evaluations to ensure the system is meeting the needs of the participants.

Demographic Data Analysis

Effective planning for research, services, or policy related to the disabled population requires detailed information about the size and characteristics of the population. This information is needed by Federal, State, and local agencies to plan services, transportation, housing, income maintenance, and recreation.

Federal, State and private administrators and planners have identified a need for a central source for demographic and other data on disability, and a comprehensive system for the collection of those data. A number of Federal agencies, some States, and many private research institutions collect information, analyze some of it, and often produce public use tapes that also include great amounts of analyzed data. As a consequence, much of the most critical data on disability are not analyzed or are poorly disseminated, or both. There is a continuing demand for information on the incidence and prevalence of disability and its distribution among various population groups. Other data such as service use, distribution of benefits, earnings, and costs of care would be invaluable to disabled individuals and their organizations,

planners, researchers, and policymakers.

Information developed through this activity should be made available to a variety of potential users, and potential users should be involved in the planning, implementation and evaluation of the project.

An absolute priority is announced for a project to:

- Develop and update estimates of the incidence, prevalence, and distribution of various disabilities, using existing data;
- Develop a database of information from governmental and nongovernmental data collection efforts, encompassing information on specific disability conditions, limitations in activities of daily living, patterns of service use, needs for assistive devices, employment and earnings, benefits payments, insurance, and demographic data;
- Conduct secondary analysis of major data files, such as the Survey of Income and Program Participation and the Health Interview Survey, and others to provide needed information; and
- Develop and disseminate to consumers and professionals information on the characteristics of the disabled population.

The International Exchange of Information and Experts in Rehabilitation

There are rehabilitation practices and research projects in other nations that can serve as the impetus for improvements in rehabilitation research and service delivery in the United States. For example, the now widely accepted practice of immediate post-surgical fitting of prostheses was developed in Poland; the concept of disability management at the workplace was brought to U.S. attention as a result of concepts uncovered in past international exchanges; and Functional Electrical Stimulation programs in the United States owe much to early work done in Yugoslavia. In addition, there are practices in the United States that could be extremely beneficial to foreign professionals and researchers.

Fostering such cross-cultural collaboration and providing networks to maintain collegial contacts requires personal exposure of researchers and professionals to other cultures. In addition, the good practices and knowledge derived from abroad need to be disseminated to U.S. audiences through monographs and utilization conferences.

An absolute priority is announced for a project to:

- Identify areas of policy and practice that are of significant concern to NIDRR and to disabled persons and the rehabilitation community generally in the United States and in which there are significant developments in other countries that could provide useful guidance for United States agencies;
- Develop and implement a plan for United States experts to study specific policies, practices, programs and research results in other nations;
- Provide for the preparation of monographs on rehabilitation research topics by foreign experts or U.S. experts who have had beneficial study visits abroad;
- Conduct utilization conferences to disseminate information on selected topics of international significance to rehabilitation; and
- Evaluate the impact on specific rehabilitation practices in the United States of international exchange of information and experts arranged for under the project.

Developing Consumer Group Capacity to Facilitate Technology Transfer

There is a major new emphasis on delivering technological aids and devices to consumers in a timely, appropriate, and effective manner. The development of technological knowledge and assistive devices far exceeds the mechanisms for transferring those aids into regular use. NIDRR and OSERS are involved in major new efforts to improve the delivery and use of aids and devices.

Independent living organizations, parent organizations, and other consumer groups have direct contacts with individuals with disabilities and often first-hand knowledge of their technology needs. These groups could be invaluable resources in assisting in the spread of knowledge, the acquisition of technology, the appropriate use of technology, and consumer feedback on the effectiveness of the technology. The potential contributions of such organizations to the national effort to improve technology service delivery need to be explored and augmented.

An absolute priority is announced for a project to:

- Explore the optimum roles for independent living programs, parent groups, and other consumer organizations in identifying and promoting the acquisition, use, and assessment of technological aids and assistive devices by persons with disabilities;
- Investigate opportunities for innovative involvement of consumer groups with RECs, State rehabilitation agencies, and technology delivery programs; and
- Develop and test research-based models to involve organizations representing consumers in facilitating the appropriate use of assistive technology.

Authority: 29 U.S.C. 760–762.

Dated: March 30, 1989.

(Catalog of Federal Domestic Assistance Nos. 84.133A, 84.133B, 84.133D, and 84.133E, National Institute on Disability and Rehabilitation Research)

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 89–9804 Filed 4–24–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

[CFDA Nos.: 84.133A, 84.133D, and 84.133E]

National Institute on Disability and Rehabilitation Research; Invitation of Applications for New Awards Under Certain Programs for Fiscal Year 1989

Note to Applicants

This notice is a complete application package. The notice contains information, application forms, and instructions needed to apply for a grant under these competitions. The priorities for these programs are published in a separate part of this issue of the **Federal Register**.

The estimates of funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

Applicable Regulations

The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 79, 80, and 85; and the following program regulations:

Research and Demonstration Program (CFDA No. 84.133A) 34 CFR Parts 350 and 351.

Knowledge Dissemination and Utilization Program (CFDA No. 84.133D) 34 CFR Parts 350 and 355.

Rehabilitation Engineering Centers Program (CFDA No. 84.133E) 34 CFR Part 353.

PROGRAM TITLE: RESEARCH AND DEMONSTRATION APPLICATION NOTICES FOR FISCAL YEAR 1989

CDFA No.	Program title	Funding priority	Deadline for transmittal of applications	Estimated No. of awards	Estimated size of awards	Project period (months)
84.133A	Research and demonstration.	Studies on the vocational aspects of low back pain rehabilitation.	July 9, 1989	1	$175,000	36
		Research in adventitious hearing impairment		1	175,000	36
		Rural job development and job placement		1	175,000	36
		Issues in the expansion of private sector rehabilitation services.		1	175,000	36

Selection Criteria: The Secretary uses the following selection criteria in 34 CFR 350.34 to evaluate applications under this program.

(a) *Potential Impact of Outcomes: Importance of Program* (Weight 3.0). The Secretary reviews each application to determine to what degree—

(1) The proposed activity relates to the announced priority;

(2) The research is likely to produce new and useful information (research activities only);

(3) The need and target population are adequately defined;

(4) The outcomes are likely to benefit the defined target population;

(5) The training needs are clearly defined (training activities only);

(6) The training methods and developed subject matter are likely to meet the defined need (training activities only); and

(7) The need for information exists (utilization activities only).

(b) *Potential Impact on Outcomes: Dissemination/Utilization* (Weight 3.0). The Secretary reviews each application to determine to what degree—

(1) The research results are likely to become available to others working in the field (research activities only);

(2) The means to disseminate and promote utilization by others are defined;

(3) The training methods and content are to be packaged for dissemination and use by others (training activities only); and

(4) The utilization approach is likely to address the defined need (utilization activities only).

(c) *Probability of Achieving Proposed Outcomes: Program/Project Design* (Weight 5.0). The Secretary reviews each application to determine to what degree—

(1) The objectives of the project(s) are clearly stated;

(2) The hypothesis is sound and based on evidence (research activities only);

(3) The project design/methodology is likely to achieve the objectives;

(4) The measurement methodology and analysis is sound;

(5) The conceptual model (if used) is sound (development/demonstration activities only);

(6) The sample populations are correct and significant (research and development/demonstration activities only);

(7) The human subjects are sufficiently protected (research and development/demonstration activities only);

(8) The device(s) or model system is to be developed in an appropriate environment;

(9) The training content is comprehensive and at an appropriate level (training activities only);

(10) The training methods are likely to be effective (training activities only);

(11) The new materials (if developed) are likely to be of high quality and uniqueness (training activities only);

(12) The target populations are linked to the project (utilization activities only); and

(13) The format of the dissemination medium is the best to achieve the desired result (utilization activities only).

(d) *Probability of Achieving Proposed Outcomes: Key Personnel* (Weight 4.0). The Secretary reviews each application to determine to what degree—

(1) The principal investigator and other key staff have adequate training and/or experience and demonstrate appropriate potential to conduct the proposed research, demonstration, training, development, or dissemination activity;

(2) The principal investigator and other key staff are familiar with pertinent literature and/or methods;

(3) All required disciplines are effectively covered;

(4) Commitments of staff time are adequate for the project; and

(5) The applicant is likely, as part of its nondiscriminatory employment practices, to encourage applications for employment from persons who are members of groups that traditionally have been underrepresented, such as—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly.

(e) *Probability of Achieving Proposed Outcomes: Evaluation Plan* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) There is a mechanism to evaluate plans, progress and results;

(2) The evaluation methods and objectives are likely to produce data that are quantifiable; and

(3) The evaluation results, where relevant, are likely to be assessed in a service setting.

(f) *Program/Project Management: Plan of Operation* (Weight 2.0). The Secretary reviews each application to determine to what degree—

(1) There is an effective plan of operation that insures proper and efficient administration of the project(s);

(2) The applicant's planned use of its resources and personnel is likely to achieve each objective;

(3) Collaboration between institutions, if proposed, is likely to be effective; and

(4) There is a clear description of how the applicant will include eligible project participants who have been traditionally underrepresented, such as—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Handicapped persons; and

(iv) The elderly.

(g) *Program/Project Management: Adequacy of Resources* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) The facilities planned for use are adequate;

(2) The equipment and supplies planned for use are adequate; and

(3) The commitment of the applicant to provide administrative support and adequate facilities is evident.

(h) *Program/Project Management: (Budget and Cost Effectiveness)* (Weight 1.0). The Secretary reviews each application to determine to what degree—

(1) The budget for the project(s) is adequate to support the activities;

(2) The costs are reasonable in relation to the objectives of the project(s); and

(3) The budget for subcontracts (if required) is detailed and appropriate.

Eligible Applicants

Parties eligible to apply for grants under this program are public and private nonprofit and for-profit agencies and organizations, including institutions of higher education and Indian tribes and tribal organizations.

Authority: 29 U.S.C. 761a and 762.

PROGRAM TITLE: KNOWLEDGE DISSEMINATION AND UTILIZATION APPLICATION NOTICES FOR FISCAL YEAR 1989

CDFA No.	Program title	Funding priority	Deadline for transmittal of applications	Estimated No. of awards	Est. size of awards	Project period (months)
84.133D	Knowledge Dissemination and Utilization.	Networking with Centers for Independent Living Centers and Independent Living Service Providers.	June 9, 1989	1	$400,000	46
		Developing Consumer Group Capacity to Facilitate Technology Transfer.		1	150,000	36

Selection Criteria: The Secretary uses the selection criteria in 34 CFR 350.34 to evaluate applications under this program. Those criteria are the same as those published above under the Research and Demonstration Program, 84.133A.

Authority: 29 U.S.C. 761(a), 762(a), and 762(b)(5).

PROGRAM TITLE: REHABILITATION ENGINEERING CENTERS APPLICATION NOTICES FOR FISCAL YEAR 1989

CDFA No.	Program title	Funding priority	Deadline for transmittal of applications	Estimated No. of awards	Est. size of awards	Project period (months)
83.133E	Rehabilitation Engineering Centers.	Personal Licensed Transportation Systems for Disabled Persons.	June 9, 1989	1	$500,000	60

Selection Criteria: The Secretary uses the following selection criteria in 34 CFR 353.31 to evaluate applications under this program.

(a) *Relevance and importance of the research program* (25 points). The Secretary reviews each application to determine to what degree—

(1) The proposed activities are responsive to a priority established by the Secretary and address a significant need of a disabled target population and rehabilitation service providers;

(2) The overall research program of the Center includes appropriate interdisciplinary and collaborative research activities, is likely to lead to new and useful knowledge in the priority area and to the development of new technology or new applications of existing technology, and is likely to become a nationally recognized source of information on technology in the priority area; and

(3) The applicant demonstrates that all component activities of the Center are related to the overall objectives of the Center, and will build upon and complement each other to enhance the likelihood of finding solutions to significant rehabilitation problems.

(b) *Quality of the research design* (25 points). The Secretary reviews each application to determine to what degree—

(1) The applicant proposes a comprehensive program of research for the total project period, including at least three interrelated research projects;

(2) The research design and methodology of each proposed activity are meritorious in that—

(i) The literature review is appropriate and indicates familiarity with the state-of-the-art and current research in rehabilitation technology;

(ii) The research hypotheses are important and scientifically relevant;

(iii) The sample populations are appropriate and significant;

(iv) The data collection and measurement techniques are appropriate and likely to be effective;

(v) The data analysis methods are appropriate; and

(vi) The applicant assures that human subjects, animals, and the environment are adequately protected;

(3) The plan for development, clinical testing, and evaluation of new devices and technology is likely to yield significant products; and

(4) The application discusses the anticipated research results and demonstrates how those results would satisfy the original hypotheses and could be used for planning additional research, including the generation of new hypotheses where applicable.

(c) *Quality of the dissemination and utilization program* (25 points). The Secretary reviews each application to determine the degree to which—

(1) The proposed plan for dissemination provides evidence that research results will be effectively disseminated and utilized based on the identification of appropriate and accessible target groups; the proposed activities are relevant to the regional and national needs of the rehabilitation field; and dissemination packages will be prepared in a form usable by individuals with all types of disabilities;

(2) The proposed plan for dissemination and utilization of the research and development provides for—

(i) Orientation programs for rehabilitation service personnel to improve the application of rehabilitation technology;

(ii) Programs which specifically demonstrate means for utilizing rehabilitation technology;

(iii) Technical assistance and consultation that are responsive to

concerns of service providers and consumers; and

(iv) Dissemination of research findings through publication in professional journals, textbooks, and consumer and other publications, and through other appropriate media such as audiovisual materials and telecommunciations, in an effort to make research results accessible to manufacturers, rehabilitation service providers, and researchers, educators, disabled individuals and their families, and others; and

(3) There is an appropriate plan to ensure the distribution and utilization of new devices and technology.

(d) *Quality of the organization and management* (25 points). The Secretary reviews each application to determine the degree to which—

(1) The staffing plan for the Center provides evidence that the principal investigator and other personnel have appropriate training and experience in disciplines required to conduct the proposed activities; the commitment of time for all staff is adequate to conduct all proposed activities; and the Center, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) The budgets for the Center and each of the proposed activities are reasonable, adequate, and cost-effective for the proposed activities;

(3) The facilities, equipment, and other resources are adequate and are appropriately accessible to persons with disabilities;

(4) The plan of operations is adequate to accomplish the Center's objectives and to ensure proper and efficient management of the Center;

(5) The proposed relationships with Federal, State, and local rehabilitation service providers and consumer organizations are likely to ensure that the Center program is relevant and applicable to the needs of consumers and service providers;

(6) The past performance and accomplishments of the applicant indicate an ability to complete successfully the proposed scope of work;

(7) The application demonstrates appropriate commitment and support by the host institution and opportunities for interdisciplinary activities and collaboration with other institutions; and

(8) The plan for evaluation of the Center will assess annually the outcomes of the discrete and interrelated research projects, the impact of the training and dissemination activities on the target populations, and the extent to which the overall objectives have been accomplished.

Authority: 29 U.S.C. 760, 762(b)(2).

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, DC 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, DC time] on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

PART II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

PART III: Application narrative.

PART IV: Estimated Public Reporting Burden. Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Debarment, Suspension, and Other Responsibility Matters: Primary Covered Transactions (ED Form GCS–008) and instructions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form GCS–009) and instructions. (NOTE: ED Form GCS–009 is intended for the use of primary participants and should not be transmitted to the Department.)

One or both of the following, as appropriate:

Certification Regarding Drug-Free Workplace Requirements: Grantees Other than Individuals (ED 80–0004).

Certification Regarding Drug-Free Workplace Requirements: Grantees Who Are Individuals (ED 80–0005).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: The National Institute on Disability and Rehabilitation Research, 400 Maryland Avenue SW., Washington, DC 20202. Telephone: (202) 732–1207; deaf and hearing-impaired persons may call (202) 732–1198 for TDD services.

Authority: 29 U.S.C. 760–762.

Dated: April 17, 1989.

Patricia McGill Smith,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

BILLING CODE 4000-01-M

Appendix

FREQUENT QUESTIONS

1. CAN I GET AN EXTENSION OF THE DUE DATE?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the Federal Register. However, there are no extensions or exceptions to the due date made for individual applicants.

2. WHAT SHOULD BE INCLUDED IN THE APPLICATION?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is not useful to

include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. WHAT FORMAT SHOULD BE USED FOR THE APPLICATION?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. MAY I SUBMIT APPLICATIONS TO MORE THAN ONE PROGRAM COMPETITION NIDRR OR MORE THAN ONE APPLICATION TO A PROGRAM?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. WHAT IS THE ALLOWABLE INDIRECT COST RATE?

The limits on indirect costs vary according to the program

and the type of application.

Applications that are for training activities should limit indirect charges to the lesser of the actual indirect costs or eight percent of the total direct costs of the program, as noted in the Education Department General Administrative Regulations (EDGAR).

All other applicants in the R&D, D&U, and REC programs should limit indirect charges to the organization's approved rate. If the organization does not have an approved rate, the application should include an estimated actual rate.

6. CAN PROFITMAKING BUSINESSES APPLY FOR GRANTS?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. CAN INDIVIDUALS APPLY FOR GRANTS?

No. Only organizations are eligible to apply for grants under NIDRR programs.

8. IS THERE A COST-SHARING OR MATCHING REQUIREMENT?

Cost-sharing is required in the Research and Demonstration Projects program, with certain exceptions noted in the law; and the Knowledge Dissemination and Utilization program. For the Rehabilitation Engineering Centers, the Secretary has the option to require matching. It is generally the practice of the agency to require cost-sharing under this program.

There is no set rate for cost-sharing. The cost-sharing is negotiated at the time an award is made and is not part of the

evaluation of the application.

9. CAN NIDRR STAFF ADVISE ME WHETHER MY PROJECT IS OF INTEREST TO NIDRR OR LIKELY TO BE FUNDED?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

10. HOW DO I ASSURE THAT MY APPLICATION WILL BE REFERRED TO THE MOST APPROPRIATE PANEL FOR REVIEW?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including the title of the priority to which they are responding.

11. HOW SOON AFTER SUBMITTING MY APPLICATION CAN I FIND OUT IF IT WILL BE FUNDED?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

12. CAN I CALL NIDRR TO FIND OUT IF MY APPLICATION IS BEING FUNDED?

No! When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

13. IF MY APPLICATION IS SUCCESSFUL, CAN I ASSUME I WILL GET THE REQUESTED BUDGET AMOUNT IN SUBSEQUENT YEARS?

No. Those budget projections are necessary and helpful for planning purposes. However, a complete budget and budget justification must be submitted for each year of the project and there will be negotiations on the budget each year.

14. WILL ALL APPROVED APPLICATIONS BE FUNDED?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (*give city, county, state, and zip code*):	Name and telephone number of the person to be contacted on matters involving this application (*give area code*)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (*enter appropriate letter in box*) ☐

A State — H Independent School Dist.
B County — I State Controlled Institution of Higher Learning
C Municipal — J Private University
D Township — K Indian Tribe
E Interstate — L Individual
F Intermunicipal — M Profit Organization
G Special District — N Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A Increase Award B Decrease Award C Increase Duration
D Decrease Duration Other (*specify*): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ▪ ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (*cities, counties, states, etc.*):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV. 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

Research and Demonstration (84.133A)

Knowledge Dissemination and Utilization (84. 133D)

Rehabilitation Engineering Centers (84.133E)

Public reporting burden for these collections of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to: the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820-0027, Washington, D.C. 20503.

(Information collection approved under OMB control number 1820-0027.

Expiration date: September 30, 1990.)

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C §§ 1451 et seq); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the U.S. Department of Education, Grants and Contracts Service, 400 Maryland Avenue, S.W. (Room 3633 GSA Regional Office Building No. 3), Washington, D.C. 20202-4725, telephone (202) 732-2505.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name	PR/Award Number or Project Name
Name and Title of Authorized Representative	
Signature	Date

ED Form GCS-008, (REV.12/88)

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

ED Form GCS-009, (REV. 12/88)

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 34 CFR Part 85, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment (see 34 CFR Part 85, Sections 85.615 and 85.620).

The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;
(2) The grantee's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--

(1) Abide by the terms of the statement; and
(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination; or
(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

ED 80-0004

[FR Doc. 89-9805 Filed 4-24-89;8:45am]
BILLING CODE 4000-01-C

federal register

Tuesday
April 25, 1989

Part VIII

Department of Labor

Employment and Training Administration

Job Training Partnership Act; State Designations of Entities as Dislocated Worker Units Under Title III, As Amended by Economic Dislocation and Worker Adjustment Assistance Act; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act; State Designations of Entities as Dislocated Worker Units Under Title III, as Amended by Economic Dislocation and Worker Adjustment Assistance Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor is publishing for public information names, addresses, and telephone numbers of entities designated by State as Dislocated Worker Units.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, Employment and Training Administration, Department of Labor, Room N–4469, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202–535–0577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title III of the Job Training Partnership Act (JTPA), as amended by the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA), provides that the Department of Labor (DOL or Department) shall fund programs for States to assist dislocated workers. Section 311(b)(2) of JTPA provides that States will designate or create an identifiable State Dislocated Worker Unit (DWU) or office with the capability to respond rapidly, onsite, to permanent plant closures and substantial layoffs throughout the State. The DWU is a key feature of the States' implementation of the new programs under EDWAA.

On March 6, 1989, the Assistant Secretary of Labor sent a letter to each of the Governors to verify a listing of their State DWU designated entity. After consideration of written responses received, and further verification by telephone, DOL is publishing this notice. Periodic updates of this listing will be published, based on revisions received by the Department.

Signed at Washington, DC, this 19th day of April 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

Dislocated Worker Units Nationwide

Alabama

Mrs. Ruth Ott, Employment and Training Division, Department of Economic and Community Affairs, 3465 Norman Bridge Road, P.O. Box 250347, Montgomery, Alabama 36205–0939, Telephone: 205–284–8800.

Alaska

Mr. William Mailer, JTPA Program Manager, Rural Development Division, Department of Community and Regional Affairs, 949 East 36th Avenue, Suite 403, Anchorage, Alaska 99508, Telephone: 907–563–1955.

Arizona

Ms. Delia Walters, Department of Economic Security, Division of Employment and Rehabilitation Services, 1300 West Washington, 3rd Site Code 901A, Phoenix, Arizona 85005, Telephone: 602–542–4910.

Arkansas

Mr. William D. Gaddy, Administrator, Arkansas Employment Security Division, P.O. Box 2981, Little Rock, Arkansas 72203, Telephone: 501–682–2121.

California

Mr. Werner O. Schink, Acting Chief, Job Training Partnership Division MIC 69, Employment Development Department, California Response Team, P.O. Box 942880, Sacramento, California 94280–0001, Telephone: 916–322–4440.

Colorado

Mr. Dick Rautio, Director, DWU, Governor's Job Training Office, 1391 N. Speer Boulevard, #440, Denver, Colorado 80204, Telephone: 303–620–4400.

Connecticut

Mr. Arthur Franklin, Director, State Department of Labor Dislocated Worker Unit, 200 Folly Brook Boulevard, Whethersfield, Connecticut 06109, Telephone: 203–566–7433.

Delaware

Ms. Alice Mitchell, Technical Services Manager, Delaware Department of Labor, P.O. Box 9499, Newark, Delaware 19714–9499, Telephone: 302–368–6913.

District of Columbia

Ms. Brenda Boykins, Division Chief, Division of Program Operations, Department of Employment Services, Office of Employability Development, 500 C Street, NW, Room 301, Washington, DC 20001, Telephone: 202–639–1269.

Florida

Mr. Shelton Kemp, Chief, Bureau of Job Training, Division of Labor, Employment and Training, Department of Labor and Employment Security, 1320 Executive Center Drive, Suite 201, Tallahassee, Florida 32399–0667, Telephone: 904–488–9250.

Georgia

Ms. Andrea Harper (All correspondence should be addressed to Mr. James A. Lowe), Georgia Department of Labor, Sussex Place, Suite 600, 148 International Boulevard N.E., Atlanta, Georgia 30303, Telephone: 404–656–3031.

Hawaii

Mr. Mario Ramil, Director, Department of Labor and Industrial Relations, 830 Punchbowl Street, Room 321, Honolulu, Hawaii 96813, Telephone: 808–548–3150.

Idaho

Ms. Julie Kilgrow, Director, Department of Employment, 317 Main Street, Boise, Idaho 83735–0001, Telephone: 208–334–6110.

Illinois

Mr. John Taylor, Manager, Job Training Programs Division, Illinois Dept. of Commerce and Comm. Affairs, 620 E. Adams Street, Springfield, Illinois 62704, Telephone: 217–785–6006.

Indiana

Ms. Nina White, Manager, Operational Planning and Support, Program Operations Division, Indiana Department of Employment and Training Service, 10 N. Senate Avenue, Room 325, Indianapolis, Indiana 46204, Telephone: 317–232–8066.

Iowa

Mr. Jeff Nall, Administrator, Job Training Division, Department of Econ. Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: 515–281–3759.

Kansas

Mr. Patrick Pritchard, Director, Program and Support Services, Department of Human Resources, 401 Topeka Avenue, Topeka, Kansas 66603, Telephone: 913–296–2063.

Kentucky

Mr. Charles Furr, Director, Division for Job Training, Department for Employment Services, 275 East Main, 2 West, Frankfort, Kentucky 40621, Telephone: 502–564–5360.

Louisiana

Mrs. Phyllis C. Mouton, Secretary of Labor, ATTN. DWU, Copy to: Robert Dupre, Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, Louisiana 70804–9094, Telephone: 504–342–3016.

Maine

Mr. James H. McGowan, Director, Bureau of Labor Standards, Department of Labor, State House Station #45, Augusta, Maine 04333, Telephone: 207–289–6400.

Maryland

Mr. Vernon J. Thompson, Director, Contracts and Operations, Office of Employment Training, Department of Economic and Employment Development, 1100 N. Eutaw Street, Rm. 310, Baltimore, Maryland 21201, Telephone: 301–333–5149.

Massachusetts

Dr. Patricia Hanratty, Executive Director, Industrial Services Program, One Ashburton Place, Room 1413, Boston, Massachusetts 02108, Telephone: 617–727–8158.

Michigan

Mr. James Houck, Manager, Dislocated Workers Unit, Michigan Department of Labor, Governor's Office For Job Training, 222 Hollister Building, P.O. Box 30039, Lansing, Michigan 48909, Telephone: 517–373–6227.

Minnesota

Mr. Edward Retka, Employment and Training Specialist III, Minnesota Department of Jobs and Training, State Job Training Office, 690 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota 55101, Telephone: 612–296–7918.

Mississippi

Ms. Jane Black, Director, DWU, Department of Job Development and Training, Governor's Office of Federal-State Programs, 301 West Pearl Street, Jackson, Mississippi 39203–3089, Telephone: 601–949–2128.

Missouri

Mr. Michael Hartmann, Director, Department of Econ. Dev., Division of Job Development and Training, 221 Metro Drive, Jefferson City, Missouri 65109, Telephone: 314–751–7796.

Montana

Ms. Patricia Gross, Program Manager, DWU, Employment Policy Division, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624, Telephone: 406–444–4500.

Nebraska

Ms. Patricia Meisenholder/Mr. Edward Kosark, Nebraska Department of Labor, Job Training Program Division, 550 South 16th Street, Box 95004, Lincoln, Nebraska 68509–5004, Telephone: 402–471–2127.

Nevada

Ms. Barbara Weinberg, State Job Training Office, Capitol Complex, Carson City, Nevada 89710, Telephone: 702–885–4310.

New Hampshire

Mr. Robert Steiner, Director, Dislocated Worker Unit, NH Job Training Coordinating Council, 64B Old Suncook Road, Concord, New Hampshire 03301, Telephone: 603–228–9500.

New Jersey

Mr. Thomas Draybik, Coordinator, New Jersey Department of Labor Response Team, New Jersey Department of Labor Room 1013, John Fitch, Plaza, Trenton, New Jersey 08625, Telephone: 609–292–2074.

New Mexico

Mr. Patrick Newman, Chief, Dislocated Worker Unit, State Administrative Entity, P.O. Box 4218, 1596 Pacheco Street, Santa Fe, New Mexico 87501, Telephone: 505–827–6824.

Copy to: Mr. Paul Garcia, Secretary, New Mexico Department of Labor, P.O. Box 1928, Albuquerque, New Mexico 87102.

New York

Mr. David Mance, Early Warning Notification Unit, Room 162, Building 12, State Office Building Campus, Albany, New York 12240, Telephone: 518–457–0206 (Within State =1–800–548–1158).

North Carolina

Mr. Joel C. New, Director, Division of Employment and Training, P.O. Box 27687, Raleigh, North Carolina 27611–7687, Telephone: 919–733–6383.

North Dakota

Mr. James Hirsch, Director, Employment and Training Division, Job Service of ND, P.O. Box 1537, Bismarck, North Dakota 58502, Telephone: 701–224–2843.

Ohio

Ms. Ellen O'Brien Saunders, Administrator, Ohio Bureau of Employment Services, 145 S. Front Street, Columbus, Ohio 43215, Telephone: 614–466–8032.

Oklahoma

Mr. Eddie Foreman, Supervisor, EDWAA Unit, Oklahoma Employment Security Commission, Will Rodgers Building, Room 308, 22401 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Telephone: 405–557–7128.

Oregon

Ms. Gale Castillo, Manager, Job Training Partnership Administration, Economic Development Department, 155 Cottage Street, N.E., Salem, Oregon 97310, Telephone: 503–373–1995.

Pennsylvania

Dr. Alice Hoffman, Director, Dislocated Worker Unit, 11th Floor, Labor and Industry Building, 7th and Forster Streets, Harrisburg, Pennsylvania 17120, Telephone: 717–783–9844.

Rhode Island

Mr. Richard D'Iorio, Director, The Dislocated Workers Resources Center, 555 Valley Street, Building 51, Providence, Rhode Island 02908, Telephone: 401–277–2090.

South Carolina

Ms. Regina D. Ratterree, Program Coordinator, South Carolina Employment Security Commission, Manpower Training Unit, Rapid Response Unit, 1550 Gadsden Street, Columbia, South Carolina 29201–3430, Telephone: 803–737–2600.

South Dakota

Dislocated Worker Unit, South Dakota Department of Labor, 700 Governor's Drive, Pierre, South Dakota 57501, Telephone: 605–773–5017.

Tennessee

Mr. Jimmy White, Commissioner, Tennessee Department of Labor, Dislocated Worker Unit, 501 Union Building, 6th Floor, Nashville, Tennessee 37219–5388, Telephone: 615–741–2582.

Texas

Ms. Joyce Leidy, Associate Director, Texas Department of Commerce, Industrial Development Training, P.O. Box 12728, Austin, Texas 78711, Telephone: 512–834–6237.

Utah

Mr. Gary Gardner, Director, DWU, Office of Job Training and Economic Development, 6136 State Office Building, Salt Lake City, Utah 84114, Telephone: 801–538–3619.

Vermont

Mr. Thomas Douse, Director, Office of Employment and Training Programs, Department of Employment and Training, P.O. Box 488, Montpelier, Vermont 05602, Telephone: 802–229–0311.

Virginia

Mr. Ralph Cantrell, Commissioner, Virginia Employment Commission, P.O. Box 1358, 703 E. Main Street, Richmond, Virginia 23211, Telephone: 804–786–3001.

Copy to:

Dr. James E. Price, Executive Director, Governor's Employment and Training Department, P.O. Box 12083, Richmond, Virginia 23241, Telephone: 804–786–5696.

Washington

Ms. Susan Dunn, Commissioner, Employment Security Department, Training and Employment Analysis Division, 605 Woodview Drive, S.E., KG 11, Olympia, Washington 98504, Telephone: 206–438–4611.

West Virginia

Mr. Paul Skaff, Administrative Manager, State, DWU, Employment and Training Division, Governor's Office of Community and Industrial Development, 5790–A Mac Corkle Avenue S.E., Charleston, West Virginia 25304, Telephone: 304–348–5920.

Wisconsin

Mr. Dan Bond, Division of Employment and Training Policy, State Job Training Program Section, Jobs Bureau—DILHR, 201 E. Washington Avenue, P.O. Box 7972, Madison, Wisconsin 53707, Telephone: 608–266–0745.

Wyoming

Mr. Jerry Baldwin, Coordinator, DWU, Department of Employment, Job Training Administration, Barrett Building, 3rd Floor, 2301 Central Avenue, Cheyenne, Wyoming 82002, Telephone: 307–777–7745.

Puerto Rico

Mr. Jose Reyes Herrerro, Director, DWU, Office of Economic Opportunity, La Fortaleza, Call Box 50067, Old San Juan, Puerto Rico 00901, Telephone: 809–724–7900.

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federal register

Tuesday
April 25, 1989

Part IX

Department of Transportation

Federal Aviation Administration

14 CFR Parts 27 and 29

Rotorcraft Regulatory Changes Based on European Joint Airworthiness Requirements Proposals; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

[Docket No. 25885; Notice No. 89-10]

RIN: 2120-AC27

Rotorcraft Regulatory Changes Based on European Joint Airworthiness Requirements Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes changes to the type certification requirements for both normal and transport category rotorcraft. The changes would revise airworthiness standards for systems, propulsion, and airframes, and would introduce safety improvements, clarify existing regulations, and standardize terminology. The changes are based on some of the proposals that were submitted to the FAA by the European Joint Airworthiness Requirements (JAR) 29 group. These proposals are intended to encourage the European community's acceptance of the Federal Aviation Regulations' rotorcraft type certification requirements and to obviate the development of a new and different European standard. Adoption of these changes will achieve increased commonality of airworthiness standards among the respective countries.

DATES: Comments must be received on or before October 23, 1989.

ADDRESSES: Comments related to this proposal should be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Docket No. 25885; 800 Independence Avenue SW., Washington, DC 20591, or delivered in duplicate to: Room 915-G, 800 Independence Avenue SW., Washington, DC. Comments must be marked "Docket No. 25885." Comments may be inspected in Room 915-G between 8:30 a.m. and 5 p.m., weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert T. Weaver, FAA, Regulations Group, ASW-111, Rotorcraft Directorate, Aircraft Certification Service, Southwest Region, Fort Worth, Texas 76193-0111, telephone number (817) 624-5111.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting written data, views, or arguments as they may desire, including comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in this notice. Communications should identify the regulatory docket and be submitted in duplicate to the address above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments on Docket No. 25885." The postcard will be date/time stamped and returned to the commenter.

For convenience, each proposal in this notice is numbered separately. When submitting comments, please refer to proposals by these numbers and by the section of the FAR to which they relate.

Availability of this Notice

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, ATTN: Public Inquiry Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

At a meeting between FAA representatives and the European Airworthiness Authorities Steering Committee (AASC) held in Washington, DC, in April 1983, the AASC agreed to provide the FAA with a comprehensive list of recommended changes for FAR Part 29 suitable for adoption as airworthiness standards by AASC members. The AASC subsequently established a JAR 29 group to develop transport category rotorcraft airworthiness standards for European type certification programs. This JAR 29 group was tasked with providing a recommended list of changes for Part 29.

The FAA wrote to the AASC and industry groups on May 9, 1983, soliciting comments on key issues. The initial responses to that solicitation were published in the **Federal Register** (49 FR 19309, May 7, 1984). Subsequently, on September 15, 1984, the AASC submitted a more comprehensive list of proposals for Part 29. The 92 proposals contained in the revised list suggested changes to Part 29 as amended through Amendment 29-16. An FAA review found that 34 of these proposals had either been incorporated, at least in part, in Part 29, as revised by Amendments 29-17 through 29-24, or were being considered in active rulemaking projects. Of the 58 proposals remaining, 25 were rejected, in whole or in part, for various reasons involving failure to meet Executive Order 12291 or DOT rulemaking requirements. The results of the FAA review were provided to the JAR 29 group by letter on March 18, 1985, and included a status report on the proposals being considered in active rulemaking projects.

During further review of the remaining AASC proposals not included in existing rulemaking projects, the FAA determined that several of the proposals warranted public discussion by interested persons. Accordingly, the FAA announced that a public meeting would be held in Fort Worth, Texas, May 1-2, 1986 (51 FR 4504; February 5, 1986), and that the AASC proposals were available for public review. Over 50 persons attended the meeting which convened on May 1, 1986, and remained in session until each proposal not already in rulemaking had been discussed. A transcript of those discussions is included in the docket for this notice.

Although the AASC proposals were confined to Part 29, and only Part 29 proposals were discussed at the May 1-2, 1986, meeting, this notice proposes changes to the rotorcraft certification rules in both Parts 27 and 29. This is for reasons of: (1) Efficiency in processing rulemaking actions, and (2) standardization between Parts 27 and 29 where nearly identical sections presently exist.

An appendix at the end of this notice includes a list of AASC proposals which the FAA has decided not to include in this notice. The reasons for deferring or rejecting the proposals are specified in the appendix.

Regulatory Evaluation Summary

With the exception of proposed new § 29.929, each of the proposed regulatory changes contained in this notice has been determined to have negligible or no economic impact. These proposed changes are either editorial or clarifying in nature, or they codify current industry or FAA certification practice and procedure, or conformity with them could be accomplished at a negligible cost. No estimates of specific costs or savings are made for these proposals. The proposals having a negligible impact on certification costs are not discussed in this economic evaluation, but are listed in the preliminary regulatory evaluation filed in the docket for this notice.

The only proposal with an economic impact is proposed new § 29.929 which contains an additional requirement for a flight endurance test. The estimated incremental cost of proposed new § 29.929 is derived from information provided to the FAA by rotorcraft industry certification experts, and reflects the best judgment of the FAA at this time. These estimates are subject to change contingent upon additional information that might be provided during the public comment period.

Initial estimates of the cost that might be incurred in conducting the flight test range from $450,000 to $750,000. The exact amount depends on the size and complexity of the rotorcraft involved. These estimates are based on 150 hours of engineering flight testing at $3,000 to $5,000 per hour. The cost includes one flight test helicopter, an engineering flight test crew comprised of one or two pilots and a flight test engineer, maintenance personnel, instrumentation, and use of an engineering department for data reduction. Over the next 10 years, three newly certificated models are forecast. However, these initial estimates of cost do not take into account the fact that a significant amount of the testing conducted in accordance with this proposal normally would serve as credit for the function and reliability testing already required by § 21.35. Therefore, assuming credit for such testing, the extent of the proposed required test and its cost would be diminished. The estimated cost of this proposal on a rotorcraft certification program would more accurately be $200,000 to $400,000 if approximately half of the § 29.929 flight test requirements could be credited to the function and reliability testing requirements in § 21.35.

Historic transport category rotorcraft accident data do not provide a totally adequate basis for evaluating the effectiveness of flight endurance testing in mitigating casualty losses in survivable accidents. The FAA invites specific comments regarding proposed § 29.929 that address the following questions:

1. Have there been rotorcraft accidents which can be related to the lack of flight endurance testing of drive system components for 150 hours as this NPRM proposes?

2. Are the current methods of endurance testing in accordance with § 29.923 and flight function and reliability testing of § 21.35 (b) and (f) as effective in preventing drive system and airframe interference problems as the proposed § 29.929 endurance testing?

3. Are there alternative methods of accomplishing the objectives of the proposal; e.g., to supplement ground endurance tests of § 29.923 with the more realistic loads and flexibilities of flight tests and to limit more specifically replacement of components during testing than § 21.35 allows?

Although the FAA is not aware of historic accident data for transport category rotorcraft which provide a complete basis for an evaluation of the effectiveness of flight endurance testing in mitigating casualty losses in survivable accidents, the benefits of the proposed rule would equate with its cost if this proposal would prevent one fatality over the next 10 years. For purposes of analysis, the FAA assumes the minimum value of a human life at $1 million dollars and the estimated range of the incremental cost of compliance at $200,000 to $400,000 per helicopter certification for three anticipated certifications over the next 10 years. The estimated range of the incremental cost of compliance takes into account the significant amount of function and reliability testing that already is required to conform with the requirements of § 21.35.

Regulatory Flexibility Determination

The FAA has determined that under the criteria of the Regulatory Flexibility Act (RFA) of 1980, the amendments to Parts 27 and 29 proposed in this notice, at promulgation, would not have a significant economic impact on a substantial number of small entities. The RFA requires agencies specifically to review proposed rules which may have a "significant economic impact on a substantial number of small entities." The FAA has adopted criteria and guidelines for rulemaking officials to apply when determining if a proposed or existing rule has a significant economic impact on a substantial number of small entities. The FAA criteria for a small entity define a small helicopter manufacturer as an independently owned and operated firm having fewer than 75 employees. According to the FAA size standard criteria only one of the present ten rotorcraft manufacturers subject to the certification changes to Parts 27 and 29 meets these criteria. Accordingly, the proposed amendments to Parts 27 and 29 contained in this notice will not impact a substantial number of small entities.

International Trade Statement

The FAA believes that the certification cost which may be imposed by these proposals will not result in a competitive trade disadvantage or advantage for U.S. manufacturers in domestic or foreign markets. This assumption is based on the fact that foreign manufacturers must comply with the certification standards of Parts 27 and 29 as a condition to entry into U.S. markets. Considering the size of the U.S. market, foreign manufacturers are likely to comply with certification standards of the United States, which is the largest segment of their export market. Foreign and U.S. manufacturers are expected to pass the new certification costs on to consumers in their respective domestic and foreign markets.

Federalism Implications

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

Conclusion

The FAA has determined that this document involves proposed regulations which are not considered major under the procedures and criteria prescribed in Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the person identified in the section entitled **"FOR FURTHER INFORMATION CONTACT."** For the reasons stated in the regulatory evaluation, I certify that these regulations, if promulgated, would not have a significant economic impact on a substantial number of small entities. In addition, these proposals, if adopted, would have little or no impact on trade

opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects 14 CFR Parts 27 and 29

Air transportation, Aircraft, Aviation safety, Safety, Rotorcraft.

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Parts 27 and 29 of the FAR (14 CFR Parts 27 and 29) as follows:

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

1. The authority citation for Part 27 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97–449; January 12, 1983).

§§ 27.401 and 27.403 [Removed]

2. By removing §§ 27.401 and 27.403.

Explanation: The AASC proposal pointed out that § 29.401(a) is simply a reference to § 29.923 and the structural strength requirements of § 29.401(b) are covered adequately in §§ 29.337, 29.339, and 29.341. The structural strength requirements of § 29.403 also are covered adequately in §§ 29.337, 29.339, and 29.341. No commenters at the public meeting objected to the proposed removal of §§ 29.401 and 29.403. Since the corresponding sections in Part 27 have identical requirements to the above referenced sections in Part 29, §§ 37.401 and 27.403 would be removed for similar reasons.

§ 27.413 [Removed]

3. By removing § 27.413.

Explanation: The AASC proposal at the public meeting for removing § 29.413 is based on the specification of the arbitrary loads by § 29.413 and by its requirements for combined gust and maneuver loads not specified for other structure. The structural strength requirements of § 29.413 are covered adequately in §§ 29.337, 29.339, and 29.341. No objections to the proposed removal of § 29.413 were received at the public meeting. Therefore, § 27.413, which is identical to § 29.413, would be removed for similar reasons.

4. By revising § 27.775 to read as follows:

§ 27.775 Windshields and windows.

Windshields and windows must be made of material which will not break into dangerous fragments.

Explanation: The proposal would clarify that transparency materials other than glass may be used in windshields and windows if they "will not break into dangerous fragments." For additional information see the explanation for the proposed revision to § 29.775.

5. By amending § 27.787 by revising paragraph (c) to read as follows:

§ 27.787 Cargo and baggage compartments.

* * * * *

(c) Under the emergency landing conditions of § 27.561, cargo and baggage compartments must either—

(1) Be positioned so that if the contents break loose they are unlikely to cause injury to the occupants or restrict any of the escape facilities provided for use after an emergency landing; or

(2) Have sufficient strength to withstand the conditions specified in § 27.561 together with the means of restraint, and their attachments, required by paragraph (b) of this section when containing the maximum authorized weight of cargo and baggage at the critical loading distribution.

* * * * *

Explanation: The current rule specifies only that occupant protection be provided for forward inertia loads on cargo and baggage. The proposal would require occupant protection for all emergency landing loads on cargo and baggage; i.e., vertical and sideward as well as forward loads. The proposal would also clarify that the requirement can be met either by containing the cargo and baggage under emergency landing loads *or* by positioning the cargo or baggage not to injure occupants or impede emergency egress when subjected to emergency landing loads.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

6. The authority citation for Part 29 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97–449; January 12, 1983).

§§ 29.401 and 29.403 [Removed]

7. By removing §§ 29.401 and 29.403.

Explanation: The AASC proposal pointed out that § 29.401(a) is simply a reference to § 29.923 and the structural strength requirements of § 29.401(b) are covered adequately in §§ 29.337, 29.339, and 29.341. The structural strength requirements of § 29.403 also are covered adequately in §§ 29.337, 29.339, and 29.341. No participants at the public meeting objected to the proposed removal of §§ 29.401 and 29.403.

§ 29.413 [Removed]

8. By removing § 29.413.

Explanation: The AASC proposal at the public meeting for removing § 29.413 is based on the specification of arbitrary loads by § 29.413 and by its requirements for combined gust and maneuver loads not specified for other structure. The structural strength requirements of § 29.413 are covered adequately in §§ 29.337, 29.339, and 29.341. No objections to the proposed removal of § 29.413 were received at the public meeting.

9. By revising § 29.775 to read as follows:

§ 29.775 Windshields and windows.

Windshields and windows must be made of material which will not break into dangerous fragments.

Explanation: The proposal would clarify that transparency materials other than glass may be used in windshields and windows if they "will not break into dangerous fragments." The current rule specifies only that "nonsplintering safety glass must be used."

An AASC proposal also recommended that a material that will not suddenly turn opaque in use be required. This is redundant to existing § 29.773; however, additional guidance is appropriate for advisory circular material.

An accompanying AASC proposal to prohibit "danger of fire or structural failure" in the event of failure of any windshield heating system is adequately covered in § 29.1309 which requires failure analyses to be conducted, and accordingly has not been included here.

10. By amending § 29.783 by adding a new paragraph (h) as follows:

§ 29.783 Doors.

* * * * *

(h) Nonjettisonable doors used as ditching emergency exits must have means to enable them to be secured in the open position and remain secure for emergency egress in sea state conditions prescribed for ditching.

Explanation: The proposal is based on service experience where an unsecured door proved a serious impediment to use of the exit for launching and boarding a liferaft. The proposal would require that means be provided to secure the door in the open position.

11. By amending § 29.787 by revising paragraph (c) to read as follows:

§ 29.787 Cargo and baggage compartments.

* * * * *

(c) Under the emergency landing conditions of § 29.561, cargo and baggage compartments must either—

(1) Be positioned so that if the contents break loose they are unlikely to cause injury to the occupants or restrict any of the escape unlikely to cause injury to the occupants or restrict any of the escape facilities provided for use after an emergency landing; or

(2) Have sufficient strength to withstand the conditions specified in § 29.561 together with the means of restraint, and their attachments, required by paragraph (b) of this section when containing the maximum authorized weight of cargo and baggage at the critical loading distribution.

* * * * *

Explanation: See the explanation for the proposed change to § 27.787.

12. By amending § 29.811 by revising paragraph (a) to read as follows:

§ 29.811 Emergency exit marking.

(a) Each passenger emergency exit, its means of access, and its means of opening must be conspicuously marked for the guidance of occupants using the exits in daylight or in the dark of the night. For rotorcraft equipped for overwater flights such markings must remain adequate if the rotorcraft is capsized and the cabin is submerged.

* * * * *

Explanation: In recent years, offshore helicopter operations have increased dramatically. Several ditchings have occurred, and some ditched helicopters have capsized. These service experiences have demonstrated a need to improve emergency exit markings for the low light conditions of nighttime and for submerged cabins. The proposal would add a general requirement for emergency exit markings to be lighted or of luminous paint and for rotorcraft equipped for overwater flights to have markings which would remain adequate in a submerged cabin of a capsized helicopter.

13. By amending § 29.903 by revising paragraph (c); by removing the "[Reserved]" designation after paragraphs (d)–(e); by redesignating paragraph (f) as paragraph (d); and by adding a new paragraph (e) as follows:

§ 29.903 Engines.

* * * * *

(c) *Category A; control of engine rotation.* For each Category A rotorcraft, there must be a means for stopping the rotation of any engine individually in flight, except, that, for turbine engine installations, the means for stopping the engine need be provided only where necessary for safety. In addition—

(1) Each component of the engine stopping system that is located on the engine side of the firewall, and that might be exposed to fire, must be at least fire resistant; or

(2) Duplicate means must be available for this purpose and the controls must be where all are not likely to be damaged at the same time in case of fire.

* * * * *

(e) *Restart capability:* (1) Means to restart any engine in flight must be provided.

(2) Except for the in-flight shutdown of all engines, engine restart capability must be demonstrated throughout a flight envelope for the rotorcraft.

(3) Means independent of the engine-driven electrical power generating system must be provided to permit in-flight engine restart following the in-flight shutdown of all engines.

Explanation. Existing § 29.903(c) requires "means for stopping and restarting any engine individually in flight." It has been industry practice to provide means for restarting engines in flight which will function even when all engines are shut down. It has not been industry practice to develop and demonstrate an envelope of altitude and airspeed for restarting engines in the event of in-flight shutdown of all engines (because of obvious hazards), but it has been industry practice to develop and demonstrate an envelope of altitude and airspeed for restarting each engine after in-flight shutdown of that engine alone. In a recent helicopter project, the issue arose of whether current § 29.903(c) requires a means for restarting individual engines after the in-flight shutdown of all engines. To clarify this issue, proposed paragraph (e)(3) would make it explicit that means to permit in-flight engine restart following the in-flight shutdown of all engines are required. Further, proposed paragraph (e)(2) would make it clear that although means are required to restart each engine after in-flight shutdown of all engines, in-flight demonstration of these means is not required for certification.

The JAR group also proposed the establishment of a minimum delay period following a false start before another attempted start. The FAA agrees with the concept of a delay period; however, we will propose it as future advisory circular material.

14. By revising § 29.923 by adding a new paragraph (p) as follows:

§ 29.923 Rotor drive system and control mechanism tests.

* * * * *

(p) *Endurance tests; lubricant operating limitations.* Unless equivalent alternative testing is accomplished, lubricants to be approved for use in transmissions and gearboxes must be limited to those used during the tests prescribed by this section, and in addition—

(1) At least three 10-hour cycles required by this section must be conducted with transmission and gearbox lubricant temperatures, at the location prescribed for measurement, not lower than the maximum operating temperature for which approval is requested;

(2) For pressure lubricated systems, at least three 10-hour cycles required by this section must be conducted with the lubricant pressure, at the location prescribed for measurement, not higher than the minimum operating pressure for which approval is requested;

(3) The test conditions of paragraphs (p)(1) and (2) of this section must be applied simultaneously and must be extended to include operation at any one-engine-inoperative rating for which approval is requested; and

(4) Ten acceleration tests must be conducted with transmission and gearbox lubricants and lubrication systems at the minimum temperature selected by the applicant to be suitable for operating above ground idle speed. These tests must be accomplished as follows:

(i) Initiate an engine start (or release the rotorbrake, if installed) and accelerate the rotors and rotor drive system at the normal rate to the maximum power-on speed with the rotors in flat pitch.

(ii) Increase rotor pitch at the maximum rate to achieve maximum continuous torque and maintain for 1 minute.

(iii) Decrease rotor pitch to minimum and stop the rotor.

Explantion: This proposal would provide a standardized basis for qualification of lubricants to be used in rotorcraft drive system transmissions and gearboxes. This proposal would require that tests be conducted to verify that adequate lubrication is provided to these transmissions and gearboxes during routine operating conditions and at the limits of lubricant temperatures and pressures to expected in service.

The FAA recognizes that § 29.1305 does not require a transmission or gearbox lubricant oil temperature indicator to enable the flightcrew to determine when lubricant temperature is suitable for acceleration above idle. However, when an oil temperature indicator is not provided for a specific

design, a schedule of ambient temperature versus delay time can be developed and presented by placard or flight manual data to enable the crew to avoid possible transmission damage by premature acceleration during cold weather operation.

15. By adding a new § 29.929 to read as follows:

§ 29.929 Flight endurance test.

Unless otherwise accomplished under § 21.35 of this chapter or other flight conducted on a representative rotorcraft, functioning and compatibility of the rotors and rotor drive system must be demonstrated by a flight endurance test consisting of not less than 150 hours. The test must include representative rotorcraft mission profiles, including one-engine-inoperative conditions, and be conducted in accordance with a plan acceptable to the Administrator. No intervening disassembly or parts replacement of the rotors or the rotor drive system may be accomplished unless acceptable to the Administrator, and all parts of the rotor drive system must be serviceable at the completion of the test.

Explanation: This proposed test would demonstrate the overall compatibility and proper functioning of the drive system with the rotorcraft as a whole under conditions likely to be encountered in normal operation. This test is necessary because no other specific rule in Part 29 addresses the overall compatibility of the drive system with the rotorcraft. This proposal would require that tests be conducted under the type certification rules so that test procedures may be controlled and posttest inspections for serviceability may be monitored. This proposal would extend the concept of endurance testing the rotor drive system to include flight testing in addition to ground or tethered testing. This is a more realistic and comprehensive endurance test program than just ground testing.

Appendix B to Part 29—Airworthiness Criteria for Helicopter Instrument Flight

16. By amending Appendix B to Part 29 by adding a new paragraph VIII(c) to read as follows:

* * * * *

VIII * * *

(c) *Thunderstorm lights.* In addition to the instrument lights required by § 29.1381(a), thunderstorm lights which provide high intensity white flood lighting to the basic flight instruments must be provided. The thunderstorm lights must be installed to meet the requirements of § 29.1381(b).

Explanation: The AASC originally proposed to add a new § 29.1381(c) to read: "For Category A rotorcraft certificated for instrument flight, high intensity white lighting must be provided for the illumination of basic flight instruments so that pilots are not dazzled by lightning discharge when the rotorcraft is being flown solely by reference to instruments."

The FAA has determined that since this proposal pertains to a special type of instrument flight, it would more appropriately belong in Appendix B to Part 29 along with the other specific requirements for instrument flight. The lights would be designated "thunderstorm lights" to provide a qualitative differentiation from the normal "instrument lights" required by § 29.1381. The name "thunderstorm lights" also describes the intent of the proposal for these lights; i.e., to prevent the pilots from being dazzled or temporarily blinded by lightning while the rotorcraft is being operated solely by reference to instruments.

Editorial note: This appendix will not appear in the Code of Federal Regulations.

Appendix—Miscellaneous Proposals Removed From Consideration

Based on the FAA review of the discussions at the May 1–2, 1986, public meeting, in conjunction with written comments also received, the following proposals presented for review during the meeting are not considered because they did not receive full support from the JAR 29 group.

FAR section	Proposal
29.53	Add a new paragraph (c)
29.55	Add a new § 29.55
29.65	Amend paragraph (a)
29.65	Remove paragraph (c)
29.65	Add a new paragraph (e)
29.67	Amend (a)(2)(i), (a)(3)(i), and (b)
29.73	Amend paragraph (a)
29.141	Add a new paragraph (d)
29.143	Amend paragraph (a)(2)(v)
29.143	Add a new paragraph (a)(3)
29.143	Add a new paragraph (f) or § 29.672
29.161	Add a new § 29.162
29.171	Add a new paragraph (b)
29.235	Add a new paragraph (b)
29.305	Add a new paragraph (c) or § 29.563
29.341	Amend § 29.341
29.485	Amend § 29.485
29.497	Amend § 29.497
29.501	Amend paragraph (a)(3) and remove paragraphs (a)(3) (i) and (ii)
29.547	Amend paragraph (d)(1)
29.601	Add new paragraphs (c) and (d)
29.613	Amend paragraph (c)
29.669	Add a new paragraph (a)(3)
29.725	Amend paragraph (a)
29.727	Amend paragraph (a) and remove paragraph (c)
29.729	Amend paragraph (b)
29.771	Add a new paragraph (e)
29.773	Add a new paragraph (c)
29.777	Add a new paragraph (b)
29.801	Amend paragraphs (b), (c), (d), and (e)
29.807	Remove paragraphs (d) (1) and (2)
29.901	Add a new paragraph (f)
29.903	Amend paragraph (f)
29.907	Add new paragraphs (c) and (d)
29.908	Amend § 29.908
29.917	Amend paragraph (a)
29.917	Amend paragraph (b)(3)
29.917	Amend paragraph (b)(4)
29.917	Add a new paragraph (c)
29.917	Add new paragraphs (d) and (e)
29.917	Add a new paragraph (f)
29.917	Add a new paragraph (g)
29.917	Add a new paragraph (h)
29.923	Add a new paragraph (a)(7)
29.923	Add a new paragraph (a)(8)
29.927	Remove paragraph (e)
29.927	Add a new paragraph (f)
29.927	Add a new paragraph (h)
29.953	Add new paragraphs (c) and (d)
29.997	Add a new paragraph (e)
29.1019	Add a new paragraph (c)
29.1305	Amend paragraph (a)(6)
29.1305	Add a new paragraph (a)(20)
29.1305	Amend paragraphs (b)(3) and (c)(3)
29.1329	Amend paragraph (a)
29.1337	Add a new paragraph (e)
29.1359	Add a new paragraph (e)
29.1435	Amend paragraph (a)(3)
29.1521	Add paragraphs (b)(7) and (c)
29.1547	Add a new paragraph (e)
29.1557	Amend paragraph (c)(2)
New 29.64	Add a new § 29.64
New 29.177/.181	Add a new § 29.177/.181
New 29.178	Add a new § 29.178
New 29.1507	Add a new § 29.1507
New 29.1518	Add a new § 29.1518

The following proposals received full support from the JAR Group but are being removed from consideration for the following reasons:

Proposal for § 29.161. This proposal would add direction controls to the trim requirement section and permit control (out of trim) force of up to 5 pounds at airspeeds below V_Y or V_{MDA}. This concept was reviewed in the Rotorcraft Regulatory Review Program, specifically in Amendment No. 2 (49 FR 44422; November 6, 1984), and trimming to other than zero force was not found acceptable. Friction devices that would hold directional controls in any position are acceptable without a trim control and would meet the zero force criteria.

Proposal for § 29.561. This proposal would increase the emergency landing load factors. The FAA is already evaluating such a change in a current occupant restraint regulatory project, Notice No. 87–4 (52 FR 20936; June 3, 1987).

Proposal for § 29.563. This proposal would specify vertical speeds, forward speeds, and yaw angles for ditching entry. The FAA is already evaluating similar requirements in the Rotorcraft Regulatory Review Program Notice No. 4 (53 FR 9190; March 21, 1988) project.

Proposal for § 29.605. This proposal would add an explicit requirement to § 29.605 that strength be maintained "under all conditions anticipated in operation." Since current § 29.609(a) requires that structure "be suitably protected against deterioration or loss of strength in service" and since § 29.1529 and Appendix A to Part 29 contain explicit requirements for instructions for continued airworthiness in service, this proposal is unnecessary.

Proposal for § 29.613(d). This proposal would remove explicit references to publications containing approved design values for materials and replace these with references to more general documents which must be accepted (approved) by the cognizant authority. Since a similar proposal is being considered in Rotorcraft Regulatory Review Program Notice No. 4, no further action is warranted.

Proposal for a new § 29.631. This proposal would add a bird strike requirement to the rotorcraft design. This proposal is already under consideration in Rotorcraft Regulatory Review Program Notice No. 4.

Proposal for § 29.783 (b) and (c). This proposal would add consideration of the possible danger of engine intake and efflux proximity to persons entering or egressing the aircraft. The rule currently requires that doors not be located near rotor discs to endanger persons. The proposal would also add a requirement that passenger crowding against a door would not prevent it from being opened. This proposal is currently under consideration in Rotorcraft Regulatory Review Program Notice No. 4.

Proposal for § 29.865. This proposal would add a paragraph (b)(4) which states that external load release devices must be arranged to minimize the possibility of inadvertent operation. This is adequately covered by existing § 29.777(a) which requires that cockpit controls be located to prevent confusion and inadvertent operations.

Proposal for a new § 29.899. This proposal would add an extensive electrical bonding requirement for protection against lightning and static electricity. This requirement has already been added by Rotorcraft Regulatory Review Program Amendment No. 2, in a new § 29.610, and no futher action is necessary.

Proposal for new § 29.901(e). This proposal would require designs to minimize the risk of incorrect assembly. Proposal No. 3–42 of Rotorcraft Regulatory Review Program Amendment No. 3 (53 FR 34198; September 2, 1988) includes this same requirement.

Proposal for new § 29.955. This proposal would add a requirement for fuel systems to be designed to prevent interruption of fuel flow to the engine, without attention by the flightcrew, when fuel is depleted in the supply tank and another tank contains usable fuel. This requirement is covered by Rotorcraft Regulatory Review Program Amendment No. 3.

Proposal for new § 29.959(b). This proposal would add a new paragraph to § 29.959 which would require the flight manual to include data on the amount of unusable fuel as a result of a pump failure. This proposal is not included because of general agreement reached at the public meeting that this aspect would be more approximately covered by advisory circular material.

Proposal for new § 29.963(e). This proposal would add a new paragraph (e) which would limit the allowable temperature of components in fuel tanks to not more than 200 °C. This proposal was included in Rotorcraft Regulatory Review Program Amendment No. 3.

Proposal to revise § 29.1103(b). A proposal was presented to revise § 29.1103(b) to substitute wording to require intake ducts or systems to withstand loads resulting from cyclic engine surge and to require intake ducts to be fire resistant if located in a fire zone. This proposal is not included because no significant evidence could be found where engine surges had caused intake duct failures. Furthermore, existing § 29.1103(b) already requires structural evaluation of engine surge loads.

Proposal for § 29.1183(c). This proposal would require components, controls, ducts, etc., located in fire zones to be fireproof if fire damage to these items could be hazardous. This proposal is not included because the same fire protection is required by application of §§ 29.861, 29.901(c), and 29.1103(d).

Proposal for §§ 29.1517 and 29.1583(f). This proposal would remove the requirement that the height-speed envelope be a limit. This proposal was addressed in Rotorcraft Regulatory Review Program Amendment No. 2 and is being readdressed in Notice No. 85–19 (50 FR 42126; October 17, 1986), Transport Category Rotorcraft Performance.

Issued in Washington, DC, on April 19, 1989.

Thomas E. McSweeny,

Acting Director, Aircraft Certification Service.

[FR Doc. 89–9833 Filed 4–24–89; 8:45 am]

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federal register

Tuesday
April 25, 1989

Part X

Environmental Protection Agency

Intent to Form an Advisory Committee to Negotiate a New Approach for Control of Volatile Organic Chemical Equipment Leaks; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3562-8]

Intent to Form an Advisory Committee to Negotiate a New Approach for Control of Volatile Organic Chemical Equipment Leaks

SUMMARY: EPA is considering establishing an Advisory Committee under the Federal Advisory Committee Act (FACA). The Committee's purpose would be to negotiate issues leading to a new approach for regulation of equipment leaks under Sections 111 and 112 of the Clean Air Act as amended. The Committee would consist of representatives of parties that are substantially affected by the outcome of the proposed rule.

EPA requests public comment on whether:

- It should establish a Federal Advisory Committee;
- It has properly identified interests it believes are affected by the key issues listed above;
- Regulatory negotiation is appropriate for this rulemaking, and the extent to which the issues, and procedures are adequate and appropriate.

This notice also announces that an informational meeting will be held on May 15 from 10 am to 4 pm at the Hall of States, 444 N. Capitol St., room 337, Washington, DC to discuss the issues involved in the regulation of equipment leaks, and whether the Committee should be formed and negotiations proceed.

This meeting is open and any parties interested in the negotiation are encouraged to attend.

DATE: EPA must receive comments and suggestions by May 10, 1989.

ADDRESS: Comments should be submitted (in duplicate, if possible) to Air Docket (LE-131) Room M-1500, Environmental Protection Agency, Attention Docket #A89-10, 401 M Street, SW., Washington, DC 20460. A copy should also be sent to Boy Ajax, MD-13, U.S. EPA, Research Triangle Park, NC 27711. Docket #A89-10, containing materials relevant to this rulemaking may be inspected at U.S. EPA between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information pertaining to the establishment of the negotiation committee and associated administrative matters contact: Deborah Dalton, Deputy Director, Regulatory Negotiation Project, Information and Regulatory System Division, U.S. EPA (PM-223), 401 M Street SW., Washington, DC, 20460 (202) 382-5495.

For information pertaining to the regulation of equipment leaks and the regulatory issues to be addressed in the negotiation, contact: Bob Ajax, MD-13, U.S. EPA, Research Triangle Park, NC 27711 (919) 541-5579.

SUPPLEMENTARY INFORMATION:

Outline of Notice

I. EPA's Regulatory Negotiation Project
II. Volatile Organic Chemical Equipment Leak Fugitive Emissions
  A. Need for Rule Revision
  B. Selection as a Negotiation Item
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III. Formation of the Committee
  A. Procedure for Establishing an Advisory Committee
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  C. Administrative Support and Meetings
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  F. Failure of the Committee to Reach Consensus
  G. Record of Meetings

I. EPA's Regulatory Negotiation Project

EPA established the Regulatory Negotiation Project in 1983 to explore and demonstrate the value of negotiation and other consensus-building techniques for developing better regulations which could be implemented in a less adversarial setting.

Negotiations are conducted through Advisory Committees chartered under the Federal Advisory Committee Act (FACA). The goal of the Committee is to reach consensus on the language or issues involved in a rule. If consensus is reached, it is used as the basis of the Agency's proposal. All procedural requirements of the Administrative Procedure Act and other applicable statutes continue to apply.

EPA has developed criteria for evaluation of potential items for negotiation. To qualify under EPA's selection criteria, an item must:

- Be planned for proposal;
- Have a relatively small number of identifiable parties, in an appropriate balance and mix, who have a good faith interest in negotiating;
- Present a limited number of related issues, for which sufficient information is available for resolution; and
- Have a time factor that lends some urgency to reaching consensus.

The seven negotiations conducted to date have aided the Agency in better defining the issues and in crafting better approaches. The seven regulatory negotiations were:

- Nonconformance Penalties under the Clean Air Act, as amended; Final rule: August 30, 1985
- Emergency Pesticide Exemptions under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Final rule: January 15, 1986
- Farmworker Protection Standards for Agricultural Pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Proposed rule: July 8, 1988
- Asbestos Containing Materials in Schools under the Asbestos Hazard Emergency Responsibility Act of 1986 (AHERA); Final rule: October 30, 1987
- New Source Performance Standards for Woodburning Stoves under the Clean Air Act; Final rule: February 26, 1988
- Underground Injection of Hazardous Waste under the Hazardous and Solid Waste Amendments of 1984. Final rule: July 26, 1988
- Minor Permit Modifications under the Resource Conservation and Recovery Act (RCRA); Final rule: September 28, 1988

In December 1986, the Program Evaluation Division of EPA's Office of Policy Planning and Evaluation completed an assessment of the regulatory negotiations program. The study confirmed that negotiation is especially appropriate in situations which involve the resolution of a limited number of related issues, none of which involve fundamental questions of value or extremely controversial national policy. The study further concluded that:

- Negotiated rulemaking can produce rules that are more pragmatic with better environmental results while still meeting statutory requirements.
- Negotiated rules are also more likely to be acceptable to the affected industries, the public interest sector, and state and local governments involved in developing them.
- Negotiation may also result in earlier implementation of a rule by reducing the time it takes to proceed from proposed to final rulemaking.

EPA believes that the benefits to all parties of regulatory negotiation are substantial, and is committed to continued use of regulatory negotiation and other consensus-based processes for rulemaking when appropriate.

II. Volatile Organic Chemical Equipment Leak Fugitive Emissions

A. Need for Rule Revision

Fugitive emissions of volatile organic compounds (VOCs) from equipment leaks (valves, etc.) contribute significantly to air quality problems. Current regulations adopted under sections 111 and 112 of the Clean Air Act and in State Implementation Plans (SIPs) have been effective in heightening awareness of the significance of this source and in stimulating control efforts. The rules basically require that equipment in place be inspected quarterly for leaks with a portable hydrocarbon detector. If concentrations in excess of 10,000 ppm are found, the component is identified as a leaker and maintenance is required. EPA studies in the early 1980s showed that typical refineries and chemical plants have an uncontrolled leak frequency of 11 to 12 percent. Maintenance studies indicate this can be reduced by about 60–70 percent with the current leak detection and repair program. However, the actual frequency rate, and associated emissions in particular, vary widely and are believed to be a function of original design (e.g., number of valves) and age of the process unit, equipment selected, quality of maintenance, standard operating procedures used by the company, training provided to employees, and motivation. Recent data for highly toxic chemicals demonstrate that frequencies in the 0.0 to 2 percent range can be achieved in some situations. However, no one is sure what combination of factors guarantees such results nor how to require them through enforceable regulations.

More importantly, regulatory approaches currently being used do not provide for quantification of emissions. Specified quantified emission estimates levels are necessary to establish a baseline and EPA needs residual emissions and risk assessments to make regulatory decisions. For example, the analyses of EPA proposed rules that would limit benzene emissions (FR Vol. 53, No. 145, July 28, 1988) are based on emission estimates from leak frequencies typical of the refinery industry. These may significantly overestimate emissions of benezene.

EPA sees the need for a new regulatory approach, based on performance and/or emissions, that will result in quantifiable emission levels, give credit for original plant design and motivate innovation. Develoing such an approachusing EPA's traditional data gathering and analysis approach would be very difficult, costly, time consuming and controversial. Initial contacts suggest that the major industrial organizations, environmental groups and state government associations will be receptive, and there is good potential for identifying new approaches through negotiation that are compatible with our needs and the complexity of the problems.

The negotiation would address primarily technical issues and would not be policy oriented. The specific goal of the negotiation would be to develop a new regulatory approach that could be an alternative to or replacement for the current 40 CFR 61, Subpart V equipment leak rules. The negotiation would address the form of the approach and the relationship between it and actual emissions but would not address stringency. Depending upon the timing and degree of success, the results could be used to implement the Agency's upcoming decision on benzene equipment leaks. If this is not possible, the results would be used in the next equipment leak standard, which will probably be the hazardous organic National Emission Standards for Hazardous Air Pollutants (NESHAPs).

B. Selection as a Negotiation Item

EPA believes that the equpment leak regulations may be appropriate for development through the regulatory negotiation process. EPA has made a preliminary inquiry of potential parties and representatives of identified interests to determine if this item satisfies EPA's selection criteria for negotiated rulemaking. On the basis of this preliminary inquiry, EPA believes that this item meets its selection criteria and that negotiations can be successful. Affected interests are small in number, and EPA's initial contacts indicate that an appropriate balance and mix of groups will be willing to participate in good faith. EPA's lead program office has identified a number of basic issues for which sufficient information is in hand (or will be developed during the neogitations) for resolution.

C. Key Issues for Negotiation

EPA anticipates the key negotiation questions will focus on how to establish a regulatory approach that will:

1. Achieve predictable, quantifiable emission results
2. Result in the application of the best available technology
3. Be enforceable
4. Exhibit maximum regulatory consistency (e.g., with state permitting requirements; SARA reporting requirements)
5. Provide incentives for better designs (e.g., designs that involve fewer components that have the potential to leak)
6. Provide maximum flexibility in achieving specified results
7. Minimize administative burdens
8. Provide for predictable compliance
9. Provide time that may be needed to identify, assess, and implement work practices, equipment and designs that will meet emission goals.

EPA expects to address the following specific questions:

1. Is leak detection and repair an appropriate approach? If so, how can the results be quantified? Should the definition of a leak be lowered?
2. Should leak detection and repair be required for flanges and, if so, what frequency and leak defintion should be applied?
3. Is an emission limit (or a limit on the number of leaking components) an appropriate approach? How should such an approach be implemented?
4. Is an emission limit on a per component basis (or a limit on percent leaking components) an appropriate approach? How should such an approach be implemented?
5. Is there an effective approach that is a combination of the above?

D. Potential Interests and Participants

EPA has tentatively identified the following list of possible interests and parties:

—Chemical manufacturing industry
—Petroleum refining industry
—Industries that handle organic chemicals in equipment that includes valves, pumps, compressions, flanges or open-ended lines
—Environmental Interest Groups
—State and local air pollution control agencies
—Manufacturers of pumps and valves
—Consulting firms involved in plant design and equipment specification
—Contractors involved in construction of chemical plants and petroleum refineries
—Labor unions
—Other Federal agencies

III. Formation of the Negotiating Committee

A. Procedure for Establishing an Advisory Committee

As a general rule, an agency of the Federal government is required to comply with the requirements of FACA when it establishes or uses a group which includes non-Federal members as a source of advice. Under FACA, an Advisory Committee is established only after both consultation with GSA and receipt of a charter. EPA has prepared a

charter and has initiated the requisite consultation process. Only upon the successful completion of this process and the receipt of the approved charter will EPA form the Committee and commence negotiations.

B. Participants

The number of participants in the group is estimated to be about 15 and should not exceed 25 participants. A number larger than this could make it difficult to conduct effective negotiations. One purpose of this notice is to help determinme whether the standard that EPA is developing would substantially affect interests not adequately represented by the proposed participants. We do not believe that each potentially affected organization or individual must necessarily have its own representative. However, we firmly believe that each interest must be adequately represented. Moreover, we must be satisfied that the group as a whole reflects a proper balance and mix of interests.

C. Requests for Representation

If, in response to this Notice, an additional individual or representative of an interest requests membership or representation in the negotiating group, the Agency, in consultation with the facilitator, will determine whether that individual or representative should be added to the group. EPA will make that decision based on whether the individual or interest:

- Would be substantially affected by the rule;
- Is already adequately represented in the negotiating group.

D. Final Notice

After evaluating the results of the informational and organizational meetings, and reviewing any comments on this Notice and requests for representation, EPA will issue a final notice. That notice will announce the establishment of a Federal Advisory Committee and the date of the first meeting, unless (1) EPA decides, based on comments and other relevant considerations, that such action is inappropriate, or (2) in the event EPA's charter request is disapproved. The negotiation process will begin once the Committee is appropriately chartered and notice is published in the **Federal Register**.

E. Tentative Schedule

EPA will hold an informational meeting on *May 15, 1989 (10 am)* until completion, at The Hall of States, 444 N. Capitol St., Washington, DC. This meeting is open, and potential participants are encouraged to attend.

The purpose of this meeting is to: discuss whether negotiations should proceed, and if so, consider what issues and topics should and should not be covered, answer questions, and address any other procedural issues which may arise.

If an adequate mix and balance of parties attending the informational meeting are interested in participating in a negotiation, EPA will host an organizational meeting within two weeks to discuss how the negotiations would proceed and how the Committee would function. If the organizational meeting is successful and charter approved, EPA would hold the first meeting of the Advisory Committee within three weeks of the organizational meeting. At this meeting, participants would complete action on any procedural matters outstanding from the organizational meeting, determine how best to address the principal issues, and begin to address them.

Subsequent meetings of the Committee would be held once or twice a month either in Washington, DC, or in Research Triangle Park, NC, as determined by the Committee.

Though EPA has not set a final deadline for completion of the negotiation, it expects the negotiations may last up to six months. The Agency intends to terminate the activities of the Committee if it does not appear likely to reach consensus on a schedule that is consistent with Agency rulemaking needs.

IV. Negotiation Procedures

The following procedures and guidelines will apply to the Committee, if formed, unless they are modified as a result of comments received on this Notice or during the negotiating process.

A. Facilitator

EPA will use a neutral facilitator. The facilitator will not be involved with the substantive development or enforcement of the regulation. The facilitator's role is to:

- Chair negotiating sessions;
- Help the negotiation process run smoothly; and
- Help participants define and reach consensus.

B. Good Faith Negotiation

Since participants must be willing to negotiate in good faith and be authorized to do so, each organization must designate a senior official to represent its interests. This applies to EPA as well, and Bob Ajax, Chief, Standards Development Branch, Office of Air Quality Planning and Standards, will be EPA's representative.

C. Administrative Support and Meetings

EPA's Information and Regulatory Systems Division will supply logistical, administrative and management support. Meetings will be held in the Washington area or in Research Triangle Park, NC, at the convenience of the Committee. To support the negotiations, EPA has pledged funds to a resource pool which the National Institute for Dispute Resolution will administer. EPA expects that funds from private foundations might also be available. The parties may use the funds for such activities as training, technical support, and other assistance which the Committee deems useful. To give committee members maximum freedom, subject to any applicable legal constraints, they will determine the procedures under which requests for funds will be made and approved.

D. Committee Procedures

Under the general guidance and direction of the facilitator, and subject to any applicable legal requirements, the members will establish the detailed procedures for Committee meeting which they consider most appropriate.

E. Defining Consensus

The goal of the negotiating process is consensus. In the negotiations completed to date, consensus has meant that each interest concurs in the result. We expect the participants to fashion their own working definition of this term.

F. Failure of Advisory Committee to Reach Consensus

In the event the Committee is unable to reach consensus, EPA will proceed to develop its own approach. Parties to the negotiation may withdraw at any time. if this happens, the remaining Committee should continue.

G. Record of Meetings

In accordance with FACA's requirements, EPA will keep a record of all Advisory Committee meetings. This record will be placed in the public docket for this rulemaking. EPA will announce Committee meetings in the **Federal Register**. Such meetings will be open to the public.

Dated: April 21, 1989.

Robert H. Wayland,

Acting Assistant Administrator, Office of Policy, Planning and Evaluation.

[FR Doc. 89-10063 Filed 4-24-89; 10:17 am]

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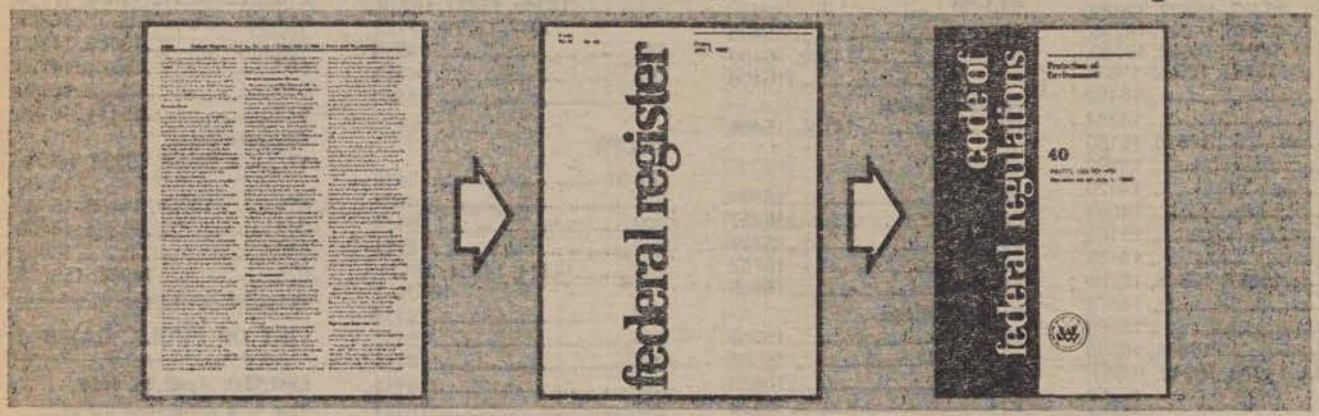
To allow an obsolete Navy drydock to be transferred to the city of Jacksonville, Florida, before the expiration of the otherwise applicable 60-day congressional review period. (Apr. 20, 1989; 103 Stat. 45; 1 page) Price: $1.00

H.J. Res. 112/Pub. L. 101–18

Designating April 23, 1989, through April 29, 1989, and April 23, 1990, through April 29, 1990, as "National Organ and Tissue Donor Awareness Week". (Apr. 20, 1989; 103 Stat. 46; 1 page) Price: $1.00

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